

A Review of South Carolina's K-12 Public Education Laws, Regulations, and Policies for Innovation and Flexibility

This brief summarizes a review and analysis of the South Carolina public K-12 education laws, with a view towards determining what power and flexibility currently exists, and what changes might be necessary to promote further innovation in our schools. These findings and recommendations were prepared for the South Carolina Education Oversight Committee.

December 12, 2011
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South Carolina Education Oversight Committee
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Introduction

In October 2011, three district superintendents presented to the South Carolina State Board of Education on innovative practices and barriers to innovation. In November 2011, the executive director of the S.C. Education Oversight Committee (EOC) met with groups interested in developing a steering committee to promote innovation within public K-12 schools in the State. An initial question concerned the barriers to innovation, and what authorization already exists for waiver from laws and regulations. This white paper is intended as a beginning point for these inquiries so that innovative education practices can become more fully supported in South Carolina.

After this paper was started, State Superintendent Zais issued a memorandum to school district superintendents encouraging requests for waivers to promote innovative practices. A copy is attached as Appendix III. The information from that memorandum is incorporated where appropriate. Also included are copies of many of the laws referenced (Appendix I), a chart listing the rules for what does, does not, or may apply to charter schools (Appendix II), and the Flexibility Through Deregulation Guidelines (Appendix IV).

This paper was initially released December 12, 2011; however, an updated version was issued December 19 to substitute the list of charter school-related rules (Appendix II) for a draft list of all statutes and regulations that might apply to charter schools.

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Executive Summary

South Carolinians want a public education system that results in college- and career-ready students who graduate on-time from the PreK-12 system. South Carolina has a complex accountability system with many laws and regulations defining not only the targets for achievement, but also the methods for achieving those targets. Overlaid on that structure are the federal requirements under several statutes, and the goals and assurances in grant funding. Some argue that these rules impede efforts to find new, better, and more efficient methods of reaching those targets. Barriers include rules related to time, attendance, certification, instruction, class size, and finance. Educators seek relief from those barriers to innovation, while acknowledging that they are still accountable for achievement that results in college- and career-ready students.

This white paper starts with a review of the current flexibility authorization and some issues with each. Then the discussion will turn to the major barriers faced by innovative educators: time, attendance, certification, instruction, class size, and finance. Proposals for removing some of those barriers are suggested in the third section.

Current Flexibility. The State Board of Education (SBE) and the S.C. Department of Education (SCDE) have some specific authority to waive regulatory and some statutory requirements. Flexibility from portions of the “defined program” is automatically available to schools meeting high performance criteria. At risk schools, with External Review Team recommendation, and any school incorporating flexibility into its renewal plan can seek SBE approval for deregulation from the defined program when it will improve academic performance (subsection I.2 below). Aside from this flexibility, districts can seek approval to substitute 120 hours of seat time for high school units of credit with a “proficiency based system” (I.3). New and conversion charter are exempted from most rules governing regular public schools (I.4 and Appendix II). Alternative schools also have considerable flexibility (I.5). Innovative approaches are encouraged in regulation (I.7), and current provisos authorize financial flexibility (I.6). Virtual courses are another avenue for instruction combined with the traditional classroom (I.8). Several alternative routes to credentialing exist, including the adjunct instructor certification (I.9). In addition to federal Elementary and Secondary Education Act (ESEA) waivers at the state level, districts, for themselves or schools, can apply for waiver from requirements of ESEA and No Child Left Behind (I.10).

Barriers. Innovative practice faces real and perceived barriers to implementation. Innovative educators are faced with an array of complex and interwoven statutory restrictions related to time (II.1); class size, time, and workloads (II.3); attendance and absences (II.2); and how those elements impact membership and school funding (II.6). “Instruction” may be perceived as being limited to time in a classroom building with a highly qualified teacher (HQT)(II.4). The HQT requirements themselves require higher education degrees and demonstration of a high degree of competency in the subject matter, which may limit who can teach in non-charter schools (II.5).

Proposals. Suggestions for changes are identified throughout this discussion. Specific additional suggestions include adopting a framework for designing and evaluating the efficiency and effectiveness of proposed innovations (III.1), expanding the Flexibility Through Deregulation Guidelines to include

additional regulations and statutes (III.10), aligning regulations and statutes that have outdated or conflicting language, and encouraging innovation through development of guidelines and policies.

I. Current Flexibility Authority

South Carolina currently has some flexibility built into statutes and regulations.

1. SBE Waivers

The authority of administrative agencies, boards, and commissions is established by the constitution and statutes delegating duties. The state constitution requires the State Board of Education (SBE) and provides, “The members of the Board shall serve such terms and the Board shall have such powers and duties as the General Assembly shall specify by law.” S.C. Const. Art. XI, § 1. The general powers of the SBE are set out in S.C. Code § 59-5-50, which concludes with the following:

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

The state constitution requires as follows:

The General Assembly shall provide for the maintenance and support of a system of free public schools open to all children in the State and shall establish, organize and support such other public institutions of learning, as may be desirable.

S.C. Const. Art. XI, § 3. The Administrative Procedures Act sets out the notice requirements for agency action in rulemaking, regulations, and adjudications. S.C. Code §§ 1-23-10 *et seq.*

In some instances the SBE is directed to develop policies and guidelines, which in practice have not followed formal regulation-making procedures. S.C. Code §§ 59-5-61 (operate CATE programs with guidelines); 59-5-65 (set guidelines to emphasize teaching as a career); 59-5-135 (guidelines for use of funds in Governor’s Institute of Reading); 59-5-160(C) (guidelines and subsequent regulations on out-of-state transfers); 59-16-40 (virtual courses guidelines and regulations); 59-18-1130 (professional development funds used for recertification per SBE guidelines); 59-19-45 (guidelines on reimbursement for local board training); 59-21-1210 (campus incentive program); 59-24-120 (guidelines for principal apprenticeship); 59-25-115 (criminal records for teachers subject to guidelines); 59-29-410, -490 (guidelines on financial literacy); 59-39-160 (guidelines for athletics academic waivers); 59-40-180 (SBE to develop regulations and guidelines for charter school implementation); 59-144-120 (policies and guidelines on uniform assessment of school facilities).

The SBE is directed by statute to “waive or modify its regulations when appropriate and necessary to achieve cost savings” under the statutory Public School Employee Cost Savings Program. S.C. Code § 59-1-452(D).

Unless expressly given, administrative agencies do not have authority to waive statutory requirements. *Ray Bell Construction Co, Inc. v. School District of Greenville County*, 331 S.C. 19, 501 S.E.2d 725 (1998)(24790) citing *Williams Bros. Constr., Inc. v. Public Bldg. Comm'n*, 612 N.E.2d 890, 896 (111. App. Ct. 1993), *cert. denied*, 622 N.E.2d 1229 (111. 1993) ("an agency has no power to waive compliance with a requirement imposed by the legislature").

The SBE is given express statutory authority to waive several sets of statutory requirements:

- a. § 59-1-425 (make-up day waivers; opening day waiver)
- b. § 59-5-160 (graduation requirements for out-of-state transfer students)
- c. § 59-18-1120(A) (at risk school defined program waiver) (discussed below)
- d. § 59-18-1120(B) ("flexibility through deregulation" defined program waiver) (discussed below)
- e. § 59-20-20(4) (Each budget year the SBE shall transmit to the Budget & Control Board and General Assembly "any suggested changes in the basic programs [of the defined minimum program] and their weightings as evidenced by changing requirements and practices.")¹
- f. § 59-20-40(5) (pupil teacher ratio waiver for annual allocations)
- g. § 59-20-60(8)(g) (waive reporting practices)
- h. § 59-21-420 (waive requirements to use funds for millage reduction)
- i. § 59-21-1030 (waive maintenance of local effort levels)
- j. § 59-26-60 (Adjust time in the defined minimum program to allow more basic skill instructional time)
- k. § 59-35-10 (kindergarten requirement waivers) (expired)
- l. § 59-39-160 (waive passing average for athletics in limited circumstances)
- m. § 59-53-1960 (waive requirement that 50% of work force preparation students are placed within three years upon district's demonstration that the program is for new or expanding business)
- n. § 59-63-800 (waive school breakfast requirements)
- o. § 59-63-1310 (waive site requirements for alternative schools)
- p. § 59-139-10 (waiver of early childhood requirements for 93-94) (expired)
- q. § 59-139-20(2) (academic assistance waiver)

The S.C. Department of Education (SCDE) and the State Superintendent (S.C. Const. Art. XI, § 2; general duties in S.C. Code § 59-3-30) also have some waiver and guideline authority. The State Superintendent can waive facility square footage requirements for a new or converted public school. S.C. Code § 59-23-230(A). The SCDE is authorized by regulation to permit high school credit in a "proficiency-based system" under S.C. Reg. § 43-234 (discussed below). Development of guidelines is directed in other statutes: §§ 59-1-475 (SCDE and others to develop domestic violence guidelines); 59-1-510 (SCDE to establish affirmative action guidelines); 59-5-85 (teacher induction guidelines); 59-29-21 (SCDE guidelines on career guidance); 59-53-80 (SCDE guidelines on individual health plans).

Schools and districts seeking relief from statutes in which waiver authority is expressly given can apply to the SBE. Waiver requests might also be based upon the theory that the requested flexibility is required "to aid in carrying out the purpose and objectives of the Constitution of the State," which

¹ Rather than having authority to waive a statute, this section appears to assume that another body will make the changes.

requires the operation, support, and maintenance of free public schools open to all students, as well as that the State “establish, organize and support such other public institutions of learning, as may be desirable.”

Issues:

- a. Issues about whether the SBE can waive most other statutes could be raised as a barrier. Schools and districts wanting flexibility will not want to spend time and money on complex litigation over the SBE’s authority.
- b. Current SBE guidelines do not reference all of the statutes that could be waived.

2. Flexibility Through Deregulation

a. Introduction: At Risk Schools

Under S.C. Code § 59-18-1120(A), schools designated “at risk” can obtain flexibility with external review team recommendation and SBE approval. The school then has “the flexibility of receiving exemptions from those regulations and statutory provisions governing the defined program or other SBE regulations, dealing with the core academic areas as outlined in Section 59-18-120” [*sic*, the core academic areas are outlined in § 59-18-300, and the regulations on the “defined program”²]. (Emphasis added).

b. Defined Program

What is the “defined program” from which schools can obtain a waiver? There is no statutory definition of the “defined program.” The term is used three times in the code, once allowing waiver of the school opening requirements for an educational purpose (§ 59-1-425(H)), and later in the sections allowing waiver of the “defined program” for at risk schools or high performing schools. S.C. Code §§ 59-18-1100, -1120(A). Although the section allowing waiver with an amended school renewal plan does not reference the “defined program,” it is in the same code section as the one giving flexibility to at risk schools. S.C. Code § 59-18-1120(B). In the statute allowing flexibility for high performing schools, the statute further defines flexibility as release “from those regulations and statutory provisions referred to above [the defined program], including, but not limited to, regulations and statutory provisions on class scheduling, class structure, and staffing.” (Emphasis added).

The language probably originates from reference in the Education Finance Act (EFA) to the “defined minimum program,” which “means the program established annually by the State Board of Education that is necessary to provide public school students in the State with minimum educational programs designed to meet their needs.” S.C. Code § 59-20-20(4). “Base student cost” is tied to the “defined minimum program” and the “foundation program.” The regulations appear to use “defined

² SBE regulations define “core academic areas” as “English, reading or language arts, mathematics, science, foreign languages, civics, government, economics, history, geography, and the arts.” S.C. Reg. 43-205.II.A.3, III.A.3, IV.A.3. The statute does not include foreign languages, civics, or the arts. S.C. Code § 59-18-300. However, the list in the definition of “core academic subjects” in the federal Elementary & Secondary Education Act (ESEA or NCLB) § 9101(11) aligns to the regulation. Districts must hire highly qualified teachers (§ 1119(a)(1)) and the state’s plan must require highly qualified teachers in core academic subjects, § 1119(a)(2). (“Highly qualified teacher” is defined in § 9101(23)). 20 U.S.C. §§ 6301, 7801 *et seq.* The charter regulations have a different definition: “core academic area (English/language arts, mathematics, science, or social studies).” S.C. Reg. § 43-601.III(H)(4).

program”(e.g., § 43-231), “defined minimum program” (e.g., § 43-180), and “defined minimum educational program” (§ 43-300) interchangeably.

The “defined program” regulations include lists of requirements for elementary (S.C. Reg. § 43-231), middle (§ 43-236), and high school (§ 43-234). A “defined minimum program” is set for school district building and grounds in S.C. Reg. § 43-180 (the principal must have a private office; elementary schools must have appropriate space for counseling services). To be accredited, each school district must have “a defined minimum educational program” that will “meet the criteria prescribed by the Board in the ‘Defined Minimum Program for South Carolina School Districts,’”³ S.C. Reg. § 43-300, or have an approved contract for variations from it. (Article 10 of the regulations is titled “Defined Minimum Program,” and concerns accreditation for special schools.)

Within the defined program regulations the topics include basic curriculum, subject areas, instructional program (high school), alcohol and drug training, guidance programs, library and media specialist services, average and maximum class sizes and course loads, student records, emergency closings, and high school graduation and unit credit requirements; and incorporate by reference regulations on gifted and talented, school to work, health education, summer school, special education, early childhood education, academic assistance, advanced placement, career and technology education, and driver’s education. Much of what occurs in South Carolina’s public schools could be categorized as “defined program” for which the SBE has authority to waive regulations and statutes.

c. Application to At Risk Schools

Taken together, “at risk” schools could possibly, with ERT recommendation and SBE approval, obtain waiver of requirements related to:

- a. Core academic area requirements;
- b. Class scheduling;
- c. Class structure;
- d. Staffing;
- e. Defined program regulations;
- f. Other regulatory or statutory requirements on core academic areas; and
- g. Possibly other regulatory or statutory requirements.

The SBE regulations state conditions for “Flexibility Through Deregulation” in S.C. Reg. § 43-303 for high performing “deregulated” schools, “unsatisfactory” [at risk] schools, and schools with school renewal plan amendment. As to at risk schools, the regulation states “statutes or regulations exempted must deal with the core academic areas.” S.C. Reg. § 43-303.II.B.2.a. Later the regulation provides, “Schools receiving flexibility status are exempted from those regulatory and statutory provisions governing the defined program including, but not limited to, class scheduling, class structure, and

³ No document with this title is in the regulations or on the SCDE’s website. A copy has been requested from SCDE. Google search found: http://openlibrary.org/books/OL4603173M/Criteria_for_a_defined_minimum_program_for_South_Carolina_school_districts A copy is in Australia’s national library <http://trove.nla.gov.au/work/154116244>, the summary for which says, “In 1976, the State Board of Education of South Carolina approved a final, revised definition of the minimum educational program that school districts could offer. The Defined Minimum Program for South Carolina School Districts became effective on July 1, 1977. This document presents the current version of that definition, including revisions made as a result of actions taken since June 5, 1980. The document was reprinted, with final revisions, May 1, 1986.” See also J. Anderson, M. Barton, & A. Braman, FUNDING PUBLIC EDUCATION, Vol. 2, No. 2 Public Policy & Practice (2003), <http://ipspr.sc.edu/ejournal/fundeducation.asp> ; <http://nces.ed.gov/edfin/pdf/StFinance/SouthCa.pdf>;

staffing. Specific standards exempted appear in an appendix of the SBE-approved guidelines.” S.C. Reg. § 43-303.VIII. The exemptions in those guidelines are listed below under high performing schools. Those guidelines indicate that “[o]nly schools identified by SCDE for flexibility through deregulation may exempt the strikethrough portions of the five regulations listed in this section.”⁴

Issues:

- 1) Presumably at risk schools could seek exemption from the regulations listed in the 43-303 guidelines with ERT recommendation and SBE approval. (Reg. § 43-303 defines those eligible for flexibility as all three types; and subsection VIII refers to “flexibility” not “deregulation.”)
- 2) Presumably regulatory and statutory exemptions related to “defined program,” scheduling, class structure, and staffing, in addition to those in the guidelines, could be obtained within the other categories above with ERT recommendation and SBE approval.
- 3) In recent years the external review team process has been limited because of budget constraints.
- 4) SBE approval is needed.
- 5) The approval for the school lasts “while in that status.” Once a school moves from at risk status, it would need to qualify on other grounds to continue the waiver. *See also* S.C. Reg. § 43-303.VI.B.

d. Any School

Under S.C. Code § 59-18-1120(B), any school can receive “flexibility when their school renewal plan explains why such exemptions are expected to improve the academic performance of the students and the plan meets the approval by the State Board of Education.” To continue the flexibility the school must show annual accountability gains overall and for subgroups, unless it has approval from the SBE because of extenuating circumstances. As noted above, guidelines created under S.C. Reg. 43-303 list specific sections that can be waived.

The EFA includes the requirement that schools and districts create comprehensive five-year plans, including innovation initiatives. S.C. Code § 59-20-60.

Issues:

- 1) SBE approval is needed.
- 2) Sometimes innovations will take more than one year to reap results. Indeed, sometimes even innovation gains will plateau. This flexibility requires annual gains overall and by subgroups unless there are “extenuating circumstances,” in which case the school can receive a one year extension. It is not clear what “extenuating circumstances” might be. Waiver authority needs to be flexible enough to permit time for the innovations to take root and flourish without concerns that it will be terminated the next year.

⁴ This language appears to be a caution that schools that do not meet the high performing criteria cannot assume that these regulations are waived. It could be read, however, as a limitation on the sections from which at risk schools can seek waiver.

- 3) The gains reached must be those “as outlined in its revised plan” for the accountability assessments. Given the likelihood that improvements would take more than a year, this is likely to result in low projections in the revised plan.
- 4) Some innovations are more operational and system-based than those that are directly student achievement focused. For example, a change in structure of the leadership team might over time result in student achievement gains, but immediate results may be more subtle.
- 5) At some point what was an innovation becomes operational within the system. If the statutes and regulations have not kept up or been flexible enough, schools might be required to make cumbersome annual waiver or extension requests.
- 6) Neither the at-risk authorization nor this one specifically allows for pilots within a portion of a school, although that could be part of a school waiver request.

e. High Performing Schools (aka Flexibility Through Deregulation)

Under S.C. Code § 59-18-1110 certain high performing schools can obtain the “flexibility of receiving exemptions from those regulations and statutory provisions governing the defined program.” Over three years, the school must have twice been a Palmetto Gold or Silver recipient, have met reading and math targets for subgroups, and not have recurring accreditation issues. Subsection (B) states, “Schools receiving flexibility status are released from those regulations and statutory provisions referred to above including, but not limited to, regulations and statutory provisions on class scheduling, class structure, and staffing.” (Emphasis added). Unlike the other two flexibility provisions, schools do not need SBE approval for this status.

The SBE does, however, have a regulation (43-303) and Guidelines⁵ specifying procedures and what is exempted. Some of the exemptions are outside of the specific “defined program” regulations (43-231, -234, -236), but do relate to “class scheduling, class structure, and staffing.” The following summarizes the guidelines, which are in Appendix IV:

- (1) 43-205.I. District personnel need not have master’s degrees, nor have a certification in their primary area of responsibility, nor be earning 6 credits per year towards it.
- (2) 43-205.II.A.1. Elementary schools of 375 or more need not have a certified principal (must be a certified “individual”).
- (3) 43-205.II.A.2. Elementary schools of 600 or more need not have certified assistant principals or curriculum coordinators (must be a certified “individual”).
- (4) 43-205.II.A.3. Elementary teachers in the “core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics, government, economics, history, geography, and the arts” must meet ESEA/NCLB “highly qualified” requirements. Other teachers, guidance counselors and library media specialists must have a certification, but not necessarily the “proper” one.⁶

⁵ <http://ed.sc.gov/agency/programs-services/112/documents/FlexibilityThroughDeregulationProgramGuidelines.doc>

⁶ Some schools want to transform “media centers” to “learning commons” with expert teachers at the core of the team. This flexibility should allow those schools to have a team without a library media specialist. A trickier question is whether, for example, a social worker could be used in place of a guidance counselor when the social worker does not have another education certification.

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- (5) 43-205.II.B.1. Professional personal workload restrictions for regular elementary teachers are eliminated.
- (6) 43-205.II.B.2.a. The FTE requirements for elementary school guidance counselor and specialists in art, music, and physical education (PE) are removed.
- (7) 43-205.II.B.3. The full FTE requirement for elementary school library media specialists is reduced to half FTE.
- (8) 43-205.III.A.1-2. Middle schools need not have a certified principal or assistant (must be a certified “individual”).
- (9) 43-205.III.A.3. Unlike the elementary section, the middle school provision does not delete the requirement that teachers, guidance counselors, and library media specialists be “properly certified.” It does eliminate the out-of-field permit requirements. (Not sure whether this is a scrivener’s error.)⁷
- (10) 43-205.III.B.1, 2. Eliminates the minimum time requirements for middle school guidance counselors and library media specialists
- (11) 43-205.III.B.3. Eliminates the class size, teaching load, and requirements for middle school classroom teachers.
- (12) 43-205.IV.A.1-2. High school principals and assistants can be certified individuals.
- (13) 43-205.IV.A.3. High school teachers in the “core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics, government, economics, history, geography, and the arts” must meet ESEA/NCLB “highly qualified” requirements. Other teachers, guidance counselors and library media specialists must have a certification, but need not be “properly certified.” The language on needing to request an out-of-field permit has *not* been deleted. (Not sure whether this is a scrivener’s error.)
- (14) 43-205.IV.A.5. Requirements for high school transition coordinators are less stringent.
- (15) 43-205.IV.B.1-2. Eliminates the minimum time requirements for high school guidance counselors and library media specialists.
- (16) 43-205.IV.C. Eliminates the class load, class size, and time restrictions for high school classroom teachers.
- (17) 43-209.A.1. No secretary is required for the district or principals.
- (18) 43-209.C.1. Paraprofessionals need not have a diploma or GED ((b), but see C.1.c.), work under a certified teacher (e), or participate in pre-service and in-service (f).
- (19) 43-231.II. Removes the 1800 minute requirements in grades 1-5.
- (20) 43-231.IV. Class size limits for K-5 are removed.
- (21) 43-232.I. Removes the 1800 minute requirement for grades 6-8.
- (22) 43-232.III. Class load and size limits for grades 6-8 are removed.
- (23) 43-234.VI.C. Home room can count towards the 6 hours per day (or equivalent weekly) for high school students (1). The flexibility to vary minutes in subsection (3) is struck through; not sure whether this is a scrivener’s error.
- (24) 43-234.IV.D. High school teacher course load of 150 students and no more than 35 per class is maintained; but the higher limits for PE and music are struck through. Not sure whether this is a scrivener’s error.

Issues:

⁷ SCDE was questioned about possible scrivener’s errors on December 1, 2011.

- 1) Although the guidelines do allow some flexibility in staffing and certification, which could free up district money for use on innovative projects, they do not address any deregulation on the core academic areas or other regulations.
- 2) This authorization appears to treat automatic deregulation and resulting innovation as a reward. It might be an average performing school, rather than an award winner, that needs the innovation boost that might be achieved with greater flexibility.
- 3) Are these the types of flexibility that high performing schools want?

3. Proficiency Credit

The regulations on high school credit generally require 120 hours of instruction or “seat time” for a “Carnegie” unit of high school credit; however, approval can be obtained from the SCDE to award credit in a “proficiency based system.” S.C. Reg. § 43-234. Through the end of SY 10-11, ten districts had submitted over 90 requests for “proficiency-based system” credit in 27 courses. All but one was for on-line learning.⁸ From December 2010 to April 2011 the SCDE had a cross-divisional team with district members looking at issues related to the proficiency credit flexibility. That group concluded that (1) better marketing should be done to make districts aware of existing flexibility; (2) a policy audit should be completed to identify all statutes and regulations needing change to promote the flexibility; and (3) models could be created, or districts could otherwise be supported, so that more districts pilot additional proficiency avenues (e.g., AP test out, foreign language test out, extended learning opportunities).

Issues:

- 1) A proficiency-credit system assumes that students progress at their own pace until the subject is mastered, whether it is shorter or longer than 120 hours or 180 days of instruction. S.C. Code § 59-1-425 requires a 180-day school year, and a 6 hour school day (three days can be three hours).
- 2) S.C. Reg. § 43-172 defines class periods as 50 minutes and requires a minimum of 200 minutes per day or 36,000 minutes annually for “membership.” This is not tied to any proof of proficiency in a course.
- 3) Basic education funding is calculated on “average daily membership.” S.C. Code § 59-20-40. If membership rules are not adjusted, then students who complete proficiency courses in a shorter time, and who do not attend for other classes after that, could theoretically cost the district funding if they are not counted as attending and members in the current system.
- 4) Teacher contracts of 190 days are statutory. S.C. Code § 59-21-20. The basis for compensation and funding may need to be changed if more courses shift to a proficiency basis. For example, the Florida Virtual School receives a full student allotment of funding when students successfully complete a course, and teacher incentives are based on successful course completion, not time spent.
- 5) Some statutes and other regulations refer expressly to “Carnegie units,” as opposed to high school units of credit. E.g., S.C. Code §§ 59-29-230, 59-39-112; S.C. Reg. §§ 43-

⁸ See Presentation April 14, 2011 to State Board of Education. York 3 received approval for a pilot related to “failure due to absence” in regular courses.

240 (summer school); 43-259 (graduation requirements); 43-601 (charter schools). These should be amended to avoid confusion.

2. Charter Schools

The purpose of South Carolina's charter school statute is "to create a legitimate avenue for parents, teachers, and community members to take responsible risks and create new, innovative, and more flexible ways of educating all children within the public school system." S.C. Code § 59-40-30. The general exemptions and requirements for charter schools are set out in § 59-40-50. Unless otherwise specified, charters are exempt from all but the health, safety, civil rights, and disability requirements for public schools. *Id.* Appendix II contains a chart listing citations for which rules do, do not, or may apply to charters.

A regular public school converted to a charter faces additional conditions. Non-certified teachers can be only up to 10% of the staff (versus 25%). S.C. Code § 59-40-50(B)(5). The charter school must offer the same grades as prior to conversion (§ 59-40-100(B)), the prior students have priority for admission (§ 59-40-100(C)), the employees remain employees of the district (the charter reimburses the district) (§ 59-40-100(D)), and those employees have contract and grievance rights under § 59-25-410 *et seq.*

Issues: By regulation, charter schools still must comply with the 180 day requirement, and high schools must comply with the 120-hour Carnegie unit rules. S.C. Reg. § 43-601. Although the ESEA's highly qualified teacher law defers to state law for charter school teachers, South Carolina's regulations require a degree in the subject area for teachers of core academic subjects as defined in the regulation. *See* footnote 2.

3. Alternative Schools

"Within the requirements of Section 59-1-[425], alternative school programs may differ from traditional education programs and schools in scheduling, administrative structure, curriculum, or setting and state requirements may be waived *in these areas* if such waiver assists the alternative school in meeting its purpose." S.C. Code §§ 59-63-1340, -1350 (emphasis added). The SCDE interprets this section as requiring alternative schools to meet the same attendance requirements as regular schools.

Issues:

- 1) Does the waiver authority include attendance and average daily membership?

4. Flexibility Proviso

Under Budget Proviso 1.40 for FY 2011-12 (1.43 for FY 2010-11), districts may transfer and expend funds among appropriated state general fund revenues, Education Improvement Act funds, Education Lottery Act funds, and funds received from the Children's Education Endowment Fund to ensure the delivery of academic and arts instruction to students, so long as at least 70% of funds are used in In\$ite instructional categories. EIA funds (Proviso 1A.22) and school building funds (Proviso 1A.55) are also subject to this flexibility. A separate project is addressing this flexibility. *See also* <http://ed.sc.gov/agency/cfo/finance/Fiscal-Systems/FlexibilityGuidelinesandReporting.cfm>

5. Elementary & Middle School Innovative Approaches

Within the defined program regulations, there is some flexibility written into the regulations. An elementary (43-231.III) or middle (43-232.II) school “encompassing any combination of grades ... may implement an innovative approach if it is approved by the local board of trustees and is incorporated in the school and district plans.” It is not clear whether this intended to be the same as the right for any school to amend its plan under § 59-18-1120(B) (see item 2 above), or additional innovation authority. (When the high school regulations were amended several years ago, similar language was inexplicably deleted.)

6. Virtual Courses

South Carolina law permits on-line instruction to regular public school students for initial units and credit recovery according to SBE guidelines. S.C. Code § 59-16-10 *et seq.*; S.C. Reg. § 43-248. The law limits online initial credits, however, to three per school year and twelve during high school, subject to an SBE appeal and waiver process. S.C. Code § 59-16-15(C). The law also permits virtual charter schools, in which up to 75% of the “student's core academic instruction” may be online or computer instruction program. The other 25% or more must be “regular instructional opportunities in real time that are directly related to the school's curricular objectives, including, but not limited to, meetings with teachers and educational field trips and outings.” S.C. Code § 59-40-65.

Issues:

- 1) In addition to the South Carolina Virtual School Program (SCVSP), many school districts offer online courses. It is not clear whether the limits on online initial credits apply to all courses, or only those taught by SCVSP.
- 2) Students have up to 20 weeks (roughly a semester) to complete courses, subject to extensions. Generally attendance is calculated at the district level, whether the student takes a longer or shorter time to complete the course.⁹

⁹ From Suzette Lee, Instructional Program Manager, Office of eLearning: “At the present time, districts/schools are counting their students who take courses with us for ADM. In other words, they don't lose money for students that they sponsor to take courses with us. As information, the majority of the students who study with us do so outside the regular school day. In other words, they take a full load in their "brick and mortar" schools and take our courses after the school day (nights and weekends). Some students, especially those taking credit recovery courses, take their SCRI courses during the school day. They are assigned to the computer lab for a period during they day at which time they work on their course(s). Unlike our situation, in some states the funding follows the child (e.g., Florida); therefore, the schools lose money for students taking courses with the Florida Virtual School. That is one of the reasons the FVS is so large and well-funded....” (E-mail 12/3/11).

- 3) “Blended courses” (a mix of online and in-class instruction) and “hybrid virtual” (students do coursework online at a school) are being used in some areas. How these fit within the SCVSP rules and the attendance/ADM rules is also a question.
- 4) It is not clear why the legislature has restricted online instruction for non-charter school students (subject to waiver), but permitted up to 75% of instruction for charter students to be online.
- 5) Theoretically, districts could sponsor conversion of an existing regular school to a virtual charter school, expanding the authorized use of virtual courses.

7. Alternative Credentialing

Generally South Carolina statutes and regulations define who is permitted in a classroom based upon degrees from institutions of higher education in specific practice areas. Current law does, however, allow several alternative credential pathways outside of charter schools.

First, the PACE program allows career changers who want to teach in the area of their college major to work in schools while completing training and PRAXIS examinations.

Second, ABCTE authorization allows those who have passed a relevant ABCTE examination to work towards full certification.

Third, Teach for America college graduates can teach for two years in low-income, high-need schools.

Fourth, Adjunct Certification can be obtained by those employed by a district to teach up to two courses in their subject area of expertise. The adjunct must have either majored in the subject area or passed the related PRAXIS exam, and have five years of occupational experience within the last 10 years. S.C. Reg. § 43-62.V.A.¹⁰

Fifth, Fine Arts teachers may receive alternative certification under S.C. Reg. § 43-62.V.B.

Sixth, those with Montessori credentials from MACTE may obtain license to teach in South Carolina Public Schools without the traditional teacher training. S.C. Reg. § 43-62.V.C.4.

Issues:

- 1) The alternative certification routes still place an emphasis on college majors to some extent. (1) Some people (e.g., Bill Gates or Steve Jobs) who might be well-versed do not have college degrees. (2) Some obtain their expertise after college and outside their majors. (3) Some needs are for areas in which no majors were offered when the current experts were in higher education.
- 2) The adjunct certification limits the teacher to two courses.

¹⁰ The initial part of the regulation references a college degree in the subject, but the later application section indicates a PRAXIS exam can be utilized.

- 3) The adjunct certification does not acknowledge other methods of proving that a person is highly qualified, e.g., a professional license.
- 4) Some of the regulations limit the areas in which these alternatively credentialed professionals can teach, e.g., elementary schools.

8. Federal Waivers

The same section under which states are currently¹¹ being encouraged to seek waivers from the requirements of the No Child Left Behind (NCLB) amendments to the Elementary & Secondary Education Act (ESEA) also allows districts, and districts on behalf of a school, to apply for waivers from the federal requirements. 20 U.S.C. § 7861(b), ESEA § 9401(b). Applications must explain how the waiver will increase the quality of instruction and improve academic achievement. The application must also describe “specific, measurable educational goals, in accordance with section 1111(b) [20 U.S.C. § 6311(b)],” [for districts and schools] that would be affected by the waiver and the methods to be used to measure annually such progress for meeting such goals and outcomes,” as well as explain how the waiver assists reaching the goals. ESEA § 1111(b) has the requirements for state plans under ESEA, and sets the target of 100% proficiency by 2014 with annual measurable objectives (AMOs) in interim years for making adequate yearly progress. Although the waiver authority requires “measurable goals,” and the ESEA flexibility package requires setting of AMOs, the consequences of not meeting those goals can be the subject of an ESEA waiver application (i.e., no AYP consequences).

The Secretary’s application form encourages states to apply for waivers from § 1111(b)(2)(E)-(H) on AMOs to reach proficiency by 2014, in favor of new meaningful goals; waiver from § 1116(b) and (c) requiring identification as needing improvement for missing AYP; flexibility for rural school funding; waiver of the 40% poverty requirement for schoolwide programs; flexibility in using § 1003(a) and § 1117(c)(2)(A) funding; substitution of certain highly qualified teacher plans for new effective educator systems; removal of the § 6123 limit on transferability of funds; permission to use § 1003(g) (SIG) funds for any priority school; and use of 21st century community learning center funds during the school day.

Districts and schools that find the federal law is constricting the implementation of innovative programs can seek waiver of the relevant ESEA provisions.

II. Barriers to Innovative Practices

1. Time

There are currently several provisions on time that impacts K-12 learning in a way that could impede innovative practices.

¹¹ In September 2011 Secretary Duncan issued ESEA flexibility guidance and an application form for applying for ESEA waivers. The first round of applications were submitted in November 2011, and additional states are expected to apply in February, including South Carolina.

- (1) Statutes define the number of instructional days. “The statutory school term is one hundred ninety days annually and shall consist of a minimum of one hundred eighty days of instruction covering at least nine calendar months.” S.C. Code § 59-1-425(A).
- (2) Missed days must be made up. Id.
- (3) The instructional day itself must be at least six hours “or its equivalent weekly.” Id. § 59-1-425(E) (including lunch for elementary; excluding lunch for secondary).¹²
- (4) For limited purposes, the day can be reduced to three hours up to three times per year. Id. § (F).
- (5) The defined number of days in a school year impacts finance as well: “average daily membership” goes into the calculating EFA annual allocations (total membership days divided by 180+ instructional days, S.C. Reg. § 43-172.I.A.3) (§ 59-20-40) and the appropriation for teacher contracts is based upon a 190-day term (§ 59-21-20).
- (6) Generally a “Carnegie unit” or unit of high school credit requires 120 hours of instruction. S.C. Reg. § 43-234. The rules are not all internally consistent. A Carnegie unit of 120 hours (7200 minutes) could be obtained in 144 days of 50 minute classes (§ 43-172). Technically a student could miss 36 of the required 180 days (180 x 50 minutes = 9000 minutes, 9000-7200 = 1800; divided by 50 minute periods = 36 days or periods) and still receive a unit of credit, although the student would be dropped from “membership” if unlawful absences exceeded 10 consecutive days, S.C. Reg. § 43-172.I.A.6, and local boards are required to approve any combination of absences over 10 days. S.C. Reg. § 43-274. Membership rules require 200 minutes of instruction per day or 36,000 minutes, which equates to 100 six-hour days, not 180 or 190. S.C. Reg. § 43-172.
- (7) Statutes require 150 minutes of physical education and physical activity for K-5 students, S.C. Code § 59-10-10, and lists maximum student-teacher ratios.
- (8) SBE regulations have several prescriptions related to time:
 - S.C. Reg. § 43-172 – Accounting and Reporting
 - 50 minute class periods or accumulation of the equivalency of 120 hours for a Carnegie Unit of credit, § 43-172.I.A.8;
 - Minimum 200 minutes per day [3.3 hours] of daily instruction or equivalency for an annual accumulation of 36,000 minutes, § 43-172.I.B.2.c.[equates to 100 6-hour days]
 - S.C. Reg. § 43-205 – Educator Qualifications, Duties, and Workloads (see flexibility regulation guidelines, Appendix IV)
 - Class size limitations are based on average daily enrollment.
 - High school teachers cannot be assigned to classes requiring more than four daily preparations.
 - S.C. Reg. § 43-220 – Gifted & Talented (incorporated by reference in the Defined Program regulations)
 - Pupil teacher ratios are specified in regulation
 - Program requires a certain level of minutes per year of instruction to qualify for funding
 - Summer programs must be a minimum of 30 days
 - S.C. Reg. § 43-231 – Defined Program K-5
 - Minimum requirements for instructional time and teacher-student ratios
 - S.C. Reg. § 43-232 – Defined Program 6-8
 - Minimum requirements for instructional time and teacher-student ratios
 - S.C. Reg. § 43-232 – Defined Program 9-12
 - Class size requirements

¹² Although subsection (E) might suggest that schools could develop a four-day week with “equivalent hours weekly,” the 180-day requirement does not have an equivalency provision.

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- Length of school day
- S.C. Reg. § 43-237.1 – Adult Education
 - Length of school term (minimum of 30 weeks) and a minimum of 60 hours per unit of credit
 - Enrollment count based on minimum of 12 hours of instruction
- S.C. Reg. § 43-240 – Summer School
 - Carnegie units referenced and requires 120 hours of instruction per unit
 - Class size and course load restrictions (impacting teaching time)
- S.C. Reg. § 43-242 – Driver Training
 - Minimum hour and instruction requirements are detailed.
- S.C. Reg. § 43-259 – Graduation Requirements
 - Requires a one year course or equivalent on U.S. Constitution and history principles
 - Adult education classes are transferable or applicable to a diploma only if there are 120 hours of class time
- S.C. Reg. § 43-262.4 – End of Course Tests
 - Regulation requires that test count as 20% of grade. Question whether students can “test out” of courses using the test (not currently done).
 - Test administration is at set times per year; proficiency-credit systems for “gateway” courses cannot award credit until after a test administration.
- S.C. Reg. § 43-274 – Student Attendance
 - Local boards (or designees) must approve of any types of absences in excess of 10 days.
 - To obtain a unit of credit, students must have 120 hours of seat time (despite proficiency-based system regulation).
 - District must allow students to make up work and time “to satisfy the 120-hours requirement.”¹³
 - Generally make up work must be within 30 days of the end of the course.
- S.C. Reg. § 43-601 – Charter Schools
 - To issue a diploma, charter high schools must meet Carnegie unit 120-hour requirements (despite the proficiency-system regulation). § 43-601.III.D.(7).
 - Charter school calendars must be at least 180 days. § 43-601.III.D.(5).
 - Virtual charter schools must have 25% of instruction through “regular instructional opportunities.”

2. Attendance

To receive their appropriation for teacher salaries based upon the 190-day calendar, schools must have minimum average daily attendance of students based upon the number of teachers employed. S.C. Code § 59-21-30. For example, a twelve-teacher high school must have a minimum average daily attendance of at least 300, and schools with larger faculty must have an average of 26 students per teacher. *Id.* Additional rules apply to special education. S.C. Code § 59-21-540. Charter schools must also meet the minimum attendance requirements for public schools. *Id.* § 59-40-50(B)(2). Charter school funding is also defined by attendance. *Id.* § 59-40-140(A) and (B).

¹³ In connection with Rock Hill’s pilot for “failure due to absences” under the proficiency regulation, SCDE learned that local boards and districts commonly require make up time for 10 or more absences, even when the student has met the 120 hour requirement. In some places this may be done in “Saturday school,” where students sit in an auditorium. As noted above, 36 of the 180 days could be missed and still meet 120 hours. The State should consider developing clarifying information on these requirements for districts and their boards.

State statute requires that schools must intervene when a student has three consecutive “unlawful” absences, or a total of five. Id. § 59-65-90. Local boards must approve any absences over ten days. Id. That requirement also appears in S.C. Reg. § 43-274, which also states that to obtain a unit of credit, students must have 120 hours of seat time.

The state plan¹⁴ for South Carolina under ESEA also includes attendance as an indicator within the definition of Adequate Yearly Progress. ESEA § 1111(b)(2)(C)(vii).

Districts or schools with either proficiency-based systems, or “attendance” that does not resemble traditional physical presence within a school building, risk losing funding, creating intervention plans, appearing before local boards, and missing AYP.¹⁵ The superintendents who presented to the SBE in October 2011 recommended that the attendance regulation (43-274) be amended to expressly include the taking of an online course as a lawful absence.

3. Class Size and Workloads

Although there are multiple statutes and regulations that list requirements for class sizes and workloads, most of those are either incorporated into the “defined program” regulation that can be waived with amendment of a district or school plan, or are eligible for current waiver by proviso. Proviso 1.40 for FY 11-12 suspends “suspend professional staffing ratios ... except for four-year old programs.” The Flexibility Through Deregulation Guidelines summarized in section 2.e above, and incorporated as Appendix IV, list several sets of class size and course load rules in Regulation §§ 43-205, -209, -231, -232, and -234 that are eligible for waiver.

Section 59-29-200 indicates EIA remediation funding is not available if class sizes are not at 25:1 or less. Separate law also provided extra funding for lower class sizes. S.C. Code § 59-63-65 provided funding for reducing grade 1-3 class sizes to 15:1. In FY 2008-09, however, the funding for “reduced class size” was rolled up into a new category called “Students at risk of school failure.” See Proviso 1A.35 for FY 2011-12. Funds are distributed based upon the poverty index and the number of students not in poverty who do not meet State standards in reading in math. Therefore, changing these class sizes does not appear to carry a financial penalty at this time.

Other regulations that are incorporated by reference into the “defined program” regulations should also be eligible for waiver, e.g., gifted and talented, and summer school.

¹⁴ The target is 94% or .1 higher than the previous year. <http://www2.ed.gov/admins/lead/account/stateplans03/sccsa.pdf>

¹⁵ Note, however, that Proviso 1.40 for FY 11-12 suspends “suspend professional staffing ratios and expenditure regulations and guidelines at the sub-function and service area level, except for four-year old programs.”

4. Instruction

Do “instruction” and “instructional hours” require that a student be in a physical public school building being presented material by a certified highly qualified teacher who is also physically present? “Instruction” and “days of instruction” are not defined. South Carolina has long had instruction through distance learning. “Regular instructional opportunities in real time” is included in the virtual charter school statute, indicating that “instruction” can occur outside of “real time.” Some educators appear to assume that “instruction” means time in a school building with a teacher, and see this as a barrier to innovation.

Because most of the instructional time requirements are in the “defined program,” districts and schools should be able to seek SBE approval of an amended plan that sets out different scenarios for what is “instruction.” Regulations could also be amended to define “instruction” as something broader than physical seat time.¹⁶ The term “instruction” might also be interpreted to include other learning situations as being part of the “mandatory” school day, for example, extended learning opportunities being given high school credit in other states.

Other statutes remove some flexibility for designing course content. For example, certain dance instruction can replace only one-quarter of the time required for physical education in K-5. S.C. Code § 59-10-30(B).

5. Certification Barriers

As is noted above, South Carolina has several alternative routes for teacher credentialing, including the recent adjunct certification. Innovating educators would like additional flexibility, however. The October 2011 superintendents’ proposal was to allow those who have a degree from an accredited institution, who are “considered preeminent in their field,” and who are approved by the local board to teach up to three courses per year, so long as teachers with these credentials make up less than 25% of the staff.

Current federal law requires that districts hire “highly qualified teachers.” (ESEA § 1119(a)(1)) and the state’s plan must require highly qualified teachers in core academic subjects, ESEA § 1119(a)(2). “Highly qualified teacher” (HQT) is defined in ESEA § 9101(23)(B) as teachers who have at least a bachelor’s degree. Elementary teachers must also pass a rigorous state test on the elementary curriculum. Middle and high school teachers must demonstrate a “high level of competency” through either passing a rigorous test in the subject to be taught, or completing for those subjects “an academic major, a graduate degree, coursework equivalent to an undergraduate academic major, or advanced certification or credentialing.” The current adjunct instruction credential therefore appears to meet the ESEA requirements, but a regulation that permitted those “preeminent in their field” might not equate to “advanced certification or credentialing.” The current regulation could be amended to permit those who have “advanced certification or credentialing” to receive adjunct credentials. In addition, if the SBE were willing to consider such an addition to adjunct certification, the State, district, or school could apply for an ESEA waiver as described above, seeking to have those “preeminent in their field” included within the HQT classification.

¹⁶ Leaving the term undefined may actually create more opportunity for innovation.

The ESEA does not require that the number of courses taught by adjuncts be limited. South Carolina could remove that restriction from its certification so that 25% or more of the staff could be preeminent experts or other highly qualified individuals.

The ESEA definition of HQT excepts “any teacher teaching in a public charter school,” for whom “the term means that the teacher meets the requirements set forth in the State's public charter school law.” ESEA § 9101(23)(A)(i). State regulation requires that some non-certified charter staff have a higher education degree in the subject taught:

A teacher of a core academic area (English/language arts, mathematics, science, or social studies) must be certified in that area or must hold a baccalaureate or graduate degree in that subject. Teachers with elementary certification may teach in any academic area and in any grades allowable by the status of their certification.

S.C. Reg. § 43-601.III.(H).(4). South Carolina law could be relaxed to permit other credentialing in regular and conversion charter schools.

6. Finance

School districts receive funding under a variety of state and federal formulae.¹⁷ A major portion of the state funding is through the Education Finance Act, which formula looks at average daily membership (ADM) and the index of taxpaying ability. “Membership” is defined in Reg. 43-172 to include students present or absent (43-172.A.2) who maintain membership in a minimum of 200 minutes per day or 36,000 minutes annually (43-172.B.2.c; i.e., 100 six-hour days) and who have not been dropped from membership for ten consecutive unlawful absences or otherwise leaving the school (43-172.A.6).¹⁸ Charter school, kindergarten, and other funding also rely on ADM. Therefore, to avoid having innovative schools lose funding, districts must determine which situations outside of the traditional classroom setting will qualify for “membership” or “attendance” or “instruction,” and which will be considered “unlawful absences.”

III. Proposals

The following are some proposals for changes or clarifications that could promote innovative practice to improve student outcomes. This is by no means an exhaustive list, and does not include all of the suggestions listed above.

1. Allow waivers or flexibility for a portion of a school. E.g., classes, school within a school, or certain teachers. This could permit piloting to test outcomes.
2. Develop standards for how innovative practices subject to flexibility and waivers will be set up, evaluated, measured, and reported so that these efforts add to the body of knowledge for all

¹⁷ Over 50 budget lines were considered “primary funding formulae” for federal State Fiscal Stabilization Fund allocations.

¹⁸ The regulation also says “4. A pupil shall maintain membership in the appropriate instructional program for the minimum length of the school day.” This could be an additional time requirement, but appears to a limit on how frequently a student can be moved among weight pupil categories.

educators. These could be accompanied by standards that define what “evidence” or “research” is needed when proposing an innovation and flexibility.¹⁹ Included within those standards could be a requirement that reporting include comparisons of the cost of the innovation to “regular” education methods. When more efficient innovations are developed, the SBE could use its authority under the employee savings program statute to award those promoting the innovation and to continue the waivers. S.C. Code § 59-1-452(D).

3. “Extenuating circumstances” that would extend flexibility authorization beyond one year are not defined. Rarely will new practices reap measurable and sustainable results that quickly. ESEA waivers can be granted for up to four years. The Secretary’s ESEA waiver application promotes one year waivers with annual reporting for extension of the flexibility. The “extenuating circumstances” language is in the statutes, §§ 59-18-1110, -1120. Either the statutes could be amended, or the SBE could consider issuing amendments or guidelines that define “extenuating” in a manner that recognizes the time it will take to assess whether an innovation is working.
4. The SBE could identify innovative practices it is willing to approve upon application from districts, removing some of the “guess work” and burden on applicants. Templates could be created, similar to the U.S. Department of Education’s ESEA waiver application, that identify areas likely to be approved for waiver and any conditions imposed for the waiver with related draft amendments school renewal plans.
5. The SBE could interpret “instruction” and “attendance” in ways that remove questions about whether innovative practices will impact “average daily membership.” EFA § 59-20-40 states “average daily membership (ADM) will be computed, currently maintained, and reported in accordance with the regulations of the State Board of Education.”
6. Innovative educators should work with the SCDE to ensure that needed ESEA flexibility is included in the State’s application for waiver. In addition, templates for district and school ESEA waiver and flexibility submissions could be developed for different or additional flexibility, e.g., flexibility to define “HQT” as those who are “preeminent in their field.”
7. South Carolina could amend its charter school regulations to permit non-certified staff who have credentials other than a degree in the subject area being taught. Other credentialing regulations could be relaxed, e.g., the limit of two courses on adjunct certification; or expanded, e.g., allow certification for those with “advanced certification or credentialing” even if it is not in the form of a college major, advanced degree, or PRAXIS score. As noted, superintendents want the flexibility to have 25% or more of the staff be those preeminent in their fields, even if the staff member is without traditional pedagogy certifications.
8. South Carolina could consider changing the law to remove the limits on the numbers of courses that can be taken online for credit outside of virtual charter schools. Changes would need to take into account funding streams for the SCVSP versus district ADM.
9. South Carolina could consider removing the additional restrictions on the conversion charter schools, e.g., the 10% cap on non-certified staff, and expand the authorization for both types of charters.
10. SBE could add these laws to the guidelines under Reg. 43-303 as eligible for deregulation, flexibility, or waiver:
 - a. Reg. 43-172 (membership)
 - b. § 59-21-30 (average daily attendance per teacher) as a statute related to “staffing.”

¹⁹ For example, the federal What Works Clearinghouse has stringent standards for assessing what research studies will be selected as showing promise. The Best Evidence Encyclopedia at Johns Hopkins also has standards. The 21st century Community Learning Centers statute has standards for practices in the legislation.

- c. Reg. 43-240 on summer schools
 - d. Regulations on gifted and talented
11. South Carolina can revise the regulations that reference “Carnegie units” or require 120 hours of instruction for a high school unit of credit (e.g., summer school) to align with the proficiency-based system regulation. See sections cited above under Flexibility 3. Proficiency Credit, and Barrier 1. Time.
 12. Reg. 43-274 could be amended to relieve local boards of the requirement to approve more than ten absences for high school students who meet the 120 hour or proficiency-based system requirements.
 13. South Carolina could review all of the statutes on class size and workloads for possible revision to avoid financial penalty should the current proviso on flexibility not be extended.
 14. To the extent the terms “instruction,” “days of instruction,” and “instructional opportunities” might be assumed to be limited to time in a school building with a highly qualified teacher, the SBE could issue guidance or regulations that align the concepts with current and future innovative practices and the virtual charter school statute.
 15. Rather than defining audited instruction or an online course as a lawful absence (as has been suggested), treat time spent on an online courses and audited instruction as regular attendance and membership.
 16. South Carolina should include within its highly effective educator systems revisions to the 190-day contract statute and workload restrictions.
 17. South Carolina could move from the concept of deregulation as a reward, or a short, piecemeal, and episodic waiver, to the idea that innovation requires system-wide transformation and flexibility. In that regard, the State could review the work being done in other states to promote innovation in a manner that is not burdensome or uncertain for schools and districts.

Conclusion

South Carolina educators currently have several avenues for pursuing flexibility and authorization for innovative practices. Some of those avenues are not fully utilized either because the availability is not well marketed, or because other laws appear to raise conflicting barriers, or because a risk to funding is perceived, or because the waiver process is a burden. The SBE, SCDE, and the legislature can act to promote further innovation to improve learning outcomes resulting in college- and career-ready citizens for our State.

Appendix I – Current and

Current SC Statutes

Chapter 1 – General Provisions

SECTION 59-1-425. Beginning and length of school term; make-up days; instructional days.

(A) Each local school district board of trustees of the State shall have the authority to establish an annual school calendar for teachers, staff, and students. **The statutory school term is one hundred ninety days annually and shall consist of a minimum of one hundred eighty days of instruction covering at least nine calendar months.** However, beginning with the 2007-2008 school year the opening date for students must not be before the third Monday in August, except for schools operating on a year-round modified school calendar. Three days must be used for collegial professional development based upon the educational standards as required by Section 59-18-300. The professional development shall address, at a minimum, academic achievement standards including strengthening teachers' knowledge in their content area, teaching techniques, and assessment. No more than two days may be used for preparation of opening of schools and the remaining five days may be used for teacher planning, academic plans, and parent conferences. **The number of instructional hours in an instructional day may vary according to local board policy and does not have to be uniform among the schools in the district.**

(B) Notwithstanding any other provisions of law to the contrary, **all school days missed** because of snow, extreme weather conditions, or other disruptions requiring schools to close **must be made up**. All school districts shall designate annually at least three days within their school calendars to be used as make-up days in the event of these occurrences. If those designated days have been used or are no longer available, the local school board of trustees may lengthen the hours of school operation by no less than one hour per day for the total number of hours missed or operate schools on Saturday. Schools operating on a four-by-four block schedule shall make every effort to make up the time during the semester in which the days are missed. A plan to make up days by lengthening the school day must be approved by the Department of Education before implementation. Tutorial instruction for grades 7 through 12 may be taught on Saturday at the direction of the local school board. If a local school board authorizes make-up days on Saturdays, tutorial instruction normally offered on Saturday for seventh through twelfth graders must be scheduled at an alternative time.

(C) The General Assembly by law may waive the requirements of making up missed days or, by law, may authorize the school board of trustees to forgive up to three days missed because of snow, extreme weather conditions, or other disruptions requiring schools to close. A waiver granted by the local board of trustees of the requirement for making up missed days also must be

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authorized through a majority vote of the local school board.

(D) If a school is closed early due to snow, extreme weather conditions, or other disruptions, the day may count towards the required minimum to **the extent allowed by State Board of Education policy.**

(E) **The instructional day for secondary students must be at a minimum six hours a day, or its equivalent weekly, excluding lunch. The school day for elementary students must be at a minimum six hours a day, or its equivalent weekly, including lunch.**

(F) **Elementary and secondary schools may reduce the length of the instructional day to not less than three hours for not more than three days each school year for staff development, teacher conferences, or for the purpose of administering end-of-semester and end-of-year examinations.**

(G) Priority during the instructional day must be given to teaching and learning tasks. Class interruptions must be limited only to emergencies. Volunteer blood drives as determined by the principal may be conducted at times which would not interfere with classroom instruction such as study period, lunch period, and before and after school.

(H) **The State Board of Education may waive the school opening date requirement** pursuant to subsection (A) of this section on a showing of **good cause or for an educational purpose**. For the purposes of this section:

(1) "Good cause" means that schools in a district have been closed eight days per year during any four of the last ten years because of severe weather conditions, energy shortages, power failures, or other emergency situations.

(2) "Educational purpose" means a district establishes a need to adopt a different calendar for a:

(a) specific school to accommodate a special program offered generally to the student body of that school,
(b) school that primarily serves a special population of students, or

(c) **defined program** within a school.

The **state board may grant the waiver** for an educational purpose for that specific school **or defined program** to the extent that the state board finds that the educational purpose is reasonable, the accommodation is necessary to accomplish the educational purpose, and the request is not an attempt to circumvent the opening date set forth in this subsection. Waiver requests for educational purposes may not be used to accommodate system-wide class scheduling preferences. Nothing in this subsection prohibits a district from offering supplemental or additional educational programs or activities outside of the calendar adopted

Chapter 5 – State Board of Education

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SECTION 59-5-60. General powers of Board.

The State Board of Education shall have the power to:

- (1) Adopt policies, rules and regulations not inconsistent with the laws of the State for its own government and for the government of the free public schools.
- (2) Annually approve budget requests for the institutions, agencies, and service under the control of the Board as prepared by the State Superintendent of Education prior to being submitted to the Budget and Control Board and to the General Assembly.
- (3) **Adopt minimum standards for any phase of education as are considered necessary to aid in providing adequate educational opportunities and facilities.**
- (4) Prescribe and enforce rules for the examination and certification of teachers.
- (5) Grant State teachers' certificates and revoke them for immoral or unprofessional conduct, or evident unfitness for teaching.
- (6) **Prescribe and enforce courses of study for the free public schools.**
- (7) Prescribe and enforce the use of textbooks and other instructional materials for the various subjects taught or used in conjunction within the free public schools of the State, both high schools and elementary schools in accordance with the courses of study as prepared and promulgated by the Board.
- (8) Appoint such committees and such members of committees as may be required or as may be desirable to carry out the orderly function of the Board.
- (9) Cooperate fully with the State Superintendent at all times to the end that the State system of public education may constantly be improved.
- (10) Assume **such other responsibilities and exercise such other powers and perform such other duties as may be assigned to it by law or as it may find necessary to aid in carrying out the purpose and objectives of the Constitution of the State.**

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

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

- (1) **waive specific courses required for graduation if those courses** were not specifically required for graduation in the student's most recent state of residence; however, the state board may not waive the number of courses required in ELA, math, and science. If a student does not have sufficient course credit to be issued a South Carolina diploma, the state board, to the extent possible, shall provide an alternative means of acquiring required coursework so that the student could receive a South Carolina high school diploma and graduation may occur on time; and
 - (2) may accept exit exams, end-of-course exams, or alternative testing required for graduation from the sending state in lieu of South Carolina testing requirements for graduation provided that all portions of these exams necessary for graduation from the sending state have been satisfactorily met.
- (B) In the event the alternatives provided in subsection (A) cannot be accommodated after all alternatives have been considered, the State Board of Education shall work with other state boards and departments of education to help facilitate the

receipt of a diploma from the sending state if the student meets the graduation requirements of that state.

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

Chapter 16 – SCVSP

SECTION 59-16-15. South Carolina Virtual School Program established; eligibility to enroll; credits; computer equipment and internet access.

(A) **The State Board of Education is authorized to establish the South Carolina Virtual School Program** to provide South Carolina students access to distance, online, or virtual learning courses offered for an initial unit of credit. Additionally, the South Carolina Virtual School Program shall offer access to credit recovery programs for students who have been identified by a school district as not having received credit for a course previously taken or for students who have been identified by a school district as not likely to receive credit for a course in which the student is currently enrolled. Students may enroll in courses for credit recovery based **on policies established by the State Board of Education.** The South Carolina Virtual School Program shall not award a South Carolina High School diploma.

...

(C) Students may be awarded **a maximum of three online initial credits in a school year, and no more than twelve online initial credits throughout high school.** However, the **State Board of Education shall establish an appeals process** whereby the governing body of the student's school district may **grant a waiver** to exceed the established limit.

(D) Local school districts shall accurately transcribe a student's final numeric grade to the student's permanent record and transcript. Home school students and private school students shall receive a certified grade report indicating date, course, and final numeric grade from the South Carolina Virtual School Program **or an entity approved by the State Board of Education.**

(E) Students enrolled in an online course for a unit of credit must be administered final exams and appropriate state assessments in a proctored environment.

...

SECTION 59-16-20. Housing and management of program; standards for courses; instructor certification and training.

...

(B) Each course offered for a unit of credit shall be reviewed for correlation with the state adopted academic standards prior to being offered.

(C) All distance, online, or virtual learning courses offered for a unit of credit must be aligned with the state adopted academic standards, include appropriate course materials, and be approved by the State Department of Education.

(D) Instructors must hold a valid teaching certificate in each content area being taught or receive approval from the State Department of Education to teach the course.

(E) All virtual schoolteachers must receive appropriate preservice and in-service training pertaining to the organization, classroom management, technical aspects, monitoring of student assessment, and other pertinent training from the State Department of Education.

Chapter 18 – Education Accountability Act

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SECTION 59-18-110. Objectives.

The system is to:

- (1) use academic achievement standards to push schools and students toward higher performance by aligning the state assessment to those standards and linking policies and criteria for performance standards, accreditation, reporting, school rewards, and targeted assistance;
- (2) provide an annual report card with a performance indicator system that is logical, reasonable, fair, challenging, and technically defensible, which furnishes clear and specific information about school and district academic performance and other performance to parents and the public;
- (3) require all districts to establish local accountability systems to stimulate quality teaching and learning practices and target assistance to low performing schools;
- (4) provide resources to strengthen the process of teaching and learning in the classroom to improve student performance and reduce gaps in performance;
- (5) support professional development as integral to improvement and to the actual work of teachers and school staff; and
- (6) expand the ability to evaluate the system and to conduct in-depth studies on implementation, efficiency, and the effectiveness of academic improvement efforts.

SECTION 59-18-300. Adoption of educational standards in core academic areas.

The **State Board of Education is directed to adopt grade specific performance-oriented educational standards in the core academic areas** of mathematics, English/language arts, social studies (history, government, economics, and geography), and science for kindergarten through twelfth grade and for grades nine through twelve adopt specific academic standards for high school credit courses in mathematics, English/language arts, social studies, and science. . . .

SECTION 59-18-1100. Palmetto Gold and Silver Awards Program established; criteria.

The State Board of Education, working with the division and the Department of Education, must establish the Palmetto Gold and Silver Awards Program to recognize and reward schools for academic achievement and for closing the achievement gap. Awards will be established for schools attaining high levels of absolute performance, for schools attaining high rates of growth, and for schools making substantial progress in closing the achievement gap between disaggregated groups. The award program must base improved performance on longitudinally matched student data and may include such additional criteria as:

- (1) student attendance;
- (2) teacher attendance;
- (3) graduation rates; and
- (4) other factors promoting or maintaining high levels of achievement and performance. Schools shall be rewarded according to specific criteria established by the division. In defining eligibility for a reward for high levels of performance, student performance should exceed expected levels of improvement. **The State Board of Education shall promulgate regulations** to ensure districts of the State utilize these funds to improve or maintain exceptional performance according to their school's plans established in Section 59-139-10. Funds may be

utilized for professional development support.

Special schools for the academically talented are not eligible to receive an award pursuant to the provisions of this section unless they have demonstrated improvement and high absolute achievement for three years immediately preceding.

SECTION 59-18-1110. [EAA] Grant of flexibility of receiving exemption from regulations; criteria; continuation of and removal from flexibility status.

(A) Notwithstanding any other provision of law, **a school is given the flexibility of receiving exemptions from those regulations and statutory provisions governing the defined program provided that, during a three-year period**, the following criteria are satisfied:

- (1) the school has twice been a recipient of a Palmetto Gold or Silver Award, pursuant to Section 59-18-1100;
- (2) the school has met annual improvement standards for subgroups of students in reading and mathematics; **and**
- (3) the school has exhibited no recurring accreditation deficiencies.

(B) Schools receiving flexibility status are released from those regulations and statutory provisions referred to above **including, but not limited to, regulations and statutory provisions on class scheduling, class structure, and staffing.**

(C) To continue to receive flexibility pursuant to this section, a school must annually exhibit school improvement at or above the state average as computed in the school recognition program pursuant to Section 59-18-1100 and must meet the gains required for subgroups of students in reading and mathematics. **A school which does not requalify for flexibility status due to extenuating circumstances may apply to the State Board of Education for an extension** of this status for one year.

(D) In the event that a school is removed from flexibility status, the school is not subject to regulations and statutory provisions exempted under this section until the beginning of the school year following notification of the change in status by the State Department of Education. Subsequent monitoring by the State Department of Education in a school that is removed from flexibility status shall not include a review of program records exempted under this section for the period that the school has received flexibility status or for the school year during which the school was notified of its removal from flexibility status.

SECTION 59-18-1120. Grant of flexibility of exemption from regulations and statutes to school designated as school/district at-risk; extension to other schools.

(A) Notwithstanding any other provision of law, a school designated as school/district at-risk while in such status is given the **flexibility of receiving exemptions from those regulations and statutory provisions governing the defined program or other State Board of Education regulations, dealing with**

the core academic areas as outlined in Section 59-18-120 [sic, 59-18-300], provided that the review team recommends such flexibility to the State Board of Education.

(B) Other schools may receive flexibility when their school renewal plan explains why such exemptions are expected to improve the academic performance of the students and the plan meets the approval by the State Board of Education. To continue to receive flexibility pursuant to this section, a school must annually exhibit overall school improvement as outlined in its revised plan and must meet the gains set for subgroups of students in content areas included in the accountability assessments. A school which does not requalify for flexibility status due to extenuating circumstances **may apply to the State Board of Education** for an extension of this status for one year according to the provisions of Section 59-18-1110(D).

**Chapter 20 – Education Finance Act of 1977
SECTION 59-20-20**

(1) "Foundation program" means the program proposed to establish substantially equitable current operation funding levels for programs for South Carolina's public school students, regardless of their geographic location, after the students are transported to school and housed in school plants.

(4) "**Defined minimum program (DMP)**" means the program established annually by the State Board of Education that is necessary to provide public school students in the State with minimum educational programs designed to meet their needs. The State Board of Education shall transmit a per-weighted pupil estimate of the full implementation of the defined minimum program to the State Budget and Control Board and the General Assembly for each proposed budgetary year. The State Board of Education shall transmit any suggested changes in the basic programs and their weightings as evidenced by changing requirements and practices.

...
(6) "Base student" means that student classification that represents the most economically educated pupil in the school system, those in grades four through eight in regular classroom settings. "Base student cost" is the funding level necessary for providing a **minimum foundation program** which includes the funding level necessary for supporting the **defined minimum program** and to meet, as funds are available, needs identified by each district board of trustees' annual report, which reflects the needs identified in the annual school reports of the district and other assessments, and which is calculated in 1976 dollars to be six hundred sixty-five.

Provided, however, by July 1, 1983, that of the state and local monies generated by the base student cost above the cost of the **defined minimum program**, not more than fifty percent shall be used by the local school districts to meet the needs identified by the board of trustees' annual report. Monies generated by weightings above 1.00 shall not be used for revisions of the **defined minimum program**.

SECTION 59-20-40. [EFA] Determination of annual allocations.

The annual allocation to each school district for the operation of the foundation program as it relates to the school district shall be determined as follows:

(1) Computation of the basic amount to be included for current operation in the **foundation program**:

(a) Each school district shall maintain a program membership of each school by compiling the student membership of each classification. The cumulative one hundred thirty-five day average daily membership of each school district by program classification will determine its monetary entitlement. The district's **average daily membership (ADM)** will be computed, currently maintained, and reported in accordance with the **regulations of the State Board of Education**. Funds for the state's portion of the per-pupil cost of the foundation program shall be disbursed monthly to the various school districts. End-of-year adjustments in state funds shall be made based on the one hundred thirty-five day student average daily membership in each classification.

(b) The base student cost shall be established annually by the General Assembly. The base student cost shall be established in such a manner that five years after July 2, 1978, the funding level shall approximate the cost of the **defined minimum program** as set forth by the State Board of Education.

Each year the Division of Research and Statistics of the Budget and Control Board shall submit to the Legislature an estimate of the projected rate of inflation for the fiscal year to be budgeted, and the base student cost shall be adjusted to incorporate the inflated cost of providing the **Defined Minimum Program**.

(c) Weightings, used to provide for relative cost differences, between programs for different students are established in order that funds may be equitably distributed on the basis of pupil needs.

Pupil Classification Weightings

(d) The basic amount for the foundation program for each district shall be computed as follows:

(1) The calculated **average daily membership** in each student classification shall be multiplied by the weighting factor for that respective classification.

(2) The subtotals (totals in each student classification) in all classifications shall be added to get the district's total **weighted pupil units**.

(3) The district's weighted pupil units shall be multiplied by the **base student cost figure** as established annually by the General Assembly.

(e) Computation of the required local revenue in support of the foundation program.

The amount that each school district shall provide toward the cost of the South Carolina foundation program shall be computed by determining the total statewide collective local share (approximately thirty percent) of the total cost of the foundation program, and multiplying this by the index of taxing ability of each district as defined in Section 59-20-20.

(f) Computation of the required state effort.

The amount that the State shall provide to each school district toward the cost of the foundation program shall be the difference between the district's basic amount as computed in subsection (d) minus the required amount raised locally as computed in subsection (e).

Notwithstanding the provisions of this section, state aid to any

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school district shall be reduced in proportion to the ratio that its local school tax effort falls below that required by subsection (2) of Section 59-20-50.

(2) Reserved.

(3) Provisions for a phase-in plan of implementation . . .

(4) Impact aid revenue shall be counted as local effort for purposes of computing actual local effort, in order to meet requirements of Section 59-20-40(3) (b). . . .

(5) To qualify for funds provided in this chapter, each district must attain **an average pupil-teacher ratio based on average daily membership in the basic skills of reading and mathematics in grades one through three of 21:1.**

Provided, That any local district may apply to the **State Board** of Education for approval of a **waiver** to this subsection by submitting and justifying an alternative educational program to serve the basic skill needs of average daily membership in grades one through three.

The **State Board** of Education shall approve or disapprove of such waiver forty-five days after receipt of such application. Provided, Further, That beginning with Fiscal Year 1978-79, if a school district violates the provisions of this subsection, the state aid for the ensuing fiscal year to such school district shall be reduced by the percentage variance that the actual pupil-teacher ratios in such school district has to the required pupil-teacher ratios mandated in this Subsection.

Provided, That notwithstanding the provisions of this Section, the **State Board** of Education is authorized to waive the pupil-teacher requirements specified herein upon a finding that a good faith effort is being made by the school district concerned to comply with the ratio provisions but that for lack of classroom space which was beyond its control it is physically impossible for the district to comply for the Fiscal Years 1978-1979 and 1979-1980 and the cost of temporary classroom space cannot be justified.

It is the intent of the General Assembly that the average daily membership pupil-teacher ratio for grades 1 through 3 stipulated in the chapter be implemented to the extent possible on an individual class basis and that the **pupil enrollment in these grades should not exceed twenty-eight pupils in each class.**

(6) No district shall be required to increase local revenue if combined state and local revenue exceeds the amount necessary to meet the base student cost of the minimum foundation program at full implementation.

(7) [Deleted]

(8) The General Assembly shall annually provide the portion of the local required support of the foundation program required by the South Carolina Education Improvement Act of 1984 on the basis of the district's taxpaying ability in the annual general appropriation act.

SECTION 59-20-60. Spending priority; audits; evaluations and reports; statewide testing programs; Innovation Initiative; improvement councils; Education Finance Review Committee.

(1) School districts shall give first spending priority of funds allocated under this chapter to full implementation of the **defined minimum program.**

(2) The State Board of Education shall audit the programmatic and fiscal aspects of this chapter, including the degree to which a school meets all prescribed standards of the **defined minimum program** and shall report the results in the Annual Report of the State Superintendent of Education. Schools which have been classified as 'dropped' by **the defined minimum program**

accreditation procedures are not eligible for funding in the following fiscal year until an acceptable plan to eliminate the deficiencies is submitted and approved by the State Board of Education.

(3) Each school district board of trustees shall cause the district and each school in the district to **develop comprehensive five-year plans with annual updates** to outline the District and School Improvement Plans. . . .

The State Board of Education shall recommend a format for the plans which will be flexible and adaptable to local planning needs while encompassing certain state mandates, including the early childhood and academic assistance initiative plans pursuant to Section 59-139-10. All district and school plans must be reviewed and approved by the board of trustees. The District Plan should integrate the needs, goals, objectives, strategies, and evaluation methods outlined in the School Plans. Measures of effectiveness must include outcome and process indicators of improvement and must provide data regarding what difference the strategies have made. Staff professional development must be a priority in the development and implementation of the plans and must be based on an assessment of needs. Long and short-range goals, objectives, strategies, and time lines need to be included.

(4) Each plan shall provide for an **Innovation Initiative**, designed to encourage innovative and comprehensive approaches based on strategies identified in the research literature to be effective. **The Innovation Initiative must be utilized by school districts to implement innovative approaches designed to improve student learning and accelerate the performance of all students.** Funds may be expended on strategies in one or more of the following four categories:

- (a) new approaches to what and how students learn by changing schooling in ways that provide a creative, flexible, and challenging education for all students, especially for those at risk. Performance-based outcomes which support a pedagogy of thinking and active approaches for learning must be supported;
- (b) applying different teaching methods permitting professional educators at every level to focus on educational success for all students and on critical thinking skills and providing the necessary support for educational successes are encouraged;
- (c) redefining how schools operate resulting in the decentralization of authority to the school site and allowing those closest to the students the flexibility to design the most appropriate education location and practice;
- (d) creating appropriate relationships between schools and other social service agencies by improving relationships between the school and community agencies (health, social, mental health), parents and the business community, and by establishing procedures that cooperatively focus the resources of the greater community upon barriers to success in school, particularly in the areas of early childhood and parenting programs, after-school programs, and adolescent services.

Funds for the **Innovation Initiative** must be allocated to districts based upon a fifty percent average daily membership and fifty percent pursuant to the Education Finance Act formula. At least seventy percent of the funds must be allocated on a per school basis for school based innovation in accord with the District-School Improvement Plan. Up to thirty percent may be spent for district-wide projects with direct services to schools. District and school administrators must work together to

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determine the allocation of funds.

....

(5) An annual district programmatic report to the parents and constituents of the school district must be developed by the local school board.

(6) Each school board of trustees shall establish an improvement council at each school in the district and this council is to be involved in improvement and **innovation efforts** at the school. The council shall be composed of at least two parents, elected by the parents of the children enrolled in the school; at least two teachers, elected by the faculty; at least two students in schools with grades nine and above elected by the students; other representatives of the community and persons appointed by the principal. The elected members of the council shall comprise at least a two-thirds majority of the elected and appointed membership of the council. The council should also include ex-officio members such as the principal and others holding positions of leadership in the school or school organizations, such as parent-teacher groups, booster clubs, and federal program advisory groups. Each council shall assist in the preparation of the five-year plan and annual updates required in this section, assist with the development and monitoring of school improvement and innovation, provide advice on the use of school incentive grant awards, and provide assistance as the principal may request as well as carrying out any other duties prescribed by the local school board. The local school board shall make provisions to allow any council to file a separate report to the local school board if the council considers it necessary. However, no council has any of the powers and duties reserved by law or regulation to the local school board. Notwithstanding any other provisions of this subsection, an area vocational center's school improvement council must be composed as defined exclusively by federal law. The council shall perform all duties and responsibilities provided for in any state or federal law which applies to these councils.

....

(10) A twelve-member Education Finance Review Committee must be established to advise the General Assembly and review its implementation of this chapter. This advice and review may include, but not be limited to:

- (a) the cost of **the defined minimum program**;
- (b) provisions included in the **defined minimum program**;
- (c) the pupil classification weights in Section 59-20-40;
- (d) the formula for computing required local effort;
- (e) the ongoing evaluation of the education program needs of the school districts.

The committee must be made up of three representatives from each of the following committees of the General Assembly - Senate Education, Senate Finance, House Education and Public Works, and House Ways and Means - appointed by each respective chairman. The committee shall seek the advice of professional educators and all other interested persons when formulating its recommendations.

Chapter 21 – State Aid for Schools

SECTION 59-21-20. Appropriation for teacher salaries based on term of 190 days.

The General Assembly shall make sufficient appropriation to pay state aid to salaries of all school teachers in the public schools on the basis and for the length of **one hundred ninety days** in the elementary and secondary schools in the State.

Chapter 25 – Teachers [applicable to regular and conversion charter schools]

Article 5 – Employment and Dismissal

SECTION 59-25-410. Notification of employment for ensuing year; notification of assignment....

SECTION 59-25-415. Priority for certified personnel as to rehiring within two years; mailing of notice of intent to rehire....

SECTION 59-25-420. Teacher required to notify board of acceptance; opportunity for hearing if not reemployed....

SECTION 59-25-430. Dismissal of teachers; grounds; opportunity for hearing; suspension pending resolution of charges....

SECTION 59-25-440. Written notice to teacher of possible dismissal; school administrator required to make reasonable effort to assist teacher in corrective measures; reasonable time for improvement required....

SECTION 59-25-450. Suspension of teachers; reinstatement....

SECTION 59-25-460. Notice of dismissal; conduct of hearing....

SECTION 59-25-470. Request for hearing; time and place of hearing; rights of teacher; determination by board....

SECTION 59-25-480. Appeals; costs and damages....

SECTION 59-25-490. Depositions....

SECTION 59-25-500. Service of subpoenas; witness fees....

SECTION 59-25-510. Service of notices....

SECTION 59-25-520. Powers and duties of court of common pleas; warrant for production of witnesses....

SECTION 59-25-530. Unprofessional conduct; breach of contract....

CHAPTER 26. TRAINING, CERTIFICATION AND EVALUATION OF PUBLIC EDUCATORS

SECTION 59-26-70. Adjustments in instructional time permitted; foreign language requirements for diploma. The State Board of Education, through the State Department of Education, in order to offer students more instructional time in a particular basic skill, may allow adjustments in the amount of instructional time required in each of the subjects in the State's defined minimum program. No commission or agency of the State shall require any public high school in this State to require foreign language as a prerequisite to receiving a regular high school diploma.

Chapter 29 – Subjects of Instruction

SECTION 59-29-10. Required subjects.

The county board of education and the board of trustees for each school district shall see that in every school under their care there shall be taught, as far as practicable, orthography, reading, writing, arithmetic, geography, English grammar and instruction in phonics, the elements of agriculture, the history of the United States and of this State, the principles of the Constitutions of the United States and of this State, morals and good behavior, algebra, physiology and hygiene (especially as to the effects of alcoholic liquors and narcotics upon the human system), English literature, and such other branches as the **state board** may from time to time direct.

SECTION 59-29-20. Required subjects; nature and effect of alcoholic drinks and narcotics....

SECTION 59-29-50. Required subjects; traffic laws....

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SECTION 59-29-55. Instruction on Black history.....

SECTION 59-29-60. Required subjects; program of safety instruction.....

SECTION 59-29-70. Required subjects; instruction in fire prevention.....

SECTION 59-29-80. Courses in physical education; ROTC programs.....

SECTION 59-29-120. Study of United States Constitution requisite for graduation; attendance at veteran's activities.....

SECTION 59-29-160. Two units of mathematics requisite for graduation....[See 59-39-100: 3 units after 1987]

SECTION 59-29-165. Instruction in personal finance.....

SECTION 59-29-170. Programs for talented students.....

SECTION 59-29-180. Emphasis on higher order problem solving skills.....

SECTION 59-29-190. Advanced placement courses for academically talented students.....

SECTION 59-29-200. Pupil-teacher ratios.

Notwithstanding any other provisions of the South Carolina Education Improvement Act of 1984, no school district with a student population in excess of 9,000 shall receive any remediation funds appropriated hereunder unless each language arts and mathematics class in grades seven through twelve has in 1984-85 a pupil-teacher ratio of thirty students per teacher or less, in 1985-86 a pupil-teacher ratio of twenty-eight students per teacher or less, and in 1986-87, and thereafter, **a pupil-teacher ratio of twenty-five to one or less.**

SECTION 59-29-220. Arts education curricula.....

SECTION 59-29-410. Development of high school financial literacy programs; areas of instruction.....

CHAPTER 33. SPECIAL EDUCATION FOR HANDICAPPED CHILDREN

SECTION 59-33-30. Establishment by **State Board** of Education of program of specialized education for handicapped children; rules and regulations.....

Chapter 39 High Schools

SECTION 59-39-100. Issuance of uniform diplomas by accredited high school; units required.

(A) Diplomas issued to graduates of accredited high schools within this State must be **uniform** in every respect and particularly as to color, size, lettering, and marking. The number of units required for a state high school diploma is twenty units as prescribed by the **State Board** of Education. Beginning in the 1986-87 academic year, **a minimum of three units must be earned in mathematics and a minimum of two units must be earned in science.**

(B) One unit in computer science, if approved by the State Department of Education for this purpose, may be counted toward the mathematics requirement.

(C) Students who earn one unit in science and six or more units in a specific occupational service area will meet the science requirements for a state high school diploma. Career and technology programs operating on a 3-2-1 structure may count pre-career and technology education as one of the six required units.

(D) Beginning with the ninth grade class of school year 1997-98, **the number of units required for a high school diploma is**

twenty-four units as prescribed by the State Board of Education by regulation, with one additional unit required in mathematics, science, and computer science to include keyboarding. For students in a **college preparatory** track, as defined by the state board, one additional unit must be earned in **a foreign language**; and for students in a track designed to enter the **work force**, as defined by the state board, **one additional career and technology unit must be earned.** Beginning with the ninth grade class of school year 1997-98, if a student counts one unit of computer science toward his mathematics requirement as permitted above, one additional unit of computer science must be earned.

(E) Nothing in this section prohibits local school boards of trustees from awarding recognition to students who complete additional units and credits beyond those required by this section.

SECTION 59-39-110. Accelerated program of study.

Each accredited high school in this State shall provide an accelerated program of study whereby any student who demonstrates sufficient ability shall, upon approval of the administrative head of such school and of the parent, guardian or other lawful custodian of such student, be allowed to undertake such courses of study as will enable the student to graduate at the end of eleven years of primary and secondary schooling.

SECTION 59-39-112. Elective credit for released time classes in religious instruction.

(A) A school district board of trustees may award high school students no more than two elective Carnegie units for the completion of released time classes in religious instruction as specified in Section 59-1-460....

SECTION 59-39-170. Secondary schools to emphasize teaching as career opportunity.

Acting through **guidelines adopted by the State Board of Education**, the secondary schools of this State shall emphasize teaching as a career opportunity.

SECTION 59-39-200. Voter registration application forms to be made available to students....

SECTION 59-39-310. School district boards shall establish driver education and training programs....

Chapter 40 – Charter Schools

SECTION 59-40-30. Intent of General Assembly.

(A) In authorizing **charter schools**, it is the intent of the General Assembly to create a legitimate avenue for parents, teachers, and community members to take responsible risks and create new, innovative, and more flexible ways of educating all children within the public school system. The General Assembly seeks to create an atmosphere in South Carolina's public school systems where research and development in producing different learning opportunities are actively pursued and where classroom teachers are given the flexibility to innovate and the responsibility to be accountable. As such, the provisions of this chapter should be interpreted liberally to support the findings and goals of this chapter and to advance a renewed commitment by the State of South Carolina to the mission, goals, and diversity of public education.

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(B) It is the intent of the General Assembly that creation of this chapter encourages cultural diversity, educational improvement, and academic excellence. Further, it is not the intent of the General Assembly to create a segregated school system but to continue to promote educational improvement and excellence in South Carolina.

SECTION 59-40-50. Exemption; powers and duties; admission to charter school.

(A) Except as otherwise provided in this chapter, **a charter school is exempt from all provisions of law and regulations applicable to a public school,** a school board, or a district, although a charter school may elect to comply with one or more of these provisions of law or regulations.

(B) A charter school must:

- (1) adhere to the same **health, safety, civil rights, and disability rights requirements as** are applied to public schools operating in the same school district or, in the case of the South Carolina Public Charter School District, the local school district in which the charter school is located;
- (2) meet, but may exceed, the **same minimum student attendance** requirements as are applied to public schools;
- (3) adhere to the same financial audits, audit procedures, and audit requirements as are applied to public schools;
- (4) be considered a school district for purposes of tort liability under South Carolina law, except that the tort immunity does not include acts of intentional or wilful racial discrimination by the governing body or employees of the charter school. Employees of charter schools must be relieved of personal liability for any tort or contract related to their school to the same extent that employees of traditional public schools in their school district or, in the case of the South Carolina Public Charter School District, the local school district in which the charter school is located are relieved;
- (5) in its discretion **hire noncertified teachers in a ratio of up to twenty-five percent of its entire teacher staff;** however, if it is a **converted charter school, it shall hire in its discretion noncertified teachers in a ratio of up to ten percent of its entire teacher staff.** However, in either a new or converted charter school, **a teacher teaching in the core academic areas as defined by the federal No Child Left Behind law must be certified in those areas or possess a baccalaureate or graduate degree in the subject he or she is hired to teach.** Part-time noncertified teachers are considered pro rata in calculating this percentage based on the hours which they are expected to teach;
- (6) hire in its discretion administrative staff to oversee the daily operation of the school. At least one of the administrative staff must be certified or experienced in the field of school administration;
- (7) admit all children eligible to attend public school to a charter school, subject to space limitations. However, it is required that the racial composition of the charter school enrollment reflect that of the local school district in which the charter school is located or that of the targeted student population of the local school district that the charter school proposes to serve, to be defined for the purposes of this chapter as differing by no more

than twenty percent from that population. This requirement is also subject to the provisions of Section 59-40-70(D). If the number of applications exceeds the capacity of a program, class, grade level, or building, students must be accepted by lot, and there is no appeal to the sponsor;

(8) not limit or deny admission or show preference in admission decisions to any individual or group of individuals; however, a charter school may give enrollment priority to a sibling of a pupil already enrolled or previously enrolled, children of a charter school employee, and children of the charter committee, if such priority enrollment does not constitute more than twenty percent of the enrollment of the charter school;

(9) elect its board of directors annually. All employees of the charter school and all parents or guardians of students enrolled in the charter school are eligible to participate in the election. Parents or guardians of a student shall have one vote for each student enrolled in the charter school. A person who has been convicted of a felony must not be elected to a board of directors;

(10) be subject to the Freedom of Information Act, including the charter school and its governing body.

(C)(1) If a charter school denies admission to a student, the student may appeal the denial to the sponsor. The decision is binding on the student and the charter school.

(2) If a charter school suspends or expels a student, other charter schools or the local school district in which the charter school is located has the authority but not the obligation to refuse admission to the student.

(3) The sponsor has no obligation to provide extracurricular activities or access to facilities of the school district for students enrolled in the charter school; however, the charter contract may include participation in agreed upon interscholastic activities at a designated school within the sponsor district. Notwithstanding another provision of law, the local school district has no obligation to provide charter schools, sponsored by the South Carolina Public Charter School District, extracurricular activities or access to facilities of the school district for students enrolled in charter schools unless the school district, by contract, has agreed to provide activities or access. Students participating under this agreement must be considered eligible to participate in league events if other eligibility requirements are met.

(D) The State is not responsible for student transportation to a charter school unless the charter school is designated by the local school district as the only school selected within the local school district's attendance area.

(E) The South Carolina Public Charter School District Board of Trustees may not use program funding for transportation.

SECTION 59-40-65. Online or computer instruction; requirements; enrollment in South Carolina Virtual School Program.

(A) If the governing body of a charter school offers as part of its curriculum a program of online or computer instruction, this information shall be included in the application and the governing body shall be required to:

(1) provide each student enrolled in the program with a course or courses of online or computer instruction approved by the State Department of Education that must meet or exceed the South Carolina content and grade specific standards. Students enrolled in the program of online or computer instruction must receive all instructional materials required for the student's program;

(2) ensure that the persons who operate the program on a day-to-

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day basis comply with and carry out all applicable requirements, statutes, regulations, rules, and policies of the charter school;

(3) **ensure that each course offered through the program is taught by a teacher meeting the requirements of Section 59-40-50;**

(4) ensure that a parent or legal guardian of each student verifies the number of hours of educational activities completed by the student each school year;

(5) adopt a plan by which it will provide:

(a) frequent, ongoing monitoring to ensure and verify that each student is participating in the program, including proctored assessment(s) per semester in core subjects graded or evaluated by the teacher, and at least bi-weekly parent-teacher conferences in person or by telephone;

(b) **regular instructional opportunities in real time that are directly related to the school's curricular objectives**, including, but not limited to, meetings with teachers and educational field trips and outings;

(c) verification of ongoing student attendance in the program;

(d) verification of ongoing student progress and performance in each course as documented by ongoing assessments and examples of student coursework;

(6) administer to all students in a proctored setting all applicable assessments as required by the South Carolina Education Accountability Act.

(B) Nothing in this section shall prohibit a charter school that provides a program of online or computer instruction from reimbursing families of enrolled students for costs associated with their Internet connection for use in the program.

(C) A charter school shall provide **no more than seventy-five percent of a student's core academic instruction in kindergarten through twelfth grade via an online or computer instruction program**. The twenty-five percent of the student's core academic instruction may be met through the regular instructional opportunities outlined in subitem (A)(5)(b).

(D) Charter school students may enroll in the South Carolina Virtual School Program pursuant to program requirements.

....

(F) Only students enrolled in the charter school as a full-time student shall be reported in the charter school's average daily membership to the State Department of Education for the purposes of receiving state or federal funds. Private and homeschool students may not be included in the student weighted pupil units or average daily membership reported to the State Department of Education for the purposes of receiving state or federal funds.

SECTION 59-40-100. Conversion to charter school.

....

(B) A converted charter school shall offer at least the same grades, or nongraded education appropriate for the same ages and education levels of pupils, as offered by the school immediately before conversion, and also may provide additional grades and further educational offerings.

(C) All students enrolled in the school at the time of conversion must be given priority enrollment.

(D) All employees of a converted school shall remain employees of the local school district or the South Carolina Public Charter School District with the same compensation and benefits including any future increases. The converted charter school quarterly shall reimburse the local school district or the South Carolina Public Charter School District for the

compensation and employer contribution benefits paid to or on behalf of these employees and provide to the school district any reports, forms, or data necessary for maintaining retirement coverage and providing South Carolina Retirement Systems benefits to converted school employees. **The provisions of Article 5, Chapter 25 of Title 59 [employment and dismissal] apply to the employment and dismissal of teachers at a converted school.**

...

CHAPTER 53 TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING

ARTICLE 21. CAREER AND TECHNOLOGY TRAINING

SECTION 59-53-1810. Federal act accepted; State Board of Education designated as State Board of Career and Technology Training.

The State of South Carolina accepts the provisions of an act of Congress entitled: "To Provide for the Promotion of Vocational Education; to Provide for Cooperation with the States in the Promotion of Such Education in Agriculture and the Trades and Industries; to Provide for Cooperation with the States in the Preparation of Teachers of Vocational Subjects; and to Appropriate Money and Regulate Its Expenditure", and designates and constitutes **the State Board of Education as the South Carolina State Board of Career and Technology Training** to cooperate with the United States Government in putting this law into operation.

SECTION 59-53-1870. Expenditure of funds; instructional program standards; review.

(A) **The State Board of Education shall adopt regulations** governing the expenditures of monies appropriated by Sections 59-53-1810 to 59-53-1870 and shall make the regulations known to the various school districts of the State so they may know the conditions under which they are entitled to share in the funds available for career and technology education.

(B) **The State Board of Education shall adopt instructional program standards for career and technology programs** and a needs assessment format which includes instructional requirements for the special characteristics of the different career and technology programs, using as a guide for career and technology agriculture the standards of quality career and technology programs in agriculture/agribusiness education developed by the career and technology agricultural education profession. The instruction program standards for career and technology agriculture programs must include the instructional programs for the interim between academic years which are itemized in Section 59-53-1860.

(C) These instructional program standards must be incorporated in the South Carolina State Plan for Career and Technology Education **as adopted by the State Board of Education**. The instructional standards adopted by **the State Board of Education** must be used to evaluate all career and technology programs.

(D) Local programs of career and technology agriculture education and the school district's needs assessment for agriculture education programs must be reviewed by Clemson University consultants for agriculture education with the participation of an advisory team consisting at minimum of a member of the local advisory committee for career and technology agriculture, a member of the local advisory council

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for career and technology education, and a teacher-educator for agriculture education from Clemson University. The findings of these reviews must include an explicit statement of the career and technology agricultural education needs of the students and the agriculture community served by the local program....

Chapter 59 – SC EEDA

SECTION 59-59-20. Development of curriculum based on career cluster system; individual graduation plans; role of school districts.

(A) The **Department of Education shall develop a curriculum, aligned with state content standards, organized around a career cluster system** that must provide students with both strong academics and real-world problem solving skills. Students must be provided individualized educational, academic, and career-oriented choices and greater exposure to career information and opportunities. This system must promote the involvement and cooperative effort of parents, teachers, and school counselors in assisting students in making these choices, in setting career goals, and in developing individual graduation plans to achieve these goals.

(B) School districts **must lay the foundation for the clusters of study system in elementary school by providing career awareness activities. In the middle grades programs must allow students to identify career interests and abilities and align them with clusters of study for the development of individual graduation plans. Finally, high school students must be provided guidance and curricula that will enable them to complete successfully their individual graduation plans**, preparing them for a seamless transition to relevant employment, further training, or postsecondary study.

SECTION 59-59-60. Organizing high school curricula around clusters of study and cluster majors.

Before July 1, 2007, **school districts shall:**

(1) **organize high school curricula around a minimum of three clusters of study and cluster majors.** The curricula must be designed to provide a well- rounded education for students by fostering artistic creativity, critical thinking, and self-discipline through the teaching of academic content, knowledge, and skills that students will use in the workplace, further education, and life;

(2) **promote increased awareness and career counseling** by providing access to the South Carolina Occupational Information System for all schools. However, if a school chooses another occupational information system, that system must be approved by the State Department of Education.

SECTION 59-59-80. Integrating career awareness programs into curricula for first through fifth grades. During the 2006-07 school year, the department's school guidance and counseling program model along with **career awareness and exploration activities must be integrated into the curricula for students in the first through fifth grades.**

SECTION 59-59-90. Counseling and career awareness programs on clusters of study for sixth, seventh, and eighth grades; selection of preferred cluster of study; development of graduation plan.

Beginning with the 2006-07 school year, **counseling and career awareness programs on clusters of study must be provided to students in the sixth, seventh, and eighth grades, and they must receive career interest inventories and information to assist them in the career decision-making process.** Before the end of the second semester of the eighth grade, eighth grade students in consultation with their parents, guardians, or individuals appointed by the parents or guardians to serve as their designee **shall select a preferred cluster of study and develop an individual graduation plan**, as provided for in Section 59-59-140.

SECTION 59-59-110. Implementation of career guidance program model in high school; counseling of students; declaration of area of academic focus within cluster of study. During the 2007-08 school year, each public high school shall **implement a career guidance program** model or prototype as developed or approved by the State Department of Education. At least annually after that, certified school guidance counselors and career specialists, under their supervision, **shall counsel students during the ninth and tenth grades to further define their career cluster goals and individual graduation plans, and before the end of the second semester of the tenth grade, tenth grade students shall have declared an area of academic focus within a cluster of study.** Throughout high school, students must be provided guidance activities and career awareness programs that combine counseling on career options and experiential learning with academic planning to assist students in fulfilling their individual graduation plans. In order to maximize the number of clusters offered, a school district is to ensure that each high school within the district offers a variety of clusters. A student may transfer to a high school offering that student's career cluster if not offered by the high school in his attendance zone.

SECTION 59-59-120. Limitation of activities of guidance counselors and career specialists.

School guidance counselors and career specialists shall limit their activities to guidance and counseling and may not perform administrative tasks.

SECTION 59-59-130. Implementation of principles of "High Schools that Work" organizational model.

By the 2009-10 school year, each high school shall implement the principles of the "High Schools that Work" organizational model or have obtained approval from the Department of Education for another cluster or major organizational model.

SECTION 59-59-140. Individual graduation plans....

SECTION 59-59-150. Regulations for identifying at-risk students; model programs....

SECTION 59-59-230. Promulgation of regulations.

The **State Board** of Education, with input from the Education and Economic Development Council, shall promulgate regulations necessary to carry out the provisions of this chapter.

SECTION 59-59-240. Private and home schools. The requirements of this chapter do not apply to private schools or to home schools.

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SECTION 59-59-250. Funding.

Each phase of implementation of this chapter is contingent upon the appropriation of adequate funding as documented by the fiscal impact statement provided by the Office of State Budget of the State Budget and Control Board. There is no mandatory financial obligation to school districts if state funding is not appropriated for each phase of implementation as provided for in the fiscal impact statement of the Office of the State Budget of the State Budget and Control Board.

Chapter 63 – Pupils Generally

SECTION 59-63-65. Class size reduction; funding; facilities. School districts which choose **to reduce class size to fifteen to one in grades one through three** shall be eligible for funding for the reduced pupil-teacher ratios from funds provided by the General Assembly for this purpose. Funding for schools in districts designated as impaired or for schools rated as unsatisfactory on the accountability ratings will receive priority in the distribution of funds. Funding for the impaired district schools and schools ranked unsatisfactory will be allocated based on the average daily membership in grades one through three in those schools for implementing reduced class size of fifteen to one in those grades. Other school districts will receive funding allocated based on free and reduced lunch eligible students. Local match is required for the lower ratio funding based on the Education Finance Act formula. Boards of trustees of each school district may implement the lower pupil-teacher ratios on a school by school, grade by grade, or class by class basis. District boards of trustees implementing the reduced ratios must establish policies to give priority to reduce the ratios in schools with the highest number of students eligible for the federal free and reduced lunch program, and these students must be given priority in implementing the reduced class size. Unobligated funds from state appropriations which become available to a district during a fiscal year shall be redistributed to fund additional teachers on a prorated basis.

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

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

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

ARTICLE 13. ALTERNATIVE SCHOOLS

SECTION 59-63-1300. Alternative school programs established.

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

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

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

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

Within the requirements of Section 59-1-440 [repealed by 2006 Act 260 § 2 with enactment of new § 59-1-425], **alternative school programs may differ from traditional education programs and schools in scheduling, administrative structure, curriculum, or setting and state requirements may be waived in these areas if such waiver assists the alternative school in meeting its purpose**.

SECTION 59-63-1350. Eligibility for funding.

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

- (a) mission statement;
- (b) the policy for the basis of enrollment in the school;
- (c) location of the alternative school program; and
- (d) **description of how the school will focus on the educational and behavioral needs of the students**. This description must include **strategies** for individual student instruction plans, **evaluations** at regular intervals of the student's educational and behavioral progress, **instructional methods** in meeting academic achievement standards in the core academic areas, provisions for a **low pupil-teacher ratio**, utilization of

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available **technology, strict codes of student conduct, counseling,** strategies to gain strong **parental input** and support, strategies to ensure students will adapt to a regular school setting upon departure from the alternative school program, and student time lines for meeting the academic and conduct standards set. The alternative program may be provided in conjunction with the adult education program, where appropriate. Goals, interim goals, and data collection for program evaluation must be a part of the program plan.

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

Pending Bills

H. 3017

TO AMEND SECTION 59-1-130, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITION OF "TEACHER", SO AS TO REVISE THE DEFINITION BY REQUIRING CERTAIN MINIMUM TIME IN THE CLASSROOM AMONG OTHER CRITERIA.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 59-1-130 of the 1976 Code is amended to read:

"Section 59-1-130. (A) 'Teacher' means any a person who is employed either full-time full time or part-time part time by any a school district either to teach or to supervise teaching as a classroom teacher and who:

- (1) spends at least thirty hours per week in a classroom as the primary instructor; and
- (2) spends at least thirty consecutive minutes in the classroom with the same group of students for the periods of instruction related to a particular subject or course.

(B) Teachers' aides, as defined in Section 59-1-140, are not classified as teachers even if they have a recognized certificate but must be classified as teachers' aides.

(C) A teacher having fifteen hours or less in the classroom per week and who meets the other requirements of this section may be counted as a half teacher for statistical purposes."

SECTION 2. This act takes effect upon approval by the Governor.

H. 3296

TO AMEND SECTION 59-1-425, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE INSTRUCTIONAL DAY IN A PUBLIC SCHOOL, SO AS TO PROVIDE THAT IN THE FIRST, SECOND, AND THIRD GRADES AT LEAST FIVE HOURS OF THE INSTRUCTIONAL DAY MUST BE DEVOTED TO

INSTRUCTION IN WRITING, ENGLISH/LANGUAGE ARTS, AND MATHEMATICS; TO AMEND SECTION 59-18-310, AS AMENDED, RELATING TO THE STATEWIDE ASSESSMENT PROGRAM, SO AS TO DELETE A PROVISION CONNECTING STUDENT ASSESSMENT SCORES AND RETENTION IN THE CURRENT GRADE LEVEL; AND TO AMEND SECTION 59-18-900, AS AMENDED, RELATING TO ACADEMIC PERFORMANCE RATINGS, SO AS TO PROVIDE THAT A THIRD GRADE STUDENT WHO DOES NOT ACHIEVE A "MET" OR "EXEMPLARY" PERFORMANCE STANDARD ON CERTAIN SECTIONS OF THE ASSESSMENT MAY NOT BE PROMOTED TO THE FOURTH GRADE UNTIL HE ACHIEVES THOSE STANDARDS, AND TO PROVIDE AN EXCEPTION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 59-1-425(E) of the 1976 Code, as added by Act 260 of 2006, is amended to read:

"(E) The instructional day for secondary students must be at a minimum six hours a day, or its equivalent weekly, excluding lunch. The school day for elementary students must be at a minimum six hours a day, or its equivalent weekly, including lunch. In the first, second, and third grades of the public schools of this State, at least five hours of the instructional day must be devoted to instruction in the subjects of writing, English/language arts, and mathematics."

SECTION 2. Section 59-18-310(B) of the 1976 Code, as last amended by Act 282 of 2008, is further amended to read:

"(B) The statewide assessment program must include the subjects of English/language arts, mathematics, science, and social studies in grades three through eight, as delineated in Section 59-18-320(B), to be first administered in 2009, an exit examination in English/language arts and mathematics to be first administered in a student's second year of high school enrollment beginning with grade nine, and end-of-course tests for gateway courses awarded units of credit in English/language arts, mathematics, science, and social studies. Student performance targets must be established following the 2009 administration. The assessment program must be used for school and school district accountability purposes beginning with the 2008-2009 school year. The publication of the annual school and school district report card may be delayed for the 2008-2009 school year until no later than February 15, 2010. ~~A student's score on an end-of-year assessment may not be the sole criterion for placing the student on academic probation, retaining the student in his current grade, or requiring the student to attend summer school.~~ Beginning with the graduating class of 2010, students are required to pass a high school credit course in science and a course in United States history in which end-of-course examinations are administered to receive the state high school diploma."

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SECTION 3. Section [59-18-900](#)(B) of the 1976 Code, as last amended by Act 282 of 2008, is further amended to read:

"(B)(1) The **Education Oversight Committee**, working with the **State Board** of Education and a broad-based group of stakeholders, including, but not limited to, parents, business and industry persons, community leaders, and educators, shall determine the criteria for and establish five academic performance ratings of excellent, good, average, below average, and school/district at-risk. Schools and districts shall receive a rating for absolute and growth performance. Only the scores of students enrolled in the school at the time of the forty-five-day enrollment count shall be used to determine the absolute and growth ratings. Graduation rates must be used as an additional accountability measure for high schools and school districts. The **Oversight Committee**, working with the **State Board** of Education, shall establish three student performance indicators which will be those considered to be useful for assessing a school's overall performance and appropriate for the grade levels within the school.

(2) The student performance levels are: Not Met, Met, and Exemplary. 'Not Met' means that the student did not meet the grade level standard. 'Met' means the student met the grade level standard. 'Exemplary' means the student demonstrated exemplary performance in meeting the grade level standard. For purposes of reporting as required by federal statute, 'proficiency' shall include students performing at Met or Exemplary.

(3) A third grade student who does not achieve a 'met' or 'exemplary' performance standard on the writing, English/language arts, and mathematics sections of the assessment program may not be promoted to the fourth grade until he achieves a 'met' performance standard on the writing, English/language arts, and mathematics sections of the assessment program. This subsection does not apply to a third grade student with disabilities who has an Individualized Education Plan pursuant to the federal Individuals with Disabilities Act.

SECTION 4. This act takes effect upon approval by the Governor.

H. 3313

TO AMEND SECTION [59-1-425](#), CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE BEGINNING AND LENGTH OF THE SCHOOL TERM, SO AS TO PROVIDE THAT A SCHOOL DISTRICT MAY PROPOSE AN ALTERNATIVE SCHOOL SCHEDULE PLAN THAT PROVIDES FOR THE OPERATION OF SCHOOLS ON A FOUR-DAY WEEKLY CALENDAR.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section [59-1-425](#) of the 1976 Code, as added by Act 260 of 2006, is amended by adding an appropriately lettered subsection at the end to read:

"() Notwithstanding another provision of law, a school district board of trustees may propose an alternative school schedule plan providing for the operation of schools on a four-day weekly calendar pursuant to guidelines adopted by the **State Board** of Education. An alternative school schedule plan must meet the equivalent number of instructional hours of the statutory one hundred eighty day school term and must conform annual salaries for certified teachers accordingly, taking into account the ten scheduled staff development days. The plan also must be used in calculating the average daily membership for the district. An alternative school schedule plan must be submitted for approval by the State Department of Education by June first of the calendar year in which the alternative schedule will be implemented."

SECTION 2. This act takes effect upon approval by the Governor.

H. 3334

TO AMEND SECTION [59-1-425](#), CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SCHOOL CALENDAR AND MAKE-UP DAYS, SO AS TO PROVIDE THAT A DISTRICT MAY NOT DESIGNATE MARTIN LUTHER KING, JR. DAY AS A POTENTIAL MAKE-UP DAY WHEN THE SCHOOLS ARE CLOSED DUE TO INCLEMENT WEATHER OR OTHER DISRUPTIONS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section [59-1-425](#)(B) of the 1976 Code, as added by Act 260 of 2006, is amended to read:

"(B) Notwithstanding ~~any other provisions~~ another provision of law ~~to the contrary~~, all school days missed because of snow, extreme weather conditions, or other disruptions requiring schools to close must be made up. ~~All A school districts district~~ shall designate annually at least three days within ~~their~~ its school ~~calendars~~ calendar to be used as make-up days in the event of these occurrences. A school district may not designate Martin Luther King, Jr. Day, observed pursuant to Section [53-5-10](#), as a day to be used as a make-up day. If those designated days have been used or are no longer available, the local school board of trustees may lengthen the hours of school operation by no less than one hour per day for the total number of hours missed or operate schools on Saturday. Schools operating on a four-by-four block schedule shall make every effort to make up the time during the semester in which the days are missed. A plan to make up days by lengthening the school day must be approved by the Department of Education before implementation. Tutorial instruction for grades ~~7~~ seven through ~~12~~ twelve may be taught on Saturday at the direction of the local school board. If a local school board authorizes make-up days on Saturdays, tutorial instruction normally offered on Saturday for seventh through twelfth graders must be scheduled at an alternative time."

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SECTION 2. This act takes effect upon approval by the Governor.

Current SC Regulations

[See Appendix IV for regulations 43-205, 43-209, and full text of 43-231, 43-232, 43-234.]

43-172. Accounting and Reporting.

I. Pupil Accounting

According to Section 4, paragraph (1)(c) of the South Carolina Education Finance Act of 1977, each pupil in the state shall be counted in only one of the pupil classifications and must meet all qualifications both general and specific, before the pupil can be classified and claimed in a public school.

A. General Qualifications Criteria:

1. A pupil will be counted in **membership** on the first day of entrance in an instructional program either through original entry, reentry, or transfer.
2. Membership is defined as the number of pupils present plus the number of pupils absent.
3. Cumulative **average daily membership** is the aggregate **number of days** in membership divided by the total number of **days the school is in session**.
4. A pupil shall maintain membership in the appropriate instructional program for the **minimum length of the school day**.
5. To be eligible for membership a pupil must not be more than twenty-one years old (or in a graduating class and becomes twenty-one before graduation) before September 1 of the current school year.
6. A pupil shall be **dropped from membership** on the day when the **number of unlawful days absent exceeds ten consecutive days or when the pupil leaves school because of transfer, death, expulsion, graduation, legal withdrawal, or for any other reason**. Notwithstanding any other provision, students with disabilities who have been expelled and continue to receive educational services pursuant to Regulation 43-279 (Section V, Part D) shall not be dropped from membership.
7. An **unlawful absence** is defined in **State Board** of Education Regulation 43-274.
8. A **class period is defined as a minimum of fifty minutes**, or an accumulation of the **equivalency of 120 hours** required for a Carnegie Unit of Credit.
9. A pupil whose program of instruction meets the criteria for more than one category shall be classified in the highest weighted category.

B. Specific Qualifications Criteria:

1. A pupil shall be five years old or older on or before September 1 of the current school year to be admitted in a kindergarten program.
2. **Specific qualifications for grades 1-12**
 - a. A pupil shall be six years old or older on or before September 1 of the current school year to be admitted to the first grade.
 - b. A pupil in an ungraded class shall be classified in the grade level corresponding to the pupil's age.
 - c. A pupil shall maintain **membership in a minimum of 200 minutes of daily instruction or its equivalency for an annual**

accumulation of 36,000 minutes.

3. Specific qualifications criteria for exceptional programs
 - a. To be counted in membership in an exceptional program, a pupil must be at least five (5) years of age by September 1 of the current school year, except for hearing disabled or visually disabled pupils who must be at least four (4) years of age by September 1 of the current school year.
 - b. To be counted in membership in a disabilities program, a pupil must be placed in a program in specific compliance with Procedures for Survey, Screening, Evaluation, Placement, and Dismissal of Children Into/Out of Programs for the Disabled.
 - c. A pupil must **maintain membership** in a program designed for the appropriate disability and meet the time constraints for regular programs consistent with the provisions of the Defined Program.
 - d. An itinerant program is one where specialized instruction, materials, and/or equipment is delivered within the framework of a regular education setting. A resource room program is one in which mildly disabled pupils are enrolled for a portion of their education program and receive direct specialized instruction. A self-contained program is one in which the pupil receives full delivery of special education from one teacher. A homebound/hospitalized program is one in which the incapacitated pupil receives his educational program in accordance with the **State Board** of Education regulations.
 - e. **Minimum number of minutes of instructional time per week or its equivalent for disabled pupils** in resource, itinerant, self-contained and homebound models approved by the State Department of Education are as follows:
Minutes of Instructional Time Per Week or Its Equivalent
 - (1) Educable Mentally Disabled 250
 - (2) Learning Disabilities 250
 - (3) Orthopedically Disabled 250
 - (4) Emotionally Disabled 250
 - (5) Visually Disabled 250
 - (6) Hearing Disabled 250
 - (7) Homebound 250
 - (8) Speech Disabilities 50
 - (9) Trainable Mentally Disabled [FN*][FN*] Must meet time constraints consistent with the provisions of the Defined Program.

4. Specific qualifications criteria for occupational education

- a. A pupil shall be assigned in grades 9-12 and maintain membership in **at least 250 minutes of instructional time** per week or its equivalent in an appropriate occupational education program approved by the State Department of Education.
- b. A pupil shall **maintain membership in a minimum of 200 minutes of daily instructional time** or its equivalent.

II. Audits

An annual audit of all financial records shall be made by a certified or licensed public accountant selected by the district, county board of education, or occupational education center. A copy of the audit in the format prescribed by the State Department of Education shall be filed with the Office of School District Auditing, State Department of Education, by November 15 following the close of the fiscal year.

III. Accountability

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Financial Resources are to be allocated, expended, and accounted for in accordance with accounting practices specified in the Financial Accounting Handbook, Funding Manual and the Pupil and Staff Accountability Manual.

43-205. Administrative and Professional Personnel Qualifications, Duties, and Workloads

[See Appendix IV.]

43-231. Defined Program K-5.

[For the full regulation, see Appendix IV]

...

III. Innovative Approaches

A school encompassing any combination of grades K-5 may implement an innovative approach if it is approved by the local board of trustees and is incorporated in the school and district plans.

...

43-232. Defined Program 6-8.

[For the full regulation, see Appendix IV]

...

II. Innovative Approaches

A school encompassing any combination of grades 6-8 may implement an innovative approach if it is approved by the local board of trustees and is incorporated in the school and district plans.

43-234. Defined Program, Grades 9-12.

[For the full regulation, see Appendix IV]

...

II. Provisions for Schools in the Awarding of High School Credit

A. A school may award and accept credit in units of one-fourth, one-half, and a whole.

B. A school may award one unit of credit for an academic standards-based course that **requires a minimum of 120 hours** of instruction. A school may award one-half unit of credit for an academic standards-based course requiring a minimum of 60 hours of instruction and one-fourth unit of credit for an academic standards-based course requiring a minimum of 30 hours of instruction.

C. A school may award **one unit of credit for a course that has been approved by the State Department of Education in a proficiency-based system**. A proficiency-based course may also be offered for one-fourth and one-half unit if the system specifies these units.

43-240. Summer School Programs

(Statutory Authority: 1976 Code Sections 59-6-60(3&6), and 59-39-100)

A. Summer school programs are provided for the following purposes: to deliver academic assistance to students in grades three through eight under the Education Accountability Act of 1998 (EAA), to promote students in grades one through eight, or

to award **Carnegie units of credit** toward meeting the requirements for a state high school diploma. Other school services offered during the summer are not considered summer school programs under this regulation. Gifted and Talented programs are required to meet the provisions of State Board of Education Regulation 43-220, Gifted and Talented.

B. Instruction offered in summer programs must meet the same rigor and standards required during the regular school year. A district summer school program must be directed by a staff member with administrative certification as a district wide program or school site program. Each school in a district wide program must designate a lead teacher. The final accreditation status of the summer school program will be reflected in the overall district rating for the next year.

(1) Qualifications of Teachers: Kindergarten, Grades 1-12: The qualifications of each teacher shall be the same as those for the regular term.

(2) Organization and Administration: Kindergarten, Grades 1-8: (a) **Pupil teacher ratio shall not exceed 25:1** in each classroom for **grades K-5, or 30:1 in each classroom for grades 6-8.**

(b) For students in grades 3-8, a summer school program designed for academic assistance under the Educational Accountability Act of 1998 (EAA) will be **no less than 30 instructional hours**. For students in grades K, 1, and 2, not on academic plans established by EAA, the districts may determine the length of the school day and the number of days scheduled.

(c) Summer school programs operated for students who are earning **Carnegie units of credit** must meet all the requirements established for grades 9-12.

(3) Organization and Administration: Grades 9-12.

(a) Pupil teacher **ratio shall not exceed 30:1** in each classroom.

(b) **All students taking a course for one unit of credit must receive at least 120 hours of instruction in that subject area.**

(c) No teacher shall be assigned to teach more than one subject or one level of the same subject during one period for credit.

(Exception: Two consecutive levels of coursework in the same subject area may be taught during one period if all students are repeating a course and the combined membership does not exceed **15 students**.)

(d) The recommended number of units of credit that a student may earn during one summer school session is two. However, a student may earn more than two credits with prior approval from the school principal.

(e) There is no limit on the number of credits a student may earn in a summer program that is operated on a quarterly basis as part of a twelve-month school program.

43-248. South Carolina Virtual School Program

I. Overview of the South Carolina Virtual School Program

A. The State Board of Education (SBE) is authorized under S.C. Code Ann. Sections 59-16-10 through 59-16-80 to "establish the South Carolina Virtual School Program (SCVSP) to ensure consistent high quality education for the students of South Carolina utilizing technology-delivered courses." These procedural regulations are based on that legislation.

B. The SCVSP legislation makes the following stipulations:

...

II. SCVSP Sponsorship

A. Sponsor Registration ...

B. Sponsor Responsibilities...

III. SCVSP Student Enrollment ...

A. Student Responsibilities ...

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1. Sponsor Approval

a. The student must secure approval to take a specific course from the public school or district or nonpublic sponsor:

(1) In-school students--those who are in membership in a public school (includes homebound, home placed, and off-campus students and students enrolled in an adult education program)--must have approval from the school principal or his or her designee.

...

(3) Out-of-school students--those who have not officially withdrawn from a particular public school and are entered in the student database as non-funded (includes expelled students) or those who have not officially withdrawn from a particular private school--must have approval from the district superintendent or the head of the private school. If a district or private school policy does not allow credit to be recorded on an out-of-school student's transcript, the student cannot be granted approval to take a SCVSP course.

b. A sponsor may not give approval to a student to retake a course through the SCVSP if a unit of credit for that particular course is already recorded on his or her official transcript.

...

2. Computer Proficiency and Access ...

3. Online Agreements ...

4. Online Application ...

B. Parent/Legal Guardian Responsibility

C. SBE Responsibility

1. The SBE will implement a system for prioritizing the students who have enrolled in SCVSP courses if the SCVSP is unable to provide the courses these students need.

2. First priority will be given to students needing an initial credit course(s) to graduate on time.

3. The next priority will be given to those students who need to take a content recovery course required for graduation.

4. The next priority will be given to those students who need to take a course(s) needed for graduation not being offered in their schools.

5. Beyond these three priorities, students will be served on a first-come, first-served basis.

IV. SCVSP Course Grades and Units of Credits

A. SCVSP Responsibilities

...

5. The SCVSP must limit to three the number of units a student can be awarded in a school year and must limit to twelve the number of units a student can be awarded toward his or her diploma, regardless of the number of sponsors the student has had.

6. A student may file a request to the governing body of his or her SCVSP sponsor for a waiver to exceed the maximum number of units. The request for a waiver must be filed for each unit beyond the maximums.

a. The student must submit to the governing body a written application requesting the waiver.

b. The application must be signed by the principal of the sponsoring school or the head of the nonpublic sponsor and by the student's parent or legal guardian.

c. The governing body of the student's SCVSP sponsor may consider granting the waiver if all of the following conditions are found to exist:

(1) the student has successfully completed all prior SCVSP courses,

(2) the waiver will facilitate the student's graduation from high

school, and

(3) there are special circumstances that warrant allowing the student to take additional SCVSP courses.

d. The governing body must advise the SCVSP of its decision on the waiver in a written statement and must explain in detail its findings with regard to each of the three required conditions.

5. The SCVSP will post on its Web site a form for the waiver request explained above.

B. Sponsor Responsibilities ...

C. Student Responsibilities

1. The student must complete all assignments, course examinations, and state assessments that are required for the particular course in order for the SCVSP to issue the grade report.

2. The **student must complete the course requirements within twenty weeks or request an extension** from his or her instructor.

D. Instructor Responsibilities

1. The instructor must establish the minimum course requirements that the student must complete.

2. The instructor must consult the SCVSP to determine whether the circumstances surrounding the student's request for a course **extension beyond the twenty weeks** is warranted.

V. EOCEP Assessments ...

VI. SCVSP Course-Selection Procedures and Criteria

A. The SCVSP may offer a particular course only if that course is either

1. required to be offered by Regulation 43-234, Defined Program, Grades 9-12; or

2. requested by students, parents, or sponsors on the SCVSP online survey; or

3. requested by a sponsor under circumstances that the SCVSP deems valid.

B. The SCVSP must ensure that any course it develops, purchases, or contracts meets the following three criteria:

1. is aligned with the state academic standards,

2. integrates high quality Web-based strategies into instruction, and

3. uses the level of technology required for a computer-mediated environment.

VII. SCVSP Course Costs

A. The SBE will determine when and if the SCVSP may charge fees and tuition. If program funds are either reduced or unavailable, the SCVSP may charge a fee to students not to exceed the cost of the instructor divided by the number of students enrolled in the course. Students eligible for free and reduced lunch will not be charged.

B. In addition, the SCVSP may contract with districts/schools to provide a course(s) to a class of students enrolled in that course during a specific period of the school day and/or districts/schools that wish to guarantee that their students are served regardless of their priority.

VIII. SCVSP Instructors ...

A. Instructor Employment

B. Instructor Qualifications ...

1. A SCVSP instructor must either hold a valid teaching certificate (with attendant training, if required) in the subject area he or she is teaching or receive **special approval from the SCDE on the basis of his or her credentials**.

2. An in-state SCVSP instructor who does not hold a valid South Carolina teaching certificate or who has not been employed by a

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South Carolina public school district in the last five years must undergo a criminal records check by the South Carolina Law Enforcement Division. An out-of-state SCVSP instructor must undergo any criminal records check that the SCDE determines to be necessary.

C. Instructor Requirements ...

D. Instructor Evaluation ...

E. Instructor Loads ...

1. The student load for each instructor is determined by the particular course(s) the instructor is teaching.
2. The teaching load for each instructor must not exceed twenty-five course-completing students at any given time.

IX. Required Reports

A. Sponsor Responsibility ...

B. SCVSP Responsibility ...

C. SCDE Responsibility...

1. The SCDE will provide the Education Oversight Committee with access to student records annually.
2. All records must contain final course grades and scores on state assessments.

43-262.4. End-of-Course Tests.

I. Courses Tested

A. The following courses in State Board Regulation 43-234, "Defined Program, Grades 9-12," are "gateway" and "benchmark" courses. For the purposes of this regulation, however, these courses shall be referred to only as "gateway" courses.

1. English/language arts: English 1
2. Mathematics: Algebra 1. After completion of Mathematics for the Technologies 2 students shall be administered the end-of-course examination for Algebra 1.
3. Science: Biology and Physical Science After completion of Applied Biology 2, students shall be administered the end-of-course assessment for Biology .
4. Social Studies: United States History and Constitution
5. A course by any title for which the instructional basis is the curriculum standards for any of the abovementioned courses will be considered the equivalent of the appropriate abovementioned gateway course and one for which an end-of-course test must be administered.

B. The end-of-course tests shall be administered to all public school students who take a gateway courses for which credit can be applied toward the requirements for a high school diploma, regardless of the grade in which a student takes the course.

....

43-274. Student Attendance

(Statutory Authority: S.C. Code Ann. Sections 59-5-65 (2004) and 59-65-90 (2004))

I. Lawful and Unlawful Absences

School districts must adopt policies to define and list lawful and unlawful absences.

(A) Lawful absences include but are not limited to

- (1) absences caused by a student's own illness and whose attendance in school would endanger his or her health or the health of others,
- (2) absences due to an illness or death in the student's immediate family,
- (3) absences due to a recognized religious holiday of the student's faith, and

(4) absences due to activities that are approved in advance by the principal.

(B) **Unlawful absences** include but are not limited to

- (1) absences of a student without the knowledge of his or her parents, or
- (2) absences of a student without acceptable cause with the knowledge of his or her parents.

(C) Suspension is not to be counted as an unlawful absence for truancy purposes.

II. Truancy

The State Board of Education recognizes that truancy is primarily an educational issue and that all reasonable, educationally sound, corrective actions should be undertaken by the school district prior to resorting to the juvenile justice system.

(A) Truant

A child ages 6 to 17 years meets the definition of a truant when the child has three consecutive unlawful absences or a total of five unlawful absences.

(B) Habitual Truant

A "habitual" truant is a child age 12 to 17 years who fails to comply with the intervention plan developed by the school, the child, and the parent(s) or guardian(s) and who accumulates two or more additional unlawful absences. This child may need court intervention and an initial truancy petition may be filed. The written intervention plan, and documentation of non-compliance, must be attached to the truancy petition asking for court intervention.

(C) Chronic Truant

A "chronic" truant is a child ages 12 to 17 years who has been through the school intervention process, has reached the level of a "habitual" truant, has been referred to Family Court and placed on an order to attend school, and continues to accumulate unlawful absences. Should other community alternatives and referrals fail to remedy the attendance problem, the "chronic" truant may be referred to the Family Court for violation of a previous court order. All school intervention plans existing to this point for this child and family must accompany the Contempt of Court petition as well as a written recommendation from the school to the court on action the court should take.

III. Intervention Plans

(A) Each district must develop a policy relating to requirements for intervention...

IV. Referrals and Judicial Intervention

At no time should a child ages 6 to 17 years be referred to the Family Court to be placed on an order to attend school prior to the written intervention planning being completed with the parent(s) or guardian(s) by the school. ...

V. Coordination with the South Carolina Department of Juvenile Justice

Each school district should coordinate with the local office of the South Carolina Department of Juvenile Justice to establish a system of graduated sanctions and alternatives to incarceration in truancy cases.

VI. Transfer of Plans

If a student transfers to another public school in South Carolina, intervention plans shall be forwarded to the receiving school.

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School officials will contact the parent(s) or guardian(s) and local team members to review the plan and revise as appropriate. Court ordered plans may be amended through application to the court.

VII. Approval of Absences in Excess of Ten Days and Approval of Credit

(A) Approval or Disapproval of Absences

The district board of trustees, or its designee, shall approve or disapprove any student's absence in excess of ten days, whether lawful, unlawful, or a combination thereof, for students in grades K-12.

For the purpose of awarding credit for the year, school districts must approve or disapprove absences in excess of ten days regardless as to whether those absences are lawful, unlawful, or a combination of the two.

(B) High School Credit

In order to receive one Carnegie unit of credit, a student must be in attendance at least 120 hours, per unit, regardless of the number of days missed. Students whose absences are approved should be allowed to make up any work missed in order to satisfy the 120-hour requirement. Local school boards should develop policies governing student absences giving appropriate consideration to unique situations that may arise within their districts when students do not meet the minimum attendance requirements.

Therefore, districts should allow students, whose excessive absences are approved in part I of this section, to make-up work missed to satisfy the 120-hours requirement.

Examples of make-up work may include

- (1) after-school and/or weekend make-up programs that address both time and academic requirements of the course(s), or
- (2) extended-year programs that address both time and academic requirements of the course(s).

All make-up time and work must be completed within thirty days from the last day of the course(s). The district board of trustees or its designee may extend the time for student's completion of the requirements due to extenuating circumstances as prescribed by State Board of Education Guidelines.

VIII. Reporting Requirements

The State Department of Education will develop and implement a standard reporting system for the adequate collection and reporting of truancy rates on a school-by-school basis.

IX. Guidelines

Additional information relating to the implementation of this regulation will be contained in State Department of Education Guidelines. The State Department of Education will review and update these guidelines as needed.

43-303. Flexibility Through Deregulation Program.

[See Appendix IV]

43-601. Procedures and Standards for Review of Charter School Applications

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III. Application Standards

(D) Educational Program, Goals, Objectives, Pupil Achievement Standards, and Curriculum

The charter school's educational program, goals, objectives, pupil achievement standards, and curriculum must be clearly described in the application and must meet or exceed any student academic standards adopted by the school district in which the charter school is located. The application must demonstrate that the educational program is designed to enable each student to achieve these standards.

- (1) The goals and objectives must be clearly stated and must provide enough detail to indicate specific outcomes.
- (2) The student population must be identified by grade level, unique educational needs, and projected enrollment. A converted charter school must offer the same grades, or nongraded education appropriate for the same ages and education levels of pupils, as offered by the school immediately before conversion and may also provide additional grades and further educational offerings.

- (3) The educational goals must reflect the school's mission statement.

- (4) Strategies to accomplish the educational goals must be included.

(5) The school calendar must be at least 180 instructional days.

- (6) Academic standards must identify what students will achieve at each grade level and must meet or exceed the South Carolina curriculum standards, as adopted by the State Board of Education. A correlation or other documentation must be included or process identified to ensure that the school will provide an instructional program that meets or exceeds the academic standards.

- (7) If the charter school plans to offer the South Carolina State High School Diploma, the application must set forth the method for meeting the state requirements for the High School Diploma, including, but not limited to, **course unit requirements, seat time for Carnegie Units, as applicable**, and passage of the required examinations.

- (8) Provisions must be included for determining if all students are achieving or attaining the standards, including the methods by which student performance information will be gathered and monitored.

- (9) The application must include an explanation as to how the school will comply with the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act.

...

(H) Administrative and Teaching Staff

The charter school must employ administrators and teachers in a manner consistent with the Charter Schools Act:

- (1) At least one member of the administrative staff must hold current South Carolina certification in administration or have at least one year of experience in the field of school-based administration. The application must provide evidence that the qualifications of at least one administrator will meet this requirement.

- (2) A newly created charter school may hire noncertified teachers not to exceed 25 percent of its faculty.

- (3) A converted charter school may hire noncertified teachers not to exceed of 10 percent of its faculty.

- (4) A teacher of a core academic area (English/language arts, mathematics, science, or social studies) must be certified in that area or must hold a baccalaureate or graduate degree in that

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subject. Teachers with elementary certification may teach in any academic area and in any grades allowable by the status of their certification.

(5) Part-time noncertified teachers must be considered pro rata in calculating staff percentages based on the hours which they are expected to teach.

(6) A noncertified teacher must be appropriately qualified for the subject matter taught, must have completed at least one year of study at an accredited college or university, and must meet the qualifications outlined in S.C. Code Ann. Section 59-25-115.

(7) A certified teacher must hold current certification by the State of South Carolina to teach in a public elementary, middle, or secondary school.

...

Federal ESEA –State Plan, Measurable Goals, & Waivers

20 U.S.C. § 6311(b), ESEA § 1111(b). State plans

(b) Academic standards, academic assessments, and accountability

(1) Challenging academic standards

(A) In general

Each State plan shall demonstrate that the State has adopted challenging academic content standards and challenging student academic achievement standards ...

(B) Same standards

The academic standards required by subparagraph (A) shall be the same academic standards that the State applies to all schools and children in the State.

(C) Subjects

The State shall have such academic standards for all public elementary school and secondary school children, including children served under this part, in subjects determined by the State, but including at least mathematics, reading or language arts, and (beginning in the 2005–2006 school year) science, which shall include the same knowledge, skills, and levels of achievement expected of all children.

(D) Challenging academic standards

Standards under this paragraph shall include—

(i) challenging academic content standards in academic subjects that—

(I) specify what children are expected to know and be able to do;

(II) contain coherent and rigorous content; and

(III) encourage the teaching of advanced skills; and

(ii) challenging student academic achievement standards that—

(I) are aligned with the State’s academic content standards;

(II) describe **two levels of high achievement** (proficient and advanced) that determine how well children are mastering the material in the State academic content standards; and

(III) describe a **third level of achievement (basic)** to provide complete information about the progress of the lower-achieving children toward mastering the proficient and advanced levels of achievement.

(E) Information

For the subjects in which students will be served under this part, but for which a State is not required by subparagraphs (A), (B), and (C) to develop, and has not otherwise developed, such academic standards, the State plan shall describe a strategy for

ensuring that students are taught the same knowledge and skills in such subjects and held to the same expectations as are all children.

(F) Existing standards

Nothing in this part shall prohibit a State from revising, consistent with this section, any standard adopted under this part before or after January 8, 2002.

(2) Accountability

(A) In general

Each State plan shall demonstrate that the State has developed and is implementing a single, statewide State accountability system that will be effective in ensuring that all local educational agencies, public elementary schools, and public secondary schools make adequate yearly progress as defined under this paragraph. Each State accountability system shall—

(i) be based on the academic standards and academic assessments adopted under paragraphs (1) and (3), and other academic indicators consistent with subparagraph (C)(vi) and (vii), and shall take into account the achievement of all public elementary school and secondary school students;

(ii) be the same accountability system the State uses for all public elementary schools and secondary schools or all local educational agencies in the State, except that public elementary schools, secondary schools, and local educational agencies not participating under this part are not subject to the requirements of section 6316 of this title; and

(iii) include sanctions and rewards, such as bonuses and recognition, the State will use to hold local educational agencies and public elementary schools and secondary schools accountable for student achievement and for ensuring that they make adequate yearly progress in accordance with the State’s definition under subparagraphs (B) and (C).

(B) Adequate yearly progress

Each State plan shall demonstrate, based on academic assessments described in paragraph (3), and in accordance with this paragraph, what constitutes adequate yearly progress of the State, and of all public elementary schools, secondary schools, and local educational agencies in the State, toward enabling all public elementary school and secondary school students to meet the State’s student academic achievement standards, while working toward the goal of narrowing the achievement gaps in the State, local educational agencies, and schools.

(C) Definition

“**Adequate yearly progress**” shall be defined by the State in a manner that—

(i) applies the same high standards of academic achievement to all public elementary school and secondary school students in the State;

(ii) is statistically valid and reliable;

(iii) results in continuous and substantial academic improvement for all students;

(iv) measures the progress of public elementary schools, secondary schools and local educational agencies and the State based primarily on the academic assessments described in paragraph (3);

(v) includes separate measurable annual objectives for continuous and substantial improvement for each of the following:

(I) The **achievement of all** public elementary school and secondary school students.

(II) The **achievement of—**

(aa) economically disadvantaged students;

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(bb) students from major racial and ethnic groups;

(cc) students with disabilities; and

(dd) students with limited English proficiency;

except that disaggregation of data under subclause (II) shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student;

(vi) in accordance with subparagraph (D), includes **graduation rates** for public secondary school students (defined as the percentage of students who graduate from secondary school with a regular diploma in the standard number of years) and at least one other academic indicator, as determined by the State for all public elementary school students; and

(vii) in accordance with subparagraph (D), at the State's discretion, **may also include other academic indicators**, as determined by the State for all public school students, measured separately for each group described in clause (v), such as achievement on additional State or locally administered assessments, decreases in grade-to-grade retention rates, attendance rates, and changes in the percentages of students completing gifted and talented, advanced placement, and college preparatory courses.

(D) Requirements for other indicators

In carrying out subparagraph (C)(vi) and (vii), the State—

(i) shall ensure that the indicators described in those provisions are valid and reliable, and are consistent with relevant, nationally recognized professional and technical standards, if any; and

(ii) except as provided in subparagraph (I)(i), may not use those indicators to reduce the number of, or change, the schools that would otherwise be subject to school improvement, corrective action, or restructuring under section 6316 of this title if those additional indicators were not used, but may use them to identify additional schools for school improvement or in need of corrective action or restructuring.

(E) Starting point

....

(F) Timeline

Each State shall establish a timeline for adequate yearly progress. The timeline shall ensure that not later than 12 years after the end of the 2001–2002 school year, **all students in each group described in subparagraph (C)(v) will meet or exceed the State's proficient level** of academic achievement on the State assessments under paragraph (3).

(G) Measurable objectives

Each State shall establish statewide annual measurable objectives, pursuant to subparagraph (C)(v), for meeting the requirements of this paragraph, and which—

(i) shall be set separately for the assessments of mathematics and reading or language arts under subsection (a)(3) of this section;

(ii) shall be the same for all schools and local educational agencies in the State;

(iii) shall identify a single minimum percentage of students who are required to meet or exceed the proficient level on the academic assessments that applies separately to each group of students described in subparagraph (C)(v);

(iv) shall ensure that all students will meet or exceed the State's proficient level of academic achievement on the State assessments within the State's timeline under subparagraph (F); and

(v) may be the same for more than 1 year, subject to the requirements of subparagraph (H).

(H) Intermediate goals for annual yearly progress

Each State shall establish intermediate goals for meeting the requirements, including the measurable objectives in subparagraph (G), of this paragraph and that shall—

(i) increase ... over the period

(I) Annual improvement for schools

Each year, for a school to make adequate yearly progress under this paragraph—

(i) each group of students described in subparagraph (C)(v) must meet or exceed the objectives set by the State under subparagraph (G), except that if any group described in subparagraph (C)(v) does not meet those objectives in any particular year, the school shall be considered to have made adequate yearly progress if the percentage of students in that group who did not meet or exceed the proficient level of academic achievement on the State assessments under paragraph (3) for that year decreased by 10 percent of that percentage from the preceding school year and that group made progress on one or more of the academic indicators described in subparagraph (C)(vi) or (vii); and

(ii) not less than 95 percent of each group of students described in subparagraph (C)(v) who are enrolled in the school are required to take the assessments, consistent with paragraph (3)(C)(xi) and with accommodations, guidelines, and alternative assessments provided in the same manner as those provided under section 612(a)(16)(A) of the Individuals with Disabilities Education Act [20 U.S.C. 1412 (a)(16)(A)] and paragraph (3), on which adequate yearly progress is based (except that the 95 percent requirement described in this clause shall not apply in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student).

(J) Uniform averaging procedure

....

(K) Accountability for charter schools

The accountability provisions under this chapter shall be overseen for charter schools in accordance with State charter school law.

(3) Academic assessments

(A) In general

Each State plan shall demonstrate that the State educational agency, in consultation with local educational agencies, has implemented a set of high-quality, yearly student academic assessments that include, at a minimum, academic assessments in mathematics, reading or language arts, and science

(B) Use of assessments

Each State educational agency may incorporate the data from the assessments under this paragraph into a State-developed longitudinal data system that links student test scores, length of enrollment, and graduation records over time.

(C) Requirements

...

(v)

(I) except as otherwise provided for grades 3 through 8 under clause vii, measure the proficiency of students in, at a minimum, mathematics and reading or language arts, and be administered not less than once during—

(aa) grades 3 through 5;

(bb) grades 6 through 9; and

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- (cc) grades 10 through 12;
- (II) beginning not later than school year 2007–2008, measure the proficiency of all students in science and be administered not less than one time during—
- (aa) grades 3 through 5;
- (bb) grades 6 through 9; and
- (cc) grades 10 through 12;
- (vi) involve multiple up-to-date measures of student academic achievement, including measures that assess higher-order thinking skills and understanding;
- ...
- (viii) at the discretion of the State, measure the proficiency of students in academic subjects not described in clauses (v), (vi), (vii) in which the State has adopted challenging academic content and academic achievement standards;
- (ix) provide for—
- (I) the participation in such assessments of all students;
- (II) the reasonable adaptations and accommodations for students with disabilities ...; and
- (III) the inclusion of limited English proficient students, ...;
- (xi) include students who have attended schools in a local educational agency for a full academic year but have not attended a single school for a full academic year, except that the performance of students who have attended more than 1 school in the local educational agency in any academic year shall be used only in determining the progress of the local educational agency;
- (xii) produce individual student interpretive, descriptive, and diagnostic reports, consistent with clause (iii) that allow parents, teachers, and principals to understand and address the specific academic needs of students, and include information regarding achievement on academic assessments aligned with State academic achievement standards, and that are provided to parents, teachers, and principals, as soon as is practicably possible after the assessment is given, in an understandable and uniform format, and to the extent practicable, in a language that parents can understand;
- (xiii) enable results to be disaggregated within each State, local educational agency, and school by gender, by each major racial and ethnic group, by English proficiency status, by migrant status, by students with disabilities as compared to nondisabled students, and by economically disadvantaged students as compared to students who are not economically disadvantaged, except that, in the case of a local educational agency or a school, such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student;
- (xiv) be consistent with widely accepted professional testing standards, objectively measure academic achievement, knowledge, and skills, and be tests that do not evaluate or assess personal or family beliefs and attitudes, or publicly disclose personally identifiable information; and
- (xv) enable itemized score analyses to be produced and reported, consistent with clause (iii), to local educational agencies and schools, so that parents, teachers, principals, and administrators can interpret and address the specific academic needs of students as indicated by the students' achievement on assessment items.
- (D) Deferral
- ...
- (4) Special rule

- Academic assessment measures in addition to those in paragraph (3) that do not meet the requirements of such paragraph may be included in the assessment under paragraph (3) as additional measures, but may not be used in lieu of the academic assessments required under paragraph (3). Such additional assessment measures may not be used to reduce the number of or change, the schools that would otherwise be subject to school improvement, corrective action, or restructuring under section 6316 of this title if such additional indicators were not used, but may be used to identify additional schools for school improvement or in need of corrective action or restructuring except as provided in paragraph (2)(I)(i).
- (5) State authority
 - ...
 - (6) Language assessments
 - Each State plan shall identify the languages other than English that are present in the participating student population and indicate the languages for which yearly student academic assessments are not available and are needed. The State shall make every effort to develop such assessments and may request assistance from the Secretary if linguistically accessible academic assessment measures are needed. Upon request, the Secretary shall assist with the identification of appropriate academic assessment measures in the needed languages, but shall not mandate a specific academic assessment or mode of instruction.
 - (7) Academic assessments of English language proficiency
 -
 - (8) Requirement
 - Each State plan shall describe—
 - (A) how the State educational agency will assist each local educational agency and school affected by the State plan to develop the capacity to comply with each of the requirements of sections 6312 (c)(1)(D), 6314 (b), and 6315 (c) of this title that is applicable to such agency or school;
 - (B) how the State educational agency will assist each local educational agency and school affected by the State plan to provide additional educational assistance to individual students assessed as needing help to achieve the State's challenging academic achievement standards;
 - (C) the specific steps the State educational agency will take to ensure that both schoolwide programs and targeted assistance schools provide instruction by highly qualified instructional staff as required by sections 6314 (b)(1)(C) and 6315 (c)(1)(E) of this title, including steps that the State educational agency will take to ensure that poor and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers, and the measures that the State educational agency will use to evaluate and publicly report the progress of the State educational agency with respect to such steps;
 - (D) an assurance that the State educational agency will assist local educational agencies in developing or identifying high-quality effective curricula aligned with State academic achievement standards and how the State educational agency will disseminate such curricula to each local educational agency and school within the State; and
 - (E) such other factors the State educational agency determines appropriate to provide students an opportunity to achieve the knowledge and skills described in the challenging academic content standards adopted by the State.
 - (9) Factors affecting student achievement

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Each State plan shall include an assurance that the State educational agency will coordinate and collaborate, to the extent feasible and necessary as determined by the State educational agency, with agencies providing services to children, youth, and families, with respect to local educational agencies within the State that are identified under section 6316 of this title and that request assistance with addressing major factors that have significantly affected the academic achievement of students in the local educational agency or schools served by such agency.

(10) Use of academic assessment results to improve student academic achievement

Each State plan shall describe how the State educational agency will ensure that the results of the State assessments described in paragraph (3)—

(A) will be promptly provided to local educational agencies, schools, and teachers in a manner that is clear and easy to understand, but not later than before the beginning of the next school year; and

(B) be used by those local educational agencies, schools, and teachers to improve the educational achievement of individual students.

(c) Other provisions to support teaching and learning

20 U.S.C. § 7861, ESEA § 9401. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

(a) IN GENERAL- Except as provided in subsection (c), the Secretary may waive any statutory or regulatory requirement of this [Elementary and Secondary Education] Act for a State educational agency, **local educational agency**, Indian tribe, **or school through a local educational agency**, that —

(1) receives funds under a program authorized by this Act; and
(2) requests a waiver under subsection (b).

(b) REQUEST FOR WAIVER-

(1) **IN GENERAL-** A State educational agency, local educational agency, or Indian tribe that desires a waiver shall submit a waiver request to the Secretary that —

(A) identifies the Federal programs affected by the requested waiver;
(B) describes which Federal statutory or regulatory requirements are to be waived and how the waiving of those requirements will —

(i) increase the quality of instruction for students; and

(ii) improve the academic achievement of students;

(C) describes, for each school year, specific, **measurable educational goals, in accordance with section 1111(b) [§ 6311(b)]**, for the State educational agency **and** for each local educational agency, Indian tribe, or school that would be affected by the waiver and the methods to be used to measure annually such progress for meeting such goals and outcomes;

(D) explains how the waiver will assist the State educational agency and each affected local educational agency, Indian tribe, or school in reaching those goals; and

(E) describes how schools will continue to provide assistance to the same populations served by programs for which waivers are requested.

(2) **ADDITIONAL INFORMATION-** Such requests —

(A) may provide for waivers of requirements applicable to State educational agencies, local educational agencies, Indian tribes, and schools; and

(B) shall be developed and submitted —

(i)(I) by local educational agencies (on behalf of those agencies and schools) to State educational agencies; and

(II) by State educational agencies (on behalf of, and based on the requests of, local educational agencies) to the Secretary; or
(ii) by Indian tribes (on behalf of schools operated by the tribes) to the Secretary.

(3) GENERAL REQUIREMENTS-

(A) STATE EDUCATIONAL AGENCIES- In the case of a waiver request submitted by a State educational agency acting on its own behalf, the State educational agency shall —

(i) provide all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the request;

(ii) submit the comments to the Secretary; and

(iii) provide notice and information to the public regarding the waiver request in the manner in which the applying agency customarily provides similar notices and information to the public.

(B) LOCAL EDUCATIONAL AGENCIES- In the case of a waiver request submitted by a local educational agency that receives funds under this Act —

(i) **the request shall be reviewed by the State** educational agency and be accompanied by the comments, if any, of the State educational agency; and

(ii) **notice** and information regarding the waiver request **shall be provided to the public** by the agency requesting the waiver in the manner in which that agency customarily provides similar notices and information to the public.

(c) RESTRICTIONS- The Secretary **shall not waive** under this section any statutory or regulatory requirements relating to —

(1) the allocation or distribution of funds to States, local educational agencies, or other recipients of funds under this Act;

(2) maintenance of effort;

(3) comparability of services;

(4) use of Federal funds to supplement, not supplant, non-Federal funds;

(5) equitable participation of private school students and teachers;

(6) parental participation and involvement;

(7) applicable civil rights requirements;

(8) the requirement for a charter school under subpart 1 of part B of title V;

(9) the prohibitions regarding —

(A) State aid in section 9522;

(B) use of funds for religious worship or instruction in section 9505; and

(C) activities in section 9526; or

(10) the selection of a school attendance area or school under subsections (a) and (b) of section 1113, except that the Secretary may grant a waiver to allow a school attendance area or school to participate in activities under part A of title I if the percentage of children from low-income families in the school attendance area or who attend the school is not more than 10 percentage points below the lowest percentage of those children for any school attendance area or school of the local educational agency that meets the requirements of subsections (a) and (b) of section 1113.

(d) DURATION AND EXTENSION OF WAIVER-

(1) **IN GENERAL-** Except as provided in paragraph (2), a waiver approved by the Secretary under this section **may be for a period not to exceed 4 years.**

(2) **EXTENSION-** The Secretary may extend the period described in paragraph (1) if the Secretary determines that —

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(A) the waiver has been effective in enabling the State or affected recipient to carry out the activities for which the waiver was requested and the waiver has contributed to improved student achievement; and

(B) the extension is in the public interest.

(e) REPORTS-

(1) LOCAL WAIVER- A local educational agency that receives a waiver under this section shall, at the end of the second year for which a waiver is received under this section and each subsequent year, submit a report to the State educational agency that —

(A) describes the uses of the waiver by the agency or by schools;

(B) describes how schools continued to provide assistance to the same populations served by the programs for which waivers were granted; and

(C) evaluates the progress of the agency and of schools in improving the quality of instruction or the academic achievement of students.

(2) STATE WAIVER- A State educational agency that receives reports required under paragraph (1) shall annually submit a report to the Secretary that is based on those reports and contains such information as the Secretary may require.

(3) INDIAN TRIBE WAIVER-

(4) REPORT TO CONGRESS- Beginning in fiscal year 2002 and for each subsequent year, the Secretary shall submit to ... the Senate a report —

(f) TERMINATION OF WAIVERS- The Secretary shall terminate a waiver under this section if the Secretary determines, after notice and an opportunity for a hearing, that the performance of the State or other recipient affected by the waiver has been inadequate to justify a continuation of the waiver or if the waiver is no longer necessary to achieve its original purposes.

(g) PUBLICATION- A notice of the Secretary's decision to grant each waiver under subsection (a) shall be published in the Federal Register and the Secretary shall provide for the dissemination of the notice to State educational agencies, interested parties, including educators, parents, students, advocacy and civil rights organizations, and the public.

Appendix II –Charter School Exemption, Requirement, and Flexibility Rules

Citation	Description
43-205.1.XI	ADEPT provisions for charter school teachers (whether school elects to use or not)
43-243.I.A.15.b).(1)(i)	HQT Special Ed teacher means whatever is provided in the state’s charter law
43-243.III.(D)(7)	If offering SC High School Diploma, meet the state requirements, including, but not limited to, course unit requirements, seat time for Carnegie Units, as applicable, and passage of the required examinations.
43-243.III.(E)	The school's evaluation plan must include state-mandated assessments and other assessments
43-243.III.(E)(2)	The expected yearly progress must meet or exceed the expectation of adequate yearly progress as established in the No Child Left Behind Act.
43-243.III.(F)	Must adhere to pupil accounting system
43-243.III.(H)(6)	A noncertified teacher must be appropriately qualified for the subject matter taught, must have completed at least one year of study at an accredited college or university, and must meet the qualifications outlined in S.C. Code Ann. Section 59-25-115.
43-243.III.(J)	If elects to provide transportation, must comply with driver standards and safety requirements
43-243-III(N)(5)	Must comply with 59-63-235, which provides for the expulsion of any student who brings a firearm to school.
43-243-III(N)(6)	The application must include an assurance that the charter school will comply with the Family Education Rights and Privacy Act (20 U.S.C. Section 1232).
59-18-920; 59-40-160	School report cards for charter schools
59-40-110(C)-(H); see also 50-40-90 (ALJ)	Conditions and procedure for non-renewal or revocation: material violation of charter; failure to meet or progress on student achievement goals; failed fiscal management; violation of law
59-40-125	May elect participation in SC Retirement System for employees; -130(B) employees leaving district for charter employment are covered by state retirement
59-40-140(A), (C)	State, county, and school district funds by formula; federal money
59-40-140(E)	All services centrally or otherwise provided by the sponsor or local school district, if any, including, but not limited to, food services, custodial services, maintenance, curriculum, media services, libraries, and warehousing are subject to negotiation between a charter school and the sponsor or local school district.
59-40-170	Charters “operating or applying within the district” must be given first right of refusal on sale or lease of a school building
59-40-50(A)	Except as otherwise provided, charter school is exempt from all laws and regs applicable to a public school
59-40-50(A)	May elect to comply with statutes excepted
59-40-50(B)(1)	Must adhere to health requirements applied to public schools operating in the same school district

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Citation	Description
59-40-50(B)(1)	Must adhere to safety requirements applied to public schools operating in the same school district
59-40-50(B)(1)	Must adhere to civil rights requirements applied to public schools operating in the same school district
59-40-50(B)(1)	Must adhere to disability requirements applied to public schools operating in the same school district
59-40-50(B)(10)	Subject to FOIA
59-40-50(B)(2)	Minimum student attendance
59-40-50(B)(3); -60(F)(6); 43-243.III.(F)	Same financial audits, audit procedures, and audit requirements; budgets and revenue projections
59-40-50(B)(4)	Same tort liability/immunity
59-40-50(B)(5); -65(A)(3)	Non-certified Staff 25%/10%
59-40-50(B)(5); -65(A)(3)	HQT in NCLB core academic areas; degree in subject hired to teach
59-40-50(B)(6); 43-243.III.(H)(1)	At least one of the administrative staff must be certified or [at least one year's] experience in the field of school administration
59-40-50(B)(7)-(8)	Admit all eligible subject to space; selection by lot; no preferential treatment
59-40-50(B)(7); -60(F)(8)	Racial composition variation within 20%; 59-40-70(D).
59-40-50(B)(8)	May give enrollment priority to a siblings, charter employee & charter committee children, if not > 20%
59-40-50(B)(9)	Board elections annually; who votes
59-40-50(C)(1)	Appeal admission denials to sponsor
59-40-50(C)(2)	Local district may refuse expelled charter students
59-40-50(C)(3)	May provide extracurriculars
59-40-50(C)(3)	May contract with district for extracurriculars; students must meet eligibility requirements
59-40-50(D)	State not responsible for transportation unless only school in attendance area
59-40-50(E)	SCPCSD cannot use \$ for transportation
59-40-60(E)(2); 43-243.III.(G)(3)(b); 59-19-117	All teachers whether certified or noncertified must undergo the background checks and other investigations required for certified teachers, as provided by law, before they may teach in the charter school
59-40-60(E)(2); -60(F)(11)	Charter committee has power to employ and contract with teachers and nonteaching employees, contract for services, and develop pay scales, performance criteria, and discharge policies for its employees; application must have evaluation procedures
59-40-60(E)(3)	Charter committee has power to decide all other matters related to the operation of the charter school, including budgeting, curriculum, and operating procedures.
59-40-60(F)(12)	A reasonable grievance and termination procedure, as required by this chapter, including notice and a hearing before the governing body of the charter school. The application must state whether or not the provisions of Article 5, Chapter 25 of Title 59 apply to the employment and dismissal of teachers at the charter school;
59-40-60(F)(13)	A description of student rights and responsibilities, including behavior and discipline standards, and a

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Citation	Description
	reasonable hearing procedure, including notice and a hearing before the board of directors of the charter school before expulsion;
59-40-60(F)(4)	Have a program, pupil achievement standards, and curriculum which meet or exceed SBE content standards
59-40-60(F)(5)	App must have a description of the charter school's plan for evaluating pupil achievement and progress toward accomplishment of <u>the school's achievement standards</u> in addition to state assessments, the timeline for meeting these standards, and the procedures for taking corrective action if that pupil achievement falls below the standards
59-40-60(F)(7)	A description of the governance and operation of the charter school, including the nature and extent of parental, professional educator, and community involvement in the governance and operation of the charter school
59-40-65(A)(1)	Online courses meet or exceed academic standards
59-40-65(A)(1)	Students of online courses must receive all instructional materials
59-40-65(A)(4), -(5)(c)	Guardian of online students must verify instructional hours annually; verification of ongoing attendance
59-40-65(A)(5)(a)	Online courses: Plan for frequent ongoing monitoring
59-40-65(A)(5)(a)	Online courses: Plan for proctored assessments
59-40-65(A)(5)(a)	Online courses: Plan for at least biweekly parent teacher conferences
59-40-65(A)(5)(b); (C); 43-243-IV(E)	Online courses: Plan for instructional opportunities in real time; 25%+ regular instructional opportunities
59-40-65(A)(6); -60(F)(5)	Online courses: Proctored assessments required by SC EAA
59-40-65(B)	Online courses: May reimburse families for internet access
59-40-65(F)	Online courses: Only count full-time students; not private or home schooled
59-40-70(C); 43-243.VI	Cannot adversely affect, as defined in regulation, the other students in the district in which the charter school is to be located

Appendix III –Memorandum from Dr. Zais



Mick Zais
Superintendent

STATE OF SOUTH CAROLINA DEPARTMENT OF EDUCATION

1429 Senate Street
Columbia, South Carolina 29201

MEMORANDUM

TO: District Superintendents
FROM: Mick Zais, State Superintendent of Education
DATE: November 8, 2011
SUBJECT: Flexibility for Classrooms, Schools, and Districts

From the beginning of my efforts to serve the public as State Superintendent of Education, providing school districts, schools, and teachers more flexibility has been a cornerstone of my vision to transform education. This is outlined on Page 32 of my vision presentation, which you can view online at <http://ed.sc.gov/agency/superintendent/vision/index.cfm>.

Last month, three district leaders offered their support for more flexibility. My public comment in response was, "I've been advocating this kind of regulatory relief and statutory relief for a long time; it's music to my ears." It is heartening to see district leaders take up my call for more autonomy and flexibility. At the next State Board of Education meeting, the Department will offer more flexibility to districts by suggesting some regulatory revisions.

This regulatory relief is at the beginning stages of the statutory approval process, but there is some relief already permitted in statute and regulations. I want to share with you and encourage your districts to seek flexibility already available to you.

Career and Technology instruction is critical to meeting the needs of industry. State law requires that districts demonstrate that they have placed at least 50 percent of the available graduates from a workforce preparation program in a job for which they were trained. Programs failing to meet this placement threshold are subject for discontinuation, possibly hampering a district's ability to explore forming programs in emerging industries. However, this requirement may be waived by making a request to the State Board of Education. This provides districts a tremendous opportunity to be responsive to the employment needs of business and industry in their local communities.

Existing law already provides flexibility for the operations of schools. District superintendents can apply to the State Board of Education for flexibility pertaining to administrative and professional personnel qualifications, duties, and workloads at the district level. The State Board of Education can waive requirements affecting student ratios for elementary and middle school principals, assistant principals/directors, curriculum coordinators, guidance counselors, library media specialists, and teachers in music, art, or physical education. Because of a legislative proviso, flexibility for these requirements requires, for the current year, only a letter from the district superintendent (or designee) sent to the South Carolina Department of Education along with any supporting documentation to validate the need for flexibility.

Districts are obligated to provide learning opportunities for gifted and talented students. However, districts may request flexibility from the State Board of Education to combine classes across small schools that may on their own not be able to provide courses for gifted and talented students that will meet the needs of the students they serve. Also, districts can pursue and the State Board of Education can grant flexibility that would allow districts to set up alternative programs that better serve artistically gifted and talented students.

Proficiency-based credit for high school coursework is available if districts request it. Under this provision, schools can offer students credits in units as small as $\frac{1}{4}$ unit and up to a full unit of credit for a course. In order to pursue this flexibility, superintendents need only submit a letter and a plan to the South Carolina Department of Education for approval by the agency.

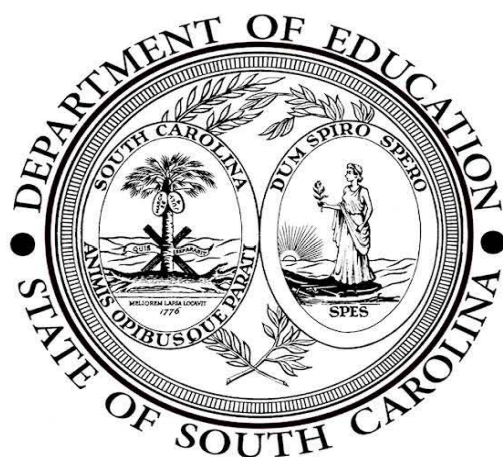
Summer school programs are required to meet the same rigor and standards required during the regular school year. However, districts can submit plans to the State Board of Education that would allow them to seek flexibility in seat time and class size restrictions in their summer school programs.

The above list is not exhaustive. It simply illustrates some of the ways in which statute and regulation provide a path to innovative practices in areas where regulation or statute might otherwise limit flexibility.

Let me be clear: I strongly encourage you to seek this flexibility. I also invite you to submit ideas and proposals for flexibility that you would like to have and would increase student achievement. I firmly believe that the best ideas don't emanate from Washington D.C. or Columbia; they reside in the classrooms of our state.

For further information about flexibility, please contact Deputy Superintendent for Policy and Research Charmeka Bosket at cbosket@ed.sc.gov or (803) 734-8104.

Flexibility through Deregulation Program Guidelines



Issued by the
South Carolina Department of Education

For the 2011–12 School Year

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Section I

SBE Regulation 303:

Flexibility through Deregulation Program

Title of Policy:

Policy No.: R 43-303

**FLEXIBILITY THROUGH
DEREGULATION PROGRAM**

Effective Date: 6/25/04

Constitutional and Statutory Provisions:

Code Ann. Section(s):

59-5-60 (2004)	General powers of [State] Board.
59-18-1110 (2004)	Grant of flexibility of receiving exemption from regulations; criteria; continuation of and removal from flexibility status.
59-18-1120 (2004)	Grant of flexibility of exemption from regulations and statutes to school designated as unsatisfactory while in such status; extension to other schools.

Descriptor Code: None

State Board Policy:

R 43-303. Flexibility Through Deregulation Program

I. Program Implementation

The Education Accountability Act, S.C. Code Ann. §§ 59-8-1110 and 59-18-1120 (2002), provide for the recognition of schools based on student performance. Schools that continually receive recognition are rewarded by exemptions from regulations and statutes (59-18-1110). Special provisions also allow exemptions from some regulations or statutes to other schools (59-18-1120).

The State Department of Education (SDE) will operate the program in accordance with program guidelines developed by the State Board of Education (SBE) in consultation with the Education Oversight Committee (EOC). The guidelines shall include eligibility criteria, operation procedures, related monitoring activities, reporting requirements, and state statutes and regulations exempted under the program. Approved program guidelines will be made available by the SDE upon request. The SBE may revise program guidelines on an annual basis in consultation with the EOC. Current guidelines will be posted on the SDE Web site.

Schools deregulated under former flexibility through deregulation statute, S.C. Code Ann. § 59-18-15 (repealed), and former State Board of Education Regulation 43-303 (amended) must re-qualify for flexibility status under these regulations.

II. Eligibility Criteria

A. Eligibility for flexibility begins in February 2005.

B. A school may be eligible in one of three ways. Special conditions apply to each type of eligibility.

1. Criteria for Deregulated Schools

Each of the following criteria must be met during the three-year period prior to the school year in which the school is given flexibility status.

- a. The school has twice been a recipient of either a Palmetto Gold or Silver Award.
- b. The school has met annual improvement standards for subgroups of students in reading and mathematics.
- c. The school must have exhibited no recurring accreditation deficiencies.

2. Criteria for Unsatisfactory Schools

An unsatisfactory school may be given flexibility status when each of the following conditions is met:

- a. The statutes or regulations exempted must deal with the core academic areas.
- b. The External Review Team (ERT) recommends specific regulations and statutes for flexibility to the SBE in the ERT report.
- c. If recommended by the ERT, the school plan must be amended to explain how the exemption will improve school and student performance.

3. Criteria for Schools through School Plans

Schools may receive flexibility status when each of the following conditions is met:

- a. The school has met annual improvement standards for subgroups of students in reading and mathematics.
- b. Amendments to the school renewal plan must explain why exemptions are expected to improve the academic performance of the students.
- c. The plan meets the approval by the SBE.

III. Stability of School Grade Organization

Changes in grade structure that result in less than a majority of grades being maintained from the preceding school year will cause a school to be removed from flexibility status. The flexibility status is not transferable to another school if the school that has such status is closed or consolidated with another school.

IV. Notification of Schools and School Districts

The SDE will annually determine schools that are eligible to receive flexibility status based on meeting criteria as deregulated, meeting SBE criteria through a school plan, and meeting criteria for specific exemptions recommended by the ERT. The SBE must approve flexibility status for schools meeting SBE criteria through a school plan and for schools meeting criteria for specific exemptions recommended by the ERT. Flexibility status will be in effect immediately upon determination of

deregulated schools or approval by the SBE of other schools. The local boards of trustees, district superintendents, and principals of the schools will be notified by the SDE of their flexibility status.

V. Nonacceptance of Flexibility Status

- A. A local board of trustees may notify the SBE of its decision not to accept the flexibility status of a deregulated school within the district. Written notification by the local board of trustees will result in the school's immediate removal from flexibility status and the restoration of all statutory and regulatory requirements. Written notification for nonacceptance must be received within sixty days of the declaration of flexibility status.
- B. Subsequent monitoring by the SDE in a school that is removed from flexibility status will not include a review of program records for the exempted period.

VI. Continuation of Flexibility Status

- A. A deregulated school initially given flexibility status will be eligible to continue in that status provided that annually the following conditions are met:
 - 1. The school exhibits improvement at or above the state average as computed in the Palmetto Gold and Silver Awards Program pursuant to S.C. Code Ann. § 59-18-1100 (2002).
 - 2. The school must meet the gains required for subgroups of students in reading and mathematics.
 - 3. The school must have exhibited no recurring accreditation deficiencies.
- B. An unsatisfactory school initially given flexibility status through an approved ERT report will be eligible to continue in that status provided that annually the following conditions are met:
 - 1. The ERT reviews the overall improvement as outlined in the amended plan and recommends continuation.
 - 2. The school must meet the gains required for subgroups of students in reading and mathematics.
 - 3. The school must have exhibited no recurring accreditation deficiencies.
- C. A school initially given flexibility status through an amended school plan will be eligible to continue in that status provided that annually the following conditions are met:
 - 1. The school must exhibit overall improvement as outlined in the amended plan.
 - 2. The school must meet the gains required for subgroups of students in reading and mathematics.
 - 3. The school must have exhibited no recurring accreditation deficiencies.

VII. Application for Extension of Flexibility Status

A school that does not re-qualify for flexibility status may apply to the SBE for an extension of the status for one year, provided extenuating circumstances exist that account for its inability to meet the requirements to maintain that status. The district superintendent and school principal must make the application for extension to the SBE within thirty (30) days of the receipt of notification of the school's removal from flexibility status.

A school no longer unsatisfactory may apply for a one-year extension of flexibility status for those exemptions approved in the ERT report provided the district superintendent and school principal make the application for extension to the State Board of Education within thirty days (30) of the receipt of notification of the school's removal from unsatisfactory status.

VIII. Exemptions from Requirements

Schools receiving flexibility status are exempted from those regulatory and statutory provisions governing the defined program including, but not limited to, class scheduling, class structure, and staffing. Specific standards exempted appear in an appendix of the SBE-approved guidelines.

IX. Resumption of Statutory and Regulatory Requirements

A school removed from flexibility status will be subject to regulatory and statutory provisions exempted under this program at the beginning of the school year following notification of the change in status by the SDE. Nonacceptance of flexibility status requires compliance with all regulatory and statutory provisions immediately. Subsequent monitoring by the SDE in a school that is removed from flexibility status will not include a review of program records exempted under program guidelines for the period that the school was given flexibility status.

Section II

Flexibility through Deregulation Exemptions

Flexibility Through Deregulation Exemptions

- Schools identified by the South Carolina Department of Education (SCDE) as eligible for deregulation may take exemptions from specific portions of State Board of Education (SBE) Regulations 43-205, 43-209, 43-231, 43-232, and 43-234 provided in this section.
- This section provides the identified schools with the exemptions from specific portions of these SBE Regulations as noted by strikethroughs and text-boxes in the SBE Regulation text.
- Only schools identified by SCDE for flexibility through deregulation may exempt the strikethrough portions of the five regulations listed in this section.

Title of Regulation:

Regulation No.: R 43-205

ADMINISTRATIVE AND PROFESSIONAL
PERSONNEL QUALIFICATIONS, DUTIES
AND WORKLOADS

Effective Date: 05/25/07

Constitutional and Statutory Provisions:

S. C. Code Ann. Sections:

59-5-60(2004)

General powers of Board

20 U.S.C. § 6301 *et seq.* (2002)

No Child Left Behind Act of 2001

59-50-10 *et seq.* (Supp. 2004)

Descriptor Code: GBBA

State Board Regulation:

Administrative and Professional Personnel Qualifications, Duties, and Workloads

I. District-Level Administrative Personnel

Personnel employed as administrative assistants, supervisors, and consultants having responsibilities for supervising instructional programs and student services must hold a ~~master's~~ degree and be certified in ~~their~~ area of primary responsibility or must earn a minimum of 6 semester hours annually toward appropriate certification. ~~The district superintendent must request from the Office of Educator Certification an out-of-field permit for members of the central staff who are not properly certified.~~

II. Prekindergarten through Grade Five

A. Professional Personnel Qualifications and Duties

1. Principals

individual

Each school with an enrollment of more than 375 students must be staffed with a full-time properly certified principal. Each school with an enrollment of fewer than 375 students must be staffed with at least a part-time properly certified principal. A principal's duties and responsibilities are to be prescribed by the district superintendent. ~~The district superintendent must request an out of field permit from the Office of Educator Certification for each principal who is not properly certified.~~

2. ~~Assistant Principals or Curriculum Coordinators~~

Each school with an enrollment of 600 or more students must be staffed with at least one full-time ~~properly~~ certified assistant ~~principal or curriculum coordinator~~.

3. Teachers, Guidance Counselors, and Library Media Specialists

Each teacher, guidance counselor, and library media specialist must be ~~properly~~ certified by the State Board of Education. Additionally, teachers of core academic subjects must meet the “highly qualified” teacher requirements specified in the No Child Left Behind Act of 2001, 20 U.S.C. § 6301 *et seq.* (2002). The core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics, government, economics, history, geography, and the arts. The duties and responsibilities of teachers, guidance counselors, and library media specialists are to be prescribed by the school principal. ~~The district superintendent must request an out-of-field permit from the Office of Educator Certification for each eligible teacher, guidance counselor, and library media specialist who is not properly certified.~~

4. School Nurses

Each school nurse must hold a current license issued by the State Board of Nursing to practice as a professional registered nurse or as a licensed practical nurse who is working under the supervision of a professional registered nurse. The duties and responsibilities of a school nurse are to be prescribed by the principal in accordance with the laws and regulations governing nursing in South Carolina. If a school nurse works in more than one school, his or her duties and responsibilities are to be prescribed by the district superintendent or his or her designee in accordance with the laws and regulations governing nursing in South Carolina.

B. Professional Personnel Workload

1. Regular Education Teachers

- (a) ~~The average student teacher ratio in any school must not exceed 28:1 based on the average daily enrollment. The total number of teachers must include all regular, special-area, and resource teachers whose students are counted in the regular enrollment.~~
- (b) ~~Each district must maintain an average student-teacher ratio of 21:1 based on the average daily enrollment in reading and mathematics classes in grades one through three.~~

(c) ~~Class sizes must not exceed the following student-teacher ratios:~~

Grade Level	Maximum Student-Teacher Ratio
Prekindergarten	20:1
Grades K-3	30:1
Grades 4-5, English language arts and mathematics	30:1
Grades 4-5, all other subjects	35:1

(d) ~~Paraprofessionals may be counted in computing the student-teacher ratio at the rate of .5 per paraprofessional if they work under the supervision of a teacher and make up no more than 10 percent of the total staff. Excluded from the computation are the following:~~

- (1) ~~teachers of self-contained special education classes, prekindergarten and kindergarten classes, principals, assistant principals, library media specialists, and guidance counselors; and~~
- (2) ~~students in self-contained special education classes, prekindergarten classes, or kindergarten classes.~~

2. Guidance Counselors and Specialists in Art, Music, and Physical Education

(a) ~~Schools having any combination of grades one through five must employ the full-time equivalent (FTE) of a school guidance counselor and specialists in art, music, and physical education (PE) in the following ratios for each area:~~

Average Daily Enrollment	FTE	Minimum Allotted Time Daily
800 or more	1.0	300 minutes
640-799	.8	240 minutes
480-639	.6	180 minutes
320-479	.4	120 minutes
Less than 320	.2	60 minutes

(b) Music teachers may teach a maximum of 40 students per class period. The total teaching load must not exceed 240 students per day. Exceptions: When band, chorus, and orchestra require rehearsals of their entire enrollment, any number is acceptable if adequate space is available.

- (c) PE teachers may teach a maximum of 40 students per class period. The total teaching load must not exceed 240 students per day. If PE and health are taught on alternate days by the same teacher to the same class, the 40-student maximum and 240-student total are also permitted for health. When health is taught as a separate subject, the teaching load is a maximum of 35 students per period and a total of 150 students per day.

3. Library Media Specialists

Schools ~~with fewer than 375 students~~ must provide at least half-time services of a certified library media specialist. ~~Schools with 375 or more students must provide the services of a full-time certified library media specialist.~~

4. Special Education Teachers

- (a) The teaching load for teachers of self-contained special education classes must not exceed the following student-teacher ratios:

Area	Maximum Ratio Based on Average Daily Enrollment
Mental Disabilities (mild)	15:1
Emotional Disabilities	12:1
Learning Disabilities	15:1
Mental Disabilities (moderate and severe) and Orthopedically Impaired	12:1
Visually Impaired	10:1
Deaf and Hard of Hearing	10:1

- (b) Cross-categorical self-contained classes must not exceed the following student-teacher ratios:

Area	Maximum Ratio Based on Average Daily Enrollment
Mental Disabilities (mild) and Learning Disabilities	15:1
Mental Disabilities (mild), Learning Disabilities, and Emotional Disabilities	12:1
Mental Disabilities (mild), Learning Disabilities, Emotional Disabilities, and Orthopedically Impaired	12:1

When four or more students identified as emotionally disabled or orthopedically impaired are enrolled in a cross-categorical class, a full-time teaching assistant must be employed.

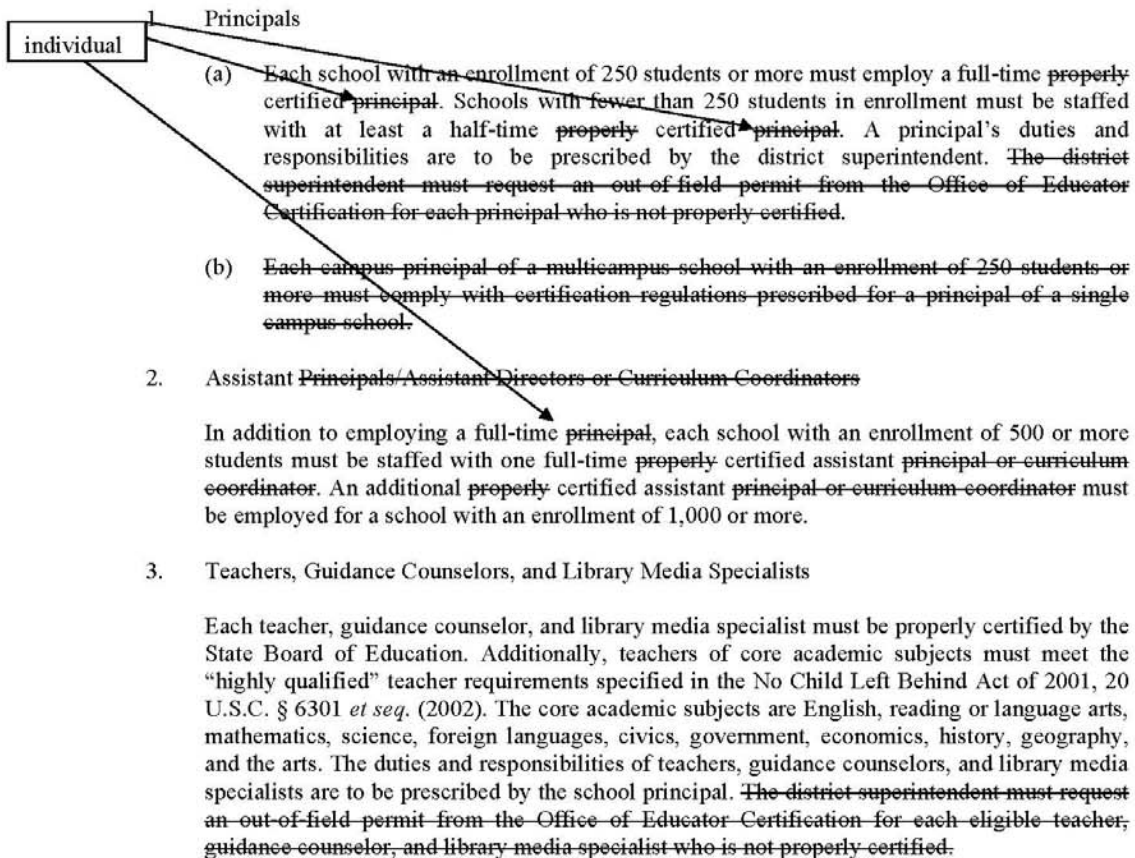
- (c) The maximum teaching load required for resource teachers and itinerant teachers for students with disabilities based on the average daily enrollment is as follows:

Area	Maximum Teaching Load
Mental Disabilities (mild)	33 students
Emotional Disabilities	33 students
Learning Disabilities	33 students
Mental Disabilities (moderate and severe) and Orthopedically Impaired	20 students
Visually Impaired	15 students
Deaf and Hard of Hearing	15 students

- (d) When resource teachers and/or itinerant teachers serve students with differing disabilities, the maximum teaching load must be determined by the majority of the students in enrollment in an area of disability.
- (e) The maximum caseload for speech language therapists must not exceed 60 students.

III. Grades Six through Eight

A. Professional Personnel Qualifications and Duties



4. School Nurses

Each school nurse must hold a current license issued by the State Board of Nursing to practice as a professional registered nurse or as a licensed practical nurse who is working under the supervision of a professional registered nurse. The duties and responsibilities of a school nurse are to be prescribed by the principal in accordance with the laws and regulations governing nursing in South Carolina. If a school nurse works in more than one school, his or her duties and responsibilities are to be prescribed by the district superintendent or his or her designee in accordance with the laws and regulations governing nursing in South Carolina.

5. Career Specialists

Each career specialist must work under the supervision of a certified guidance counselor. The career specialist must hold a bachelor's degree and must have earned either Global Career and Development Facilitator (GCDF) certification or Career Development Facilitator (CDF) certification. The guidance counselor may serve as the career specialist if he or she holds the GCDF or the CDF credential.

B. Professional Personnel Workload

1. Guidance Counselors

(a) ~~Schools with fewer than 600 students must provide the services of a guidance counselor in the following ratios:~~

Enrollment	Minimum Allotted Time Daily
Up to 200	100 minutes
201 to 300	150 minutes
301 to 400	200 minutes
401 to 500	250 minutes
501 to 600	300 minutes

(b) ~~Schools with an enrollment of 501 or more students must employ one full-time certified counselor. Schools with more than 600 students must provide guidance services at the ratio of one 50-minute period for every 100 students or major portion thereof.~~

(c) A career specialist may be employed to provide career guidance services.

(d) By the 2011-12 school year, the student-to-guidance personnel ratio will be reduced to 300 to 1 as funds become available.

2. Library Media Specialists

(a) ~~Schools with fewer than 400 students must employ a library media specialist who devotes not less than 200 minutes daily to library media services.~~

(b) ~~Schools with an enrollment of 400 or more students must employ a certified library media specialist devoting full time to library media services.~~

- (c) ~~Schools having an enrollment of 750 or more must employ an additional full-time person (paraprofessional or certified library media specialist) in the library media center.~~

3. Classroom Teachers

- (a) ~~The teaching load must not exceed 150 students daily. No class may exceed 35 students in enrollment.~~

Grade Level	Maximum —Student Teacher Ratio
Grade 6, English language arts and mathematics	30:1
Grade 6, all other subjects	35:1
Grades 7-8	35:1

- (b) ~~A maximum of 40 students per class with a total teaching load of 240 students per day is permitted for music and PE teachers. If PE and health are taught on alternate days by the same teacher to the same class, the 40 student maximum and 240 student total are also permitted for health. When health is taught as a separate subject, the teaching load is a maximum of 35 students per class and a total of 150 students per day. Exceptions: When band, chorus, and orchestra require rehearsals of the entire enrollment, any number is acceptable if adequate space is available.~~
- (c) ~~When a teacher's daily schedule includes a combination of academic subjects and nonacademic subjects, the maximum daily teaching load must be calculated on the basis of 30 students per academic class and 40 students for each music or PE class. (Example: 3 classes of math with 30 students each = 90 + 2 classes of PE with 40 students each = 80. The teaching load totals 170 students. The teacher is not overloaded but does teach the maximum allowable.)~~
- (d) ~~Maximum teacher load requirements and individual class size limits are the same for minicourses as any other classes.~~

4. Special Education Teachers

- (a) The teaching load for teachers of self-contained classes must not exceed the following student-teacher ratios:

Area	Maximum Ratio Based on Average Daily Enrollment
Mental Disabilities (mild)	18:1
Emotional Disabilities	15:1
Learning Disabilities	18:1
Mental Disabilities (moderate and severe) and Orthopedically Impaired	15:1
Visually Impaired	12:1
Deaf and Hard of Hearing	12:1

- (b) Cross-categorical self-contained classes must not exceed the following student-teacher ratios:

Area	Maximum Ratio Based on Average Daily Enrollment
Mental Disabilities (mild) and Learning Disabilities	18:1
Mental Disabilities (mild), Learning Disabilities, and Emotional Disabilities	15:1
Mental Disabilities (mild), Learning Disabilities, Emotional Disabilities, and Orthopedically Impaired	15:1

When four or more students identified as emotionally disabled or orthopedically impaired are enrolled in a cross-categorical class, a full-time teaching assistant must be employed.

- (c) The maximum teaching load for resource teachers and itinerant teachers for students with disabilities based on the average daily enrollment is as follows:

Area	Maximum Teaching Load
Mental Disabilities (mild)	33 students
Emotional Disabilities	33 students
Learning Disabilities	33 students
Mental Disabilities (moderate and severe) and Orthopedically Impaired	20 students
Visually Impaired	15 students
Deaf and Hard of Hearing	15 students

- (d) When resource teachers and/or itinerant teachers serve students with differing disabilities, the maximum caseload must be determined by the majority of the students in enrollment in an area of disability.

- (e) The maximum caseload for speech-language therapists must not exceed 60 students.

IV. Grades Nine through Twelve

A. Professional Personnel Qualifications and Duties

individual

1. Principals/Directors

- (a) Each school must be staffed with a full-time ~~properly certified~~ principal/director whose duties and responsibilities must be prescribed by the district superintendent. ~~The district superintendent must request an out of field permit from the Office of Educator Certification for each principal/director who is not properly certified.~~
- (b) ~~Each campus principal of a multicampus school with an enrollment of 250 students or more must comply with certification regulations prescribed for a principal of a single campus school.~~

2. Assistant Principals/Assistant Directors or Curriculum Coordinators

- (a) In addition to being staffed with a full-time principal/director, each school with an enrollment of 400 to 499 students must be staffed with at least one half-time properly certified assistant principal or the equivalent.
- (b) In addition to being staffed with a full-time principal/director, each school with an enrollment of 500 or more students must be staffed with at least one full-time properly certified assistant and a principal/assistant director properly certified assistant principal or the equivalent for each additional 500 students.

individual

3. Teachers, Guidance Counselors, and Library Media Specialists

Each teacher, guidance counselor, and library media specialist must be properly certified by the State Board of Education. Additionally, teachers of core academic subjects must meet the "highly qualified" teacher requirements specified in the No Child Left Behind Act of 2001, 20 U.S.C. § 6301 *et seq.* (2002). The core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics, government, economics, history, geography, and the arts. Their duties and responsibilities are to be prescribed by the principal. The district superintendent must request an out-of-field permit from the Office of Educator Certification for each eligible teacher, guidance counselor, and library media specialist who is not properly certified.

4. School Nurses

Each school nurse must hold a current license issued by the State Board of Nursing to practice as a professional registered nurse or as a licensed practical nurse who is working under the supervision of a professional registered nurse. The duties and responsibilities of a school nurse are to be prescribed by the principal in accordance with the laws and regulations governing nursing in South Carolina. If a school nurse works in more than one school, his or her duties and responsibilities are to be prescribed by the district superintendent or his or her designee in accordance with the laws and regulations governing nursing in South Carolina.

5. School Transition Coordinators

When a school-to-work transition coordinator is employed, the coordinator must be certified in one or more occupational subjects, have at least a bachelor's degree, and have two years' work experience. In lieu of these requirements, a qualified person with an employment background in business or industry may be employed as a school-to-work transition coordinator if the person possesses at least a bachelor's degree and five years of business/industry work experience in the fields of personnel or administration.

6. Career Specialists

Each career specialist must hold a bachelor's degree and must have earned either Global Career and Development Facilitator (GCDF) certification or Career Development Facilitator (CDF) certification. The guidance counselor may serve as the career specialist if he or she holds GCDF or CDF certification. If this person is to provide classroom instruction, he or she must be certified.

B. Professional Personnel Workload

1. Guidance Counselors

- (a) ~~Schools with fewer than 600 students must provide the services of a guidance counselor in the following ratios:~~

Enrollment	Minimum Allotted Time Daily
Up to 200	100 minutes
201 to 300	150 minutes
301 to 400	300 minutes
401 to 500	250 minutes
501 to 600	300 minutes

- (b) ~~Schools with enrollments of 501 or more must employ one full-time certified counselor. Schools with more than 600 students must provide guidance services at the ratio of 50 minutes for each additional 51 to 100 students to the extent that the total school enrollment reflects a minimum of 50 minutes of guidance services for every 100 students.~~
- (c) A career specialist may be employed to provide career guidance services.
- (d) By the 2011–12 school year, the student-to-guidance personnel ratio will be reduced to 300 to 1 as funds become available.

2. Library Media Specialists

- (a) ~~Schools having an enrollment of fewer than 400 students must employ a library media specialist who must devote not less than 200 minutes daily to library media services.~~
- (b) ~~Schools with an enrollment of 400 or more students must employ a certified library media specialist devoting full-time to library media services.~~
- (c) ~~Schools having an enrollment of 750 or more students must employ an additional full-time person (paraprofessional or certified library media specialist) in the library media center.~~

3. Classroom Teachers

- (a) ~~The maximum daily teaching load for teachers of academic classes is 150 students. No class may exceed 35 students in enrollment.~~
- (b) A teacher must not be permitted to teach more than 1,500 minutes per week.
- (c) A teacher must not be assigned classes requiring more than four preparations per day.
- (d) A maximum of 40 students per class with a total teaching load of 240 students per day is permitted for music and PE teachers. If PE and health are taught on alternate days by the same teacher to the same class, the 40 student maximum and 240 student total are also permitted for health. When health is taught as a separate subject, the maximum teaching

load is 35 students per class and a total of 150 students per day. Exception: When band, chorus, and orchestra require rehearsals of the entire enrollment, any number is acceptable if adequate space is available.

- (e) ~~When a teacher's daily schedule includes a combination of academic and nonacademic subjects, the maximum daily teaching load must be calculated on the basis of 30 students per academic class and 40 students per music or PE class. (Example: 3 classes of math with 30 students each = 90 + 2 classes of PE with 40 students each = 80. The teaching load totals 170 students. The teacher is not overloaded but does teach the maximum allowable.)~~
- (f) In calculating teaching load, the number of students supervised in study hall by a regular teacher must be divided by 4 (example: 60 divided by 4 = 15). Study hall students must not be placed in an instructional class.

4. Special Education Teachers

- (a) The teaching load for teachers of self-contained classes must not exceed the following student-teacher ratios:

Area	Maximum Ratio Based on Average Daily Enrollment
Mental Disabilities (mild)	18:1
Emotional Disabilities	15:1
Learning Disabilities	18:1
Mental Disabilities (moderate and severe) and Orthopedically Impaired	15:1
Visually Impaired	12:1
Deaf and Hard of Hearing	12:1

- (b) Cross-categorical classes must not exceed the following student-teacher ratios:

Area	Maximum Ratio Based on Average Daily Enrollment
Mental Disabilities (mild) and Learning Disabilities	18:1
Mental Disabilities (mild), Learning Disabilities, and Emotional Disabilities	17:1
Mental Disabilities (mild), Learning Disabilities, Emotional Disabilities, and Orthopedically Impaired	16:1

When four or more students identified as emotionally disabled or orthopedically impaired are enrolled in a cross-categorical class, a full-time teaching assistant must be employed.

- (c) The maximum teaching load for resource teachers and itinerant teachers for students with disabilities based on average daily enrollment is as follows:

Area	Maximum Teaching Load
Mental Disabilities (mild)	33 students
Emotional Disabilities	33 students
Learning Disabilities	33 students
Mental Disabilities (moderate and severe) and Orthopedically Impaired	20 students
Visually Impaired	15 students
Deaf and Hard of Hearing	15 students

- (d) When resource room and/or itinerant teachers serve students with differing disabilities, the maximum caseload must be determined by the majority of the students in enrollment in an area of disability.
- (e) The maximum caseload for speech-language therapists must not exceed 60 students.

Title of Regulation: Regulation No.:

R 43-209

NONPROFESSIONAL/
PARAPROFESSIONAL PERSONNEL
POSITIONS, QUALIFICATIONS AND
DUTIES

Effective Date: 11/28/03

Constitutional and Statutory Provisions:

S. C. Code Ann. Section(s):

59-5-60 (1990)

59-19-270 (1990)

20 U.S.C. §6301 *et seq.* (2002)

General powers of [State] Board.

Trustees may employ medical, technical and clerical personnel.

No Child Left Behind Act of 2001

Descriptor Code: GCB

State Board Regulation:

43-209. Support Personnel/Paraprofessional Personnel Positions, Qualifications and Duties

A. Support personnel positions for school district superintendents and school principals

~~1. Secretarial services shall be provided.~~

2. Custodial services shall be provided.

B. Paraprofessional personnel positions

1. Each teacher of trainable, orthopedically, emotionally, or visually disabled pupils in a self-contained classroom model shall have a paraprofessional full time, provided that the class has a minimum membership of four pupils.

2. Each teacher of a kindergarten unit shall have a paraprofessional full time.

C. Paraprofessional Personnel Qualifications and Duties

1. Paraprofessionals helping with classroom instruction or programs shall meet the following requirements:

a. All instructional paraprofessionals must be at least 18 years of age.

b. ~~All instructional paraprofessionals must have at least a high school diploma or state equivalency certificate.~~

c. Instructional paraprofessionals who work in a Title I school or a Title I targeted assistance program and who were hired after January 8, 2002, must either

(1) hold a two-year associate's degree from an accredited institution, or

- (2) have completed two years (60 semester hours) of college coursework from an accredited institution, or
- (3) have passed a state-approved examination of content knowledge and pedagogy.

d. Instructional paraprofessionals who work in a Title I school or a Title I targeted assistance program and who were hired before January 8, 2002, must meet the requirements listed in C.1.c. by January 8, 2006.

Compliance required under C.1.c.

~~All instructional paraprofessionals must work under the direct supervision of a certified teacher.~~

f. ~~All instructional paraprofessionals must participate in preservice and inservice training programs for instructional paraprofessionals.~~

2. The State Department of Education will maintain an electronic registry of instructional paraprofessionals that indicates whether the instructional paraprofessional has met the requirements listed in C.1.c.

Title of Regulation:

Regulation No.: R 43-231

DEFINED PROGRAM GRADES K-5

Effective Date: 06/27/97

Constitutional and Statutory Provisions:

Sections:

59-5-60(3 & 6).	General powers of [State] Board.
59-29-10, <u>et seq.</u>	Subjects of Instruction.
59-29-200.	Pupil-teacher ratios.
59-33-30.	Establishment by State Board of Education of program of specialized education for handicapped children; rules and regulations.
59-63-55.	Report required of certain injuries.

Code of Laws of South Carolina, 1976.

Descriptor Code: IDA

State Board Regulation:

Defined Program Grades K-5

Each school district board of trustees shall ensure quality schooling having a rigorous, relevant curriculum for all students.

Each school district shall examine the academic achievement standards adopted by the South Carolina State Board of Education. Elementary, middle, and high school faculty and staff shall work together to ensure that students are prepared to achieve these standards.

I. Basic Program/Curriculum, Kindergarten

The curriculum for children PreK-K shall consist of experiences and activities which will enhance their physical, emotional, social, and intellectual growth and development and help each child attain, at his own rate of speed, the educational goals set for the primary school.

II. Basic Program/Curriculum, Grades 1-5

Instruction in the subject areas shall be scheduled for each student ~~for a minimum of 1800 minutes or 30 hours per week including lunch, or the equivalent time on a yearly basis.~~ The subjects shall include, but not be limited to:

A. Subject Areas

English/Language Arts ¹
Mathematics
Science ²
Social Studies ²
Health and Safety ³
Physical Education ⁴
Visual & Performing Arts ⁵
Foreign Language ⁶

Schools must determine the amount of instructional time in a subject area as approved by the local board of trustees and the State Superintendent of Education. The school day must be at least six hours including lunch, or its equivalent weekly.

B. Alcohol and Drugs

Through special instruction, schools shall provide age-appropriate instruction regarding the dangers in the use and abuse of alcohol, tobacco, and other drugs. Instruction shall emphasize problems related to their use and effects upon the total community. Instruction shall be offered in all schools of the State and shall be studied and presented as thoroughly and in the same manner as all other required subjects in grades K-5.

C. Guidance Program

A comprehensive guidance program including career awareness, is required in schools having any combination of grades K-5.

D. Library/Media Program

Library media programs and technology resources are required and accessible to all students and staff and are appropriate to achieve the strategies and goals in each school renewal or district strategic plan.

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1. English/Language Arts shall include reading, writing, listening and speaking.
 2. Environmental Education is required as an integral part of science, social studies, and health.
 3. Health and Safety shall include components as outlined in the Comprehensive Health Education Act.
 4. Students who are physically or mentally unable to take the physical education course provided for the regular student shall take a suitably modified course in physical education. (Section 59-29-80, S.C. Code of Laws, 1976, as amended.)
 5. Visual and Performing Arts shall include, but not be limited to, music and art.
 6. Foreign Language as a separate course is recommended but not required. If a separate course is not offered, foreign languages should be incorporated in the basic curriculum.

III. Innovative Approaches

A school encompassing any combination of grades K-5 may implement an innovative approach if it is approved by the local board of trustees and is incorporated in the school and district plans.

IV. Class Size, Grades K-5

- A. ~~The average pupil teacher ratio in any school shall not exceed 28 to 1 based on average daily membership. The total number of teachers shall include all regular, special area, and resource teachers whose pupils are counted in the regular membership.~~
- B. ~~Each district shall attain an average pupil teacher ratio based on average daily membership in the basic skills of reading and mathematics in Grades 1-3 as 21 to 1.~~
- C. ~~Teacher aides may be counted in computing the ratio at the rate of .5 per aide if they work under the supervision of a teacher and make up no more than 10 percent of the total staff. Excluded from the computation are the following:~~
 - 1. ~~Teachers of self-contained special education classes and kindergarten, principals, assistant principals, library/media specialists, and guidance counselors.~~
 - 2. ~~Pupils in self-contained special education classes and kindergarten.~~

~~Maximum class size shall not exceed the following:~~

- a. ~~Grades K-3~~ 30:1
- b. ~~Grades 4-5~~ 30:1 (English/language arts and mathematics)
35:1 (other subjects)
40:1 (physical education and music*)

~~* Exception: When band, chorus, and orchestra require rehearsals of the entire membership, any number is acceptable if adequate space is available.~~

V. Additional Regulatory Requirements

Additional regulatory requirements related to the basic program include, but are not limited to, the following:

- Gifted and Talented Regulation (43-220)
- School-to-Work Regulation (43-225)
- Health Education Requirement Regulation (43-238)
- Summer Programs Regulation (43-240)
- Special Education Regulations* (43-243 to 43-243.6)
- Early Childhood Assistance Programs-Grade K-3 (43-267)
- Academic Assistance Regulations-Grades 4-12 (43-268)

* A teacher of children with disabilities in the resource or itinerant model shall be certified or have a permit in the area of handicapping condition in which the majority are classified, or be certified in one area of handicapping condition in which the teacher is teaching and successfully complete six semester hours annually toward certification in the area in which the majority of students are classified. Pupils participating in self-contained programs shall be of the same category of disability. The teacher must be certified or hold an out-of-field permit in the area of handicapping condition of the pupils served.

VI. Student Records

1. Each school shall have an appropriate means of reporting academic achievement to parents.
2. The district shall maintain accurate student data according to the pupil accounting system prescribed by the State Department of Education. A record of all dropouts shall be filed by school, grade, race and sex. The superintendent shall verify the accuracy of the enrollment attendance, membership by category, and dropout reports submitted to the Office of Finance, State Department of Education.

VII. Emergency Closings

Full days missed because of weather or other circumstances must be made up. Early dismissal days shall be reported to the Director, Office of Organizational Development.

Title of Regulation:

Regulation No.: R 43-232

DEFINED PROGRAM GRADES 6-8

Effective Date: 06/27/97

Constitutional and Statutory Provisions:

Sections:

59-5-60(3 & 6).	General powers of [State] Board.
59-29-10, <u>et seq.</u>	Subjects of Instruction.
59-29-200.	Pupil-teacher ratios.
59-33-30.	Establishment by State Board of Education of program of specialized education for handicapped children; rules and regulations.
59-63-55.	Report required of certain injuries.

Code of Laws of South Carolina, 1976.

Descriptor Code: IDA

State Board Regulation:

Defined Program Grades 6-8

Each school district board of trustees shall ensure quality schooling by providing a rigorous, relevant curriculum for all students.

Each school district shall examine the academic achievement standards adopted by the South Carolina State Board of Education. Elementary, middle, and high school faculty and staff shall work together to ensure that students are prepared to achieve these standards.

I. Basic Program/Curriculum for Grades 6-8

Instruction in the subject areas shall be scheduled for each student ~~for a minimum of 1800 minutes or 30 hours per week including lunch, or the equivalent time on a yearly basis.~~ The subjects shall include, but not be limited to:

A. Subject Areas

English/Language Arts ¹
Mathematics
Sciences [#]
Social Studies ^{#,2}
Health ^{#,3}
Physical Education ⁴
Visual/Performing Arts ⁵
Exploratory Programs ⁶
Foreign Language ⁷

B. High School Credit

When approved by the principal and the parents, a student promoted to the seventh or eighth grade may take units of ninth grade or higher work for high school credit.

C. Alcohol and Drugs

Through special instruction, schools shall provide age-appropriate instruction regarding the dangers in the use and abuse of alcohol, tobacco, and other drugs. Instruction shall emphasize problems related to their use and effects upon the total community. Instruction shall be offered in all schools of the State and shall be studied and presented as thoroughly and in the same manner as all other required subjects in grades 6 through 8.

D. Guidance Program/School-to-Work Initiative

1. A comprehensive guidance program, including career development, is required in schools having any combination of grades 6-8.

Schools must determine the amount of instructional time in a subject area as approved by the local board of trustees and the State Superintendent of Education. The school day must be at least six hours including lunch, or its equivalent weekly.

A school which includes any combination of grades 5-8 when housed with grades 7 or 8 may elect for all of the combination of grades 5-8 to meet, on a subject by subject basis, the minimum instructional times or the minimum curriculum requirements for either grades 4-5 or grades 6-8, unless otherwise prohibited by law.

1. English/Language Arts shall include reading, writing, listening and speaking.
 2. Eighth grade social studies must include South Carolina history as it relates to the United States.
 3. Health shall include components as outlined in the Comprehensive Health Education Act.
 4. Students who are physically or mentally unable to take the physical education course provided for the regular student shall take a suitably modified course in physical education. (Section 59-29-80, S.C. Code of Laws, 1976, as amended.)
 5. Visual/Performing Arts shall include, but not be limited to, music and art.
 6. At least one elective of an occupational exploratory must be scheduled. Programs in areas such as, but not limited to, industrial technology education (grades 7-8), keyboarding, computer literacy, and career exploration may be included.
 7. Foreign Language as a separate course is recommended but not required. If a separate course is not offered, foreign languages should be incorporated in the basic curriculum.
- # Environmental Education is required as an integral part of science, social studies and health.

2. Each school district shall offer a range of mentoring opportunities for students beginning no later than the seventh grade. Students participating in any of the work-based programs shall have the written permission of their parents or legal guardians in order to engage in such experiences. Adult supervision shall be provided for mentoring opportunities.
3. Curriculum activities consisting of educational opportunities, career information resources and career development programs shall be included in subject areas for Grades 6-8.
4. Beginning in Grade 6, students and their parents and/or legal guardians in collaboration with appropriate school personnel shall prepare a plan for a variety of career options in which the student has an interest.
5. In Grade 7, students and their parents and/or legal guardians in collaboration with appropriate school personnel shall revise career planning records in which the student has an interest.
6. In Grade 8, students and their parents and/or legal guardians in collaboration with appropriate school personnel shall review and revise the career planning record. The record shall include a high school course of study based on a major plan and an alternate plan for career options in which the student has an interest and the postsecondary programs of study related to achieving a career goal.

E. Library/Media Program

Library media programs and technology resources are required and accessible to all students and staff and are appropriate to achieve the strategies and goals in each school renewal or district strategic plan.

II. Innovative Approaches

A school encompassing any combination of grades 6-8 may implement an innovative approach if it is approved by the local board of trustees and is incorporated in the school and district plans.

III. Class Size, Grades 6-8:

- A. ~~The maximum teacher load shall not exceed 150 students daily. Maximum class size shall not exceed the following:~~

Grade 6	30:1	(English/language arts and math)
	35:1	(other subjects)
Grades 7-8	35:1	(all academic and exploratory subjects)

~~No class shall exceed 35 students in membership.~~

- B. Exceptions:

1. ~~A maximum of 40 students per period with a total teaching load of 240 students daily is permitted for physical education teachers. If physical education and health are taught on alternate days to the same class, the 40 student maximum and 240 student total is also permitted~~

~~for health. When health is taught as a separate subject, the teaching load is a maximum of 35 students per period and a total of 150 students per day.~~

- ~~2. Music teachers may teach a maximum of 240 pupils daily. No class shall exceed 40 students in membership. Exception: When band, chorus, and orchestra require rehearsals of the entire membership, any number is acceptable if adequate space is available.~~
- ~~3. When a teacher's daily schedule includes a combination of subjects, the maximum daily teaching load shall be calculated on the basis of 30 students per academic class and 40 students for each music or physical education class. (Example: 3 classes of math of 30 each = 90 + 2 classes of P.E. of 40 each = 80. Teacher is not overloaded but teaches maximum allowable.)~~

~~Maximum teacher load requirements and individual class size limits are the same for mini courses as any other classes.~~

IV. Additional Regulatory Requirements

Additional regulatory requirements related to the basic program include, but are not limited to, the following:

Gifted and Talented Regulation (43-220)
School-to-Work Regulation (43-225)
Health Education Requirement (43-238)
Summer Programs Regulation (43-240)
Special Education Regulations * (43-243 to 243.6)
Academic Assistance Regulations-Grades 4-12 (43-268)

V. Student Records

1. Each school shall have an appropriate means of reporting academic achievement to parents.
2. The district shall maintain accurate student data according to the pupil accounting system prescribed by the State Department of Education. A record of all dropouts shall be filed by school, grade, race and sex. The superintendent shall verify the accuracy of the enrollment attendance, membership by category, and dropout reports submitted to the Office of Finance, State Department of Education.

VI. Emergency Closings

Full days missed because of weather or other circumstances must be made up. Early dismissal days shall be reported to the Director, Office of Organizational Development.

* A teacher of children with disabilities in the resource or itinerant model shall be certified or have a permit in the area of handicapping condition in which the majority are classified, or be certified in one area of handicapping condition in which the teacher is teaching and successfully complete six semester hours annually toward certification in the area in which the majority of students are classified. Pupils participating in self-contained programs shall be of the same category of disability. The teacher must be certified or hold an out-of-field permit in the area of handicapping condition of the pupils served.

Title of Regulation:

Regulation No.: R43-234

DEFINED PROGRAM, GRADES 9-12

Effective Date: 5/25/07

Constitutional and Statutory Provisions:

S.C. Code Ann. Section(s):

59-5-60 (2004)	General powers of [State] Board.
59-18-110 (2004)	Objectives
59-29-10, <i>et seq.</i> (2004)	Short title
59-29-200 (2004)	Pupil-teacher ratios
59-33-30 (2004)	Establishment by State Board of Education of program of specialized education for handicapped children; rules and regulations
59-53-1810 (2004)	Federal act accepted; State Board of Education designated as State Board of Vocational Training
20 U.S.C. Section 1232(g)	Family Education Rights and Privacy Act
20 U.S.C. Sections 6301 <i>et seq.</i> (2001)	Federal No Child Left Behind (NCLB)

Descriptor Code: IDA

State Board Regulation:

Defined Program, Grades 9-12

Each school district board of trustees must ensure quality schooling by providing a rigorous, relevant curriculum for all students.

Each school district must offer a standards-based academic curriculum organized around a career cluster system that provides students with individualized education choices.

I. Requirements for Earning a South Carolina High School Diploma

A. The student must earn a total of twenty-four units of credit as follows:

	Unit Requirements
English language arts	4.0
mathematics	4.0
science	3.0
U.S. History and Constitution	1.0
economics	0.5
U.S. Government	0.5
other social studies	1.0
physical education or Junior ROTC	1.0
computer science (including keyboarding)	1.0
foreign language or career and technology education	1.0
electives	<u>7.0</u>
	24.0 total

- B. The student must pass a classroom examination on the provisions and principles of the United States Constitution, the Declaration of Independence, the Federalist papers, and American institutions and ideals. This instruction must be given for a period of at least one year or its equivalent, either within the required course U.S. History and Constitution or within another course. (For specific regulations regarding the end-of-course test for U.S. History and Constitution, see R 43-262.4, End-of-Course Tests.)
- C. The student must pass a high school credit course in science (beginning with the graduating class of 2010) in which an end-of-course examination is administered. The proposed required course will be biology. Physical Science will remain the required and tested course until the biology assessment is approved by the US Department of Education. When the biology assessment is approved, the asterisk will be removed from Applied Biology 2 in Section V, Instructional Program. If that course is physical science, students who are accelerated in science may meet this requirement by taking an alternate course sequence—one unit of high school chemistry and one unit of high school physics—by the end of the tenth grade. Students who opt for the chemistry-physics sequence must pass both courses by the end of the tenth grade.
- D. The student must be enrolled for a minimum of one semester immediately preceding his or her graduation, except in case of a bona fide change of residence. Units earned in a summer school program do not satisfy this requirement.
- E. The student must pass both parts of the South Carolina high school exit examination in addition to earning the required number of prescribed units. (For specific regulations regarding the exit examination, see R 43-262, Assessment Program.)

II. Provisions for Schools in the Awarding of High School Credit

A. A school may award and accept credit in units of one-fourth, one-half, and a whole.

- B. A school may award one unit of credit for an academic standards-based course that requires a minimum of 120 hours of instruction. A school may award one-half unit of credit for an academic standards-based course requiring a minimum of 60 hours of instruction and one-fourth unit of credit for an academic standards-based course requiring a minimum of 30 hours of instruction.
- C. A school may award one unit of credit for a course that has been approved by the State Department of Education in a proficiency-based system. A proficiency-based course may also be offered for one-fourth and one-half unit if the system specifies these units.
- D. A school may award credit for those gateway courses that are a part of the End-of-Course Examination Program only if a student takes the course approved by the school in which he or she is enrolled and meets all the stipulated requirements of the End-of-Course Examination Program. (For specific regulations regarding end-of-course tests, see R 43-262.4, End-of-Course Tests.)
- E. A school may award credit only for courses in summer programs—either districtwide or school-site programs—that meet all the regulatory requirements for courses offered for students in grades nine through twelve. A districtwide summer school program may meet the administrative certification requirement by employing a district supervisor as well as a lead teacher for each school site.
- F. A school may award credit for a course that is approved by the district—whether that school offers the particular course or not—if the student receives prior approval.
- G. A school may award credit toward the high school diploma for a course that the student takes in an approved adult education program if the course is granted approval by the local superintendent or his or her designee.
- H. A school may award credit for locally designed courses under the following conditions:
 1. Locally designed subject-area courses must be aligned with the state academic standards for the particular subject area and must be approved by the local board of trustees and the State Superintendent of Education.
 2. Locally designed elective courses must be approved by the local board of trustees. No more than two units may be awarded to a student for released-time classes in religious instruction.
 3. Locally designed CATE courses funded with state or federal CATE monies must be approved by the State Department of Education’s Office of Career and Technology Education.
- I. A school may award the PE credit for a diploma if the PE course meets all statutory requirements including the personal fitness and wellness component and the lifetime fitness component.
- J. A school may award the one-half unit of credit carried by the course Keyboarding for half of the required computer science unit.
- K. A school may award credit (beginning in the 2008–09 school year) for the American Sign Language course as the required unit in a foreign language.
- L. A school may award credit for a college course that students in grades nine through twelve take under the district’s dual credit arrangement.

III. Dual Credit Arrangement

- A. District boards of trustees may establish a policy allowing students to take college courses for units of credit toward the high school diploma. The district policy may allow for courses to be offered by an institution of higher education through a cooperative agreement.
- B. A three-semester-hour college course transfers as one unit of credit.
- C. Tuition costs and any other fees are the responsibility of the individual student or his or her parent(s) or legal guardian unless otherwise specified in local school district policy.
- D. Students enrolled in a South Carolina public school may take only courses that are applicable to baccalaureate degrees or to associate degrees offered by institutions accredited by the New England Association of Colleges and Schools, the Middle States Association of Colleges and Schools, the Southern Association of Colleges and Schools, the North Central Association of Colleges and Schools, the Western Association of Colleges and Schools, or the Northwest Association of Colleges and Schools.

IV. Transfer Students

A transfer student is one who enrolls in a South Carolina public school after having been enrolled in another school in this state or in a school in another state. Credits that he or she earned at the former school may be accepted and applied toward the South Carolina high school diploma. (For specific regulations see R 43-273, Transfers and Withdrawals.)

V. Instructional Program

School districts must organize high school curricula around a minimum of three clusters of study and cluster majors. Such curricula must be designed to provide a well-rounded education that fosters artistic creativity, critical thinking, and self-discipline through the teaching of academic content and skills that students will use in postsecondary study and in the workplace. Students must declare an area of academic focus, also known as a career major, within a cluster of study before the end of the second semester of their tenth-grade year.

- A. Schools must offer specific courses in the subject areas listed below. Courses designated with an asterisk are recommended, not required.

English language arts:

English 1, 2, 3, 4

Mathematics:

Algebra 1, Mathematics for the Technologies 1, 2, 3, 4*

Algebra 2, Geometry

Precalculus, Calculus

Discrete Mathematics*, Probability and Statistics

Science:

Physical Science

Earth Science*

Biology 1, Biology 2*, Applied Biology 1, 2*

Chemistry 1, Chemistry 2*, Chemistry for the Technologies

Physics, Physics for the Technologies 1, 2*

Social Studies:

U.S. History and Constitution

U.S. Government

Economics

Global Studies—World History, Global Studies—World Geography

B. Career Clusters

School districts must use the sixteen clusters for reporting purposes but may modify these clusters (for example, Arts and Humanities in place of Arts, Audio-Video Technology, and Communications). The sixteen state clusters are the same as the sixteen federal clusters:

Agriculture, Food, and Natural Resources

Architecture and Construction

Arts, Audio-Video Technology, and Communications

Business, Management, and Administration

Education and Training

Finance

Government and Public Administration

Health Science

Hospitality and Tourism

Human Services/Family and Consumer Sciences

Information Technology

Law, Public Safety, and Security

Manufacturing

Marketing, Sales, and Service

Science, Technology, Engineering, and Mathematics

Transportation, Distribution, and Logistics

C. Schools must also offer instruction in each of the following areas:

1. Advanced Placement: Schools whose organizational structure includes grades eleven and twelve must offer Advanced Placement courses. (For specific regulations regarding the Advanced Placement program, see R 43-258.1, Advanced Placement.)
2. Alcohol, tobacco, and other drugs: Schools must provide age-appropriate instruction regarding the dangers in the use and abuse of alcohol, tobacco, and other drugs. Instruction must emphasize the negative effects that the use of such substances can have on the total community.
3. Career and technology education: Schools must offer CATE courses. Students who plan to complete a CATE program must earn at least four units in an approved sequence of CATE courses leading to a career goal.
4. Driver education: Schools must provide a complete program of driver education, including classroom and behind-the-wheel phases, each semester on an elective basis for eligible students. (For specific regulations regarding driver education, see R 43-242, Driver Training.)
5. Environmental studies: Schools must include environmental studies as a part of their instructional program.

6. Financial literacy: Schools must include financial literacy as a part of the instructional program.
7. Foreign language (modern and classical languages): Schools must offer levels 1 and 2 of at least one modern or classical language. Most state four-year colleges/universities require at least two units of the same modern or classical language for admission.
8. Health education: Schools must have a program of instruction in comprehensive health education. (For specific requirements regarding health education, see R 43-238, Health Education Requirement.)
9. Physical education: Schools must offer a physical education course that meets statutory requirements.
10. Visual and performing arts: Schools must offer courses in the visual and performing arts.

VI. Other Program Requirements

A. Guidance Program

All schools encompassing any combination of grades nine through twelve are required to provide a comprehensive guidance program that is based on grade-specific standards. The standards must address the academic, personal and social, and the career domains. Specifically, students must be provided guidance and career awareness programs and activities that assist them in developing and fulfilling their individual graduation plans and prepare them for a seamless transition to relevant employment, further training, or postsecondary study.

B. Library Media Program

Library media programs and technology resources must be available and accessible to all students and staff and must be appropriate for the accomplishment of the strategies and goals in each school renewal or district strategic plan.

C. Length of School Day

1. The instructional day for secondary students must be at least 6 hours, excluding lunch, or the equivalent weekly.
2. ~~Homeroom will not count as part of the instructional day. When no homeroom period is utilized, the administrative time that is used to determine attendance, make announcements, or complete other tasks normally accomplished during homeroom period will not be considered as part of the instructional day.~~
3. ~~Schools may exercise options and vary the number of minutes in the instructional week, provided that such variation meets statutory requirements and is approved by the local board of trustees.~~

D. Class Size

1. The teacher load must not exceed the maximum of 150 students daily. Class size must not exceed the maximum of 35 students.

2. The above-stated maximums do not apply in the following circumstances:
 - a. ~~A maximum of 40 students per period with a total teaching load of 240 students daily is permitted for physical education teachers. If physical education and health are taught on alternate days to the same class, the 40 student maximum and 240 student totals are also permitted for health. When health is taught as a separate subject, the teaching load is a maximum of 35 students per period and a total of 150 students per day.~~
 - b. ~~Music teachers may teach a maximum of 240 pupils daily. No class may exceed 40 students in membership. However, when band, chorus, or orchestra require rehearsals of the entire membership, any number of students is acceptable if adequate space is available.~~
 - c. ~~When a teacher's daily schedule includes a combination of subjects, the maximum daily teaching load will be calculated on the basis of 30 students per academic class and 40 students for each music or physical education class. (Example, 3 classes of math of 30 each = 90 + 2 classes of physical education of 40 each = 80. In this example, the teacher is not overloaded but teaches maximum allowable.)~~
 - d. ~~Maximum teacher load requirements and individual class size limits are the same for mini-courses as for any other classes.~~

E. Additional Regulatory Requirements

1. Under the requirements specified in the No Child Left Behind Act of 2001, 20 U.S.C. § 6301 et seq. (2002), all students must take a science course for which there is an end-of-course assessment.
2. State Board regulations that contain instructional program requirements are accessible on the State Department of Education Web site on the "State Board of Education Regulations Table of Contents" page.

VII. Reporting Requirements

A. High School Completers

1. Each school issuing the state high school diploma must submit to the State Superintendent of Education on or before May 1 the following data on its previous year's completers:
 - (a) the number of the school's completers who entered the freshman class of a postsecondary institution—either in South Carolina or out of state—and on whom such an institution has sent the school a first-term transcript or summary grade report,
 - (b) a breakdown of all postsecondary courses that this group of completers passed during their term,
 - (c) a breakdown of all postsecondary courses that this group failed during their first term,
 - (d) a breakdown of all postsecondary courses for which this group received a grade of "no credit" during their first term, and

- (e) the number of the school's completers who did not enter a postsecondary institution but who instead chose a postsecondary alternative such as employment or military service or for whom no information is available.

2. Each school must use the official form to submit the required data on its previous year's completers.

B. Career and Technology Education Completers

Each district must survey all its high school graduates who are identified as career and technology education completers to determine their placement status with regard to employment, postsecondary education, and military service. A career and technology education completer is a student with an assigned Classification of Instructional Programs (CIP) code who has earned at least four units of credit in CATE courses leading to a career goal.

The district must conduct the survey ten months after graduation each year and must submit the results annually to the State Department of Education for the purpose of federal and state accountability requirements.

C. Student Records

1. Each school must have an appropriate means of reporting academic achievement to parents.
2. Each school district must maintain accurate student data according to the pupil accounting system prescribed by the State Department of Education.
3. Each school district must file a record of all dropouts that specifies for every student the name of the school in which he or she was enrolled and gives the following information on the student: his or her name, grade, race, sex, date of birth, free/reduced meals status, English proficiency status, and migrant status.
4. Each district superintendent must verify the accuracy of the student enrollment, attendance, membership by category, and dropout reports submitted to the State Department of Education's Office of Finance.
5. Each school must comply with the Family Educational Rights and Privacy Act regarding student records (20 U.S.C. § 1232(g)).

D. Course Records for Students

1. Each district superintendent must verify the accuracy of course records for students.
2. The name and code number of every course that each student takes must be entered into the student data collection system (SASI™) active master scheduler at the time the student takes the course. Courses may not be added to the student's course history (transcript) without first being entered into the scheduler.
3. Courses offered in nontraditional settings such as online courses, courses offered in conjunction with a college or technical college (i.e., dual credit), and courses offered by the school through the district, state, or another type of provider must be included in the active master scheduler.

VIII. Emergency Closings

Full school days missed because of weather or other unforeseen circumstances must be made up. Three days within a school calendar must be designated as makeup days. A plan to make up days by lengthening the school day by more than one hour must be approved by the State Department of Education. Early dismissal days must be reported to and approved by the director of the Office of School Quality.

Section III

Application for Flexibility through Deregulation using the School Renewal Plan

Directions for Application for Flexibility through Deregulation using the School Renewal Plan

In accordance with the SBE Regulation 43-303, schools may receive flexibility status when each of the following conditions are met:

- The school has met annual improvement standards for subgroups of students in reading and mathematics.
- Amendments to the school renewal plan must explain why exemptions are expected to improve the academic performance of the students.
- The school renewal plan meets the approval by the SBE.

Schools approved for flexibility status will be notified according to these guidelines.

A school initially given flexibility status through an amended school plan will be eligible to continue in that status provided that the following conditions are met annually:

- The school must exhibit overall improvement as outlined in the amended plan.
- The school must meet the gains required for subgroups of students in reading and mathematics.
- The school must have exhibited no recurring accreditation deficiencies.

Submission Procedure

1. Complete the application on page 48 and attach the school renewal plan to the application.
2. Applications and the school renewal plan must be submitted to Office of Federal and State Accountability, South Carolina Department of Education, 1429 Senate Street, Room 501, Columbia, SC 29201.
3. Applications and the school renewal plan **must be received** at the Office of Federal and State Accountability, South Carolina Department of Education **by 5:00 P.M. on December 1** of the applicable school year. Any proposal or modifications of a proposal received after this deadline will not be considered.
4. Postmark dates will have no bearing with respect to the deadline.
5. Proposals **may not** be sent via fax or electronically.
6. An original and three copies of the applications and the school renewal plan, with appropriate signatures, must be submitted. Signatures must be original. Rubber-stamped signatures are not acceptable.

**Application for Flexibility through Deregulation
using the School Renewal Plan**

School Year ____ – ____

Submit this application and the school renewal plan to the following address:

Office of Federal and State Accountability
South Carolina Department of Education
1429 Senate Street, Room 501
Columbia, SC 29201

Applications and the school renewal plan **must be received** at the Office of Federal and State Accountability, South Carolina Department of Education **by 5:00 P.M. on December 1** of the applicable school year. Any proposal or modifications of a proposal received after this deadline will not be considered.

School: _____ District: _____

Address: _____ City and zip: _____

Principal: _____ Work phone: _____

E-mail address: _____

Superintendent: _____ Work phone: _____

E-mail address: _____

Required signatures:

Principal's signature: _____ Date: _____

Superintendent's signature: _____ Date: _____

Board chairperson's signature: _____ Date: _____

Answer the following questions and submit multiple pages as necessary.

1. Briefly explain how your school will use its flexibility status to meet interim goals for student achievement based on current research and best practices.
2. The school plan must meet SBE criteria for the planning process. Attach a copy of the school renewal plan.