South Carolina Department of Education

Administrators Guide
Regulations and Statutes

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STATE SUPERINTENDENT OF EDUCATION

Foreword

The Administrators Guide was developed as an informative guide to use in the daily operations of South Carolina's public schools. The Guide is designed to assist administrators in ensuring that schools comply with state education legislation (statutes, regulations, and provisos). This document may also be helpful for other school district personnel and education agencies. Included in the Guide are copies of the most up-to-date legislation dealing with school operations.

This Guide is intended to be a "living" document. As legislation is passed, amended, or repealed the Guide will be updated periodically. This Guide was undertaken as a means to give South Carolina public school districts more flexibility to address the individual needs of their students. Great effort was made to consolidate legislation which will provide a systematic organization of current educational legislation.

The Guide has legislation arranged numerically in six (6) sub-sections: General Administration, Personnel & Certification, Instructional Program Curriculum, Students, Finance, and Educational Agency Relations.

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General Administration

Title of Regulation:	**Regulation No.:**	**R 43-70**
TEXTBOOK ADOPTION REGULATION	**Effective Date:**	**03/24/00**

Constitutional and Statutory Provisions:

Section(s):

59-5-60(7).	General powers of [State] Board.
59-5-90.	Powers and duties of State Educational Finance Commission and State Schoolbook Commission devolved upon Board.
59-31-30.	Use of uniform series of textbooks in state-aided schools; exceptions.
59-31-40.	Adoption of new books.
59-31-50	Uses of disapproved books unlawful.
59-31-210.	Board required to provide textbooks on rental basis.
59-31-510, et seq.	State Contracts for Textbooks.

Code of Laws of South Carolina, 1976.

State Board Regulation:

Textbook Adoption Regulation

SECTION 1. Statutory Authority
Pursuant to Sections 59-5-60 and 59-31-550, the State Board of Education shall have the responsibility and duty to adopt the instructional materials used for instruction in the free public schools of South Carolina subject to the provisions of the sections that follow. South Carolina contract statutes and any other applicable State laws guide the instructional materials adoption process.

SECTION 2. Instructional Materials Evaluation Criteria
General criteria governing the adoption of instructional materials shall be developed and revised by the State Department of Education and presented to the State Board of Education. Specific subject criteria are contained in the grade level education standards adopted by the State Board as well as each curriculum framework, occupational education core curriculum, and other program area materials which are not addressed within the standards and/or curriculum framework and shall be used in the evaluation process.

SECTION 3 Instructional Materials Advisory Committee
The State Board of Education shall appoint, with the recommendation of the State Superintendent of Education, an Instructional Materials Advisory Committee. The Committee shall consist of fifteen members; six members who are actively engaged in teaching in South Carolina public schools; eight members who are actively engaged in school work either administratively or supervisory, at least one from each congressional district and two at large; and one lay citizen, preferably a former member of the State Board of Education. It is the intention of the State Board that the Committee membership include members whose interests reflect the needs of all students served by the educational system. Seven of the members shall be appointed for a term of two years; eight shall be appointed for a term of four years. Thereafter, the term of all appointed members shall be four years. The Committee shall be facilitated by appropriate staff members from offices of the State Department of Education.

The duties of the Advisory Committee shall be to study continually the Instructional Materials Review, Selection, and Distribution Process and make recommendations to the State Board of Education through the State Superintendent of Education as to changes needed in the process to meet the needs of students, schools, and school districts for instructional materials. The Committee should address: recommendations in regard to exercising options in existing contracts; recommendations in regard to renegotiating expiring contracts; and recommendations for prioritization of purchases should funds not be available. The Committee shall give careful attention to new and improved methods of presenting instructional materials. The Committee is authorized to secure the assistance and advice of consultants. Special consideration should be given to consultants from within the state.

The Instructional Materials Advisory Committee shall meet annually at the call of the Chair. Additional meetings, when necessary, may be held at the call of the Chair, a majority of its members, on request by the State Board of Education, or the State Superintendent of Education. However, the State Board of Education reserves the right to limit the number of official meetings this Committee may hold in one school year.

The Instructional Materials Advisory Committee may make curriculum reports when in its judgment such reports are deemed advisable. The Committee shall report to the State Board of Education not later than May of each year any changes needed to be made in the Instructional Materials Review, Selection, and Distribution Process during the following school year

SECTION 4. Instructional Materials Review Panels Established

The State Board of Education shall appoint, with the recommendation of the State Superintendent of Education, Instructional Materials Review Panel or Panels for each area for which a curriculum framework has been adopted by the State Board of Education, occupational education core curriculum, or other program areas not addressed within a curriculum framework. The number of Panels needed and number of Panel members needed for each framework, occupational education core curriculum, or other program area shall be included in the recommendation from the State Superintendent of Education. Names of potential Review Panel members shall be obtained from district superintendents, State Board of Education members, curriculum framework writing teams, State Department of Education curriculum specialists, and others. For each position there shall be a nominee and one alternate. In the event the nominee does not accept, the State Superintendent of Education is authorized to appoint the alternate and to make other substitutions when necessary.

It is the desire of the State Board of Education that a balance be maintained on each Instructional Materials Review Panel between large and small, rural and urban schools and school districts, and that the Panel membership include members whose interests reflect the needs of all students served by the educational system. Each Review Panel may have up to 25 percent lay membership. All other members shall be persons who are actively engaged in teaching, in the supervision of teaching, in the administration of public schools, and persons who have had teaching experience, special training or supervision in the subject field in which they have been appointed, or who have expertise in a subject area from which material and information should be integrated within the subject area under review. A majority of those appointed shall be full-time classroom teachers. The recommendations by the State Superintendent of Education shall include the size of each Review Panel, length of service term for each member, and the appointment of a State Department of Education staff member as facilitator for each Review Panel.

SECTION 5. Subject Areas Open for Bid

The State Board of Education, upon the acceptance of the recommendations from the Instructional Materials Advisory Committee or upon adoption or revision of a curriculum framework in a particular subject area, shall call for the adoption of instructional materials. The State Board of Education, through

the State Superintendent of Education, shall make information relative to the call for bids available to publishers/vendors and school administrators, not later than 210 calendar days preceding the adoption date. It shall also make arrangements for an official announcement at least forty-five days before bids are to be opened. This announcement shall be sent to all companies registered with the State Department of Education, and a notice shall be given by legal advertisement in at least one daily newspaper in the State of South Carolina in accordance with general legal requirements.

Upon formal notice of the call for bids by the State Superintendent of Education, sample copies of the bid forms shall be made available to be used by companies in submitting instructional materials for adoption and a copy of the contract and bond each company shall be required to execute if its materials are adopted.

The State Superintendent of Education shall develop for State Board of Education approval a schedule outlining major dates and occurrences of the adoption process. The State Superintendent is authorized to make adjustments in the dates when necessary for the success of the adoption program. A copy of the Calendar of Events shall be provided to publishers/vendors with the call for bids.

SECTION 6. Submission of Materials for Panel Review

Publishers/vendors shall submit one copy of a brief along with the official bid for all instructional materials being offered for adoption. Failure to comply with this regulation shall automatically exclude materials for adoption. The brief shall include the level of learning difficulty, an ancillary materials and services list to include designation of free materials and price of optional materials for purchase, and other specific descriptive information as required by the State Superintendent of Education.

Each bidding company or its representative is responsible for distributing instructional material samples to each member of the appropriate Instructional Materials Review Panel on or before the date set by the State Board of Education for each adoption year. Companies are requested to supply a copy of the brief with the instructional materials samples to each Panel Member. This may be done by personal delivery or by mail to the address specified by the Review Panel member. Arrangements shall be made by the State Superintendent of Education for presentations by each bidder to the appropriate Instructional Materials Review Panel as a group. These group presentations shall take place no sooner than thirty days after the date which bidders are expected to have delivered sample materials. During formal panel deliberations, thirty minute sessions will be scheduled for each bidder with the Instructional Materials Review Panels during which the bidder will be given the opportunity to answer additional questions and present additional information.

Review Panels may request additional information and appearances from bidders during the adoption process. This shall be done by the facilitator when requested to do so by the Panel.

SECTION 7. Responsibilities of the Instructional Materials Review Panels

It shall be the duty of each Instructional Materials Review Panel to rate all items offered for adoption and file a written report with the State Superintendent of Education. The report shall consist of the Panel evaluation, list of items which the Panel recommends as suitable for adoption, and an annotation which includes for each item or series of items the common reading level of text materials, level of learning difficulty, and other information as required by the State Superintendent of Education. In order to be placed on the recommended list, instructional materials must receive affirmative votes from at least two-thirds of the Panel members.

There is no limit to the number of individual items or series of items which may be recommended by a Review Panel. All submitted items which meet the general and subject specific criteria as outlined in the

grade level educational standards, curriculum framework, occupational education core curriculum, or other program areas for that subject should be recommended for adoption. However, prior provisions notwithstanding, the State Board of Education is not required to adopt any instructional materials recommended by the Review Panels that in the judgment of the State Board of Education are unsatisfactory.

The State Board of Education shall not approve and add a textbook or instructional materials to the state list of adopted materials unless it has been reviewed and rated by a properly constituted Instructional Materials Review Panel.

To facilitate efficient and competent evaluations by the Review Panels, the State Board of Education shall furnish the Panels with detailed instructions pertaining to its duties; an orientation to and copies of the subject's standards, curriculum framework, occupational education core curriculum, and other program area instruction; instructional materials evaluation criteria; and the time schedule necessary in order that the State Board of Education complete its work in an orderly fashion. It shall be the duty of the State Superintendent of Education or his/her designee to serve as coordinator and liaison between the State Board of Education and the Review Panels.

The Review Panels are authorized to secure the assistance and advice of consultants. Special consideration should be given to consultants from within the state. The Panels may receive clerical services from the State Department of Education.

Each Panel member must submit signed ratings sheets to the facilitator of the Review Panel for the State Department of Education files.

Textbooks shall not be recommended by the Instructional Materials Review Panels and the State Board of Education shall not adopt textbooks that fail to meet the official "Manufacturing Standards and Specifications for Textbooks." As national standards are developed for non-traditional materials, the State Board of Education may require adherence to those standards as well. Provided the State Board of Education reserves the right to waive minor deviations and technicalities, however, in each case the bidder is responsible for showing cause why the standards cannot be met. Copies of the official manufacturing standards and specifications and other applicable standards shall be made available for review to the bidding companies.

In the event an Instructional Materials Review Panel cannot submit a report that is acceptable to the State Board of Education, the Panel may be dissolved and a new Panel appointed in the same manner as the original Panel or the area may be considered for opening at a later date by the Instructional Materials Advisory Committee.
Each Instructional Materials Review Panel shall be dissolved according to the scheduled date of their term expiration.

SECTION 8. Public Review of Materials
The State Superintendent of Education shall make arrangements for a thirty-day public review of materials recommended by the Instructional Materials Review Panels prior to taking those recommendations to the State Board of Education. The public review sites shall be geographically distributed around the state at as many state-supported colleges and universities or, if necessary, other designated sites as will agree to host such reviews. The materials for public review shall be provided by the bidding companies. Public review sites shall be advertised in each congressional district in the newspaper with the largest circulation figures for that district.

A summary of the comments received during the public review period shall be provided to the State Board of Education to facilitate their adoption of instructional materials.

SECTION 9. Instructional Materials Review Panel Recommendations Submitted to State Board of Education

The State Department of Education shall provide to the State Board of Education, the Instructional Materials Advisory Committee, and the Instructional Materials Review Panels information to assist in determining whether instructional materials offered for adoption meet the official "Manufacturing Standards and Specifications for Textbooks" or other materials standards as available. A list shall be furnished of materials offered for adoption which, in the Department's judgment, fail to meet the manufacturing standards and specifications and specify in detail the deviations the State Department of Education finds prior to the rating by the Review Panels.

Materials which may not meet the appropriate manufacturing standards and specifications for those types of materials may be adopted when recommended by the appropriate Instructional Materials Review Panel and when the Panel's justification is deemed sufficient by the State Board of Education.

The Review Panels may recommend and the State Board of Education may adopt instructional materials in manuscript or beta stage. Provided, however, any contract awarded for materials in manuscript or beta form shall be subject to final approval by the State Board of Education and the Review Panels as to the final wording, format, illustrations and captions, and physical construction. None of the members of an Instructional Materials Review Panel for subject matter adopted in manuscript or beta form shall be discharged until final action has been taken by the State Board of Education on the completed product.

SECTION 10. State Board of Education Approval of Instructional Materials

Each Instructional Materials Review Panel shall submit to the State Board of Education through the State Superintendent of Education materials recommended for adoption in each subject area for which materials have been solicited for bid.

SECTION 11. Publish Instructional Materials Listing

The State Department of Education shall publish annually a listing of the newly adopted instructional materials for use in the public schools of South Carolina. A copy shall be provided to each school and school district.

SECTION 12. Substitution of Instructional Materials

Substitutions of new copyrights for instructional materials under contracts shall be allowed only with written permission as specified below.

A. Any company under contract desiring to substitute a later copyright of adopted instructional materials with minor changes that can be used interchangeably in the same classroom without confusion may make application to the State Superintendent of Education. The company shall submit the appropriate number of samples of the edition under contract, samples of the edition it proposes to substitute, and complete lists of changes between the editions. If, after consultation with the appropriate Review Panel, the State Superintendent of Education concludes that the two editions can be used interchangeably in the same classroom without confusion, the State Superintendent is authorized to grant permission to substitute the new edition. All substitutions made under this provision shall comply with Section 9 of the regulations as to the construction of the instructional materials. All substitutions made under this provision shall be approved by the State Superintendent of Education and reported to the State Board of Education.

B. Any company, desiring to substitute a later copyright of adopted instructional material that is so different from the original material that it cannot be used interchangeably in the same classroom without confusion, must make application to the State Board of Education and agree to take up all copies of the old instructional material in use in the public schools of South Carolina and allow an exchange rate to the State equal to any equity they have in the used material. The State Board of Education shall examine the company's request and if, in its judgment, there is sufficient merit to warrant further consideration, the State Board of Education shall instruct the appropriate Instructional Materials Review Panel to review the materials for substitution. After receiving the recommendation of the Panel, the State Board of Education shall determine whether the substitution shall be allowed.

C. In all substitutions allowed, prices shall not exceed the price named in the original contract.

SECTION 13. Instructional Materials Review Panel Expenses
All members of the Instructional Materials Advisory Committee and of the Instructional Materials Review Panels except ex-officio members or full-time employees of the State of South Carolina shall be paid expenses as prescribed by State law and as funds are available.

SECTION 14. Submission of Materials by Schools or School Districts
A school or school district may submit for review materials which in their opinion best suit the needs of the students in their care. Upon submission, the school or school district shall be notified of the time frame within which they may expect to have the materials for use in schools. Materials to be used during the following school year must be approved by the State Board of Education by May of each year.

The State Department of Education shall request the publisher/vendor to submit the materials for adoption and copies of sample materials for use by the appropriate Instructional Materials Review Panel. Inability to secure agreement from the publisher/vendor for participation in the review process shall result in a denial of the request for review. Any item previously reviewed by a Review Panel in the initial call for bids for a subject area shall not be considered for review under this section.

If the publisher/vendor agrees to submit the materials for adoption, all applicable adoption regulations will be followed. Materials approved under this section shall be available for public review through the State Department of Education. Under no circumstances shall this section be used as a vehicle to circumvent the State instructional materials adoptions.

SECTION 15. Registering of Bidders and Publishers
Any bidder or publisher submitting instructional materials to the State for adoption shall on or before the day bids are received register with the State Department of Education the names, home addresses, and business telephone numbers of all agents or employees of any kind or persons retained for legal or other services to whom there is being paid or there will be paid any salary, commission or royalty for representing the bidder or publisher. This information shall be kept open for inspection by the public, members of the State Board of Education, the Instructional Materials Advisory Committee, and the Instructional Material Review Panels. The failure of any bidder or publisher to register the names, home addresses, and business telephone numbers of all agents of any kind as specified shall be deemed as sufficient cause for summary rejection of the bid or proposal of that bidder or publisher.

SECTION 16. Conflict of Regulations
Any or all rules and regulations which may be in conflict with the provisions of this regulation are hereby declared null and void.

SECTION 17. State Board of Education Waiver

A. The State Board of Education may, in its discretion and upon written request of the Department or any person who is subject to this regulation, grant a variance from one or more specific provisions of this regulation. The requesting party shall:

1. identify the specific provisions of this regulation from which variance is sought
2. demonstrate that compliance with the identified provision would not be in the best interest of students, schools, school districts, or the state; and
3. demonstrate that the variance will have no significant adverse impact on the students, schools, school districts, or the state.

B. In granting a variance, the State Board may impose conditions reasonably necessary to assure that the subject activity will have no adverse impact on the students, schools, school districts, or the state.

C. Any variance granted by the State Board may be immediately withdrawn if the State Board finds noncompliance with conditions of the variance or other information that the variance is not in the public interest or that the petitioner has provided false or inaccurate information on which the variance was granted.

D. Nothing herein shall be construed as a waiver of the State Board's right to deny any petition for a variance.

Title of Regulation: **Regulation No.:** **R 43-71**

FREE TEXTBOOKS **Effective Date:** **05/23/08**

Constitutional and Statutory Provisions:

Section(s):

59-5-60(7).	General powers of [State] Board.
59-31-210.	System for examination and certification of teachers
59-31-360.	Waiver of Textbook rental charges; use of school districts' books

Code of Laws of South Carolina, 1976.

State Board Regulation:

Free Textbooks

Section 1. Free Basal Textbook Enabling Act. Pursuant to Section 5931360 to provide "free basal textbooks" in Grades 1 through 12, S. C. State Board of Education does hereby set forth procedures for ordering instructional materials.

Section 2. Requisition for Free Instructional Materials. Requisitions for free instructional materials shall be made only to the South Carolina Department of Education (SCDE), in accordance with "Instructional Materials Management Procedures for Schools", by completing the official current order form or on internet using the ordering system on the South Carolina Instructional Materials Central Depository website.

Section 3. Provisions for Requisitioning and Distributing Free Instructional Materials.

A. Acquisition of Free Instructional Materials on Levels of Achievement. Any pupil who is a member of any grade within the free instructional materials program may be assigned free instructional materials on the appropriate achievement level as indicated by tests and other evaluations.

B. Allocation of Instructional Materials to Schools. The SCDE shall provide a schedule of instructional materials allocation formulas to the State Board of Education for information annually. The formulas shall be based on available funding provided by the General Assembly for the Instructional Materials program; the average cost of adopted instructional materials; and the prescribed percentage of total membership used in calculating materials allocations.

C. Educable Mentally Handicapped (Special Education) Reading Primary classes shall be eligible for necessary reading materials not to exceed two pre-readiness readers and/or readiness programs and one beginning reading program.

Section 4. Changing to New Titles or Series. A school may change to a new title or series in a subject area only when new material on the same level is adopted by the State Board of Education. Schools shall not return materials presently on the state adopted list to be exchanged for other titles or series, except limited changes that are justified by variations in student achievements. Any books materials exchanged must be on different levels of difficulty. Provided, that the Board shall have the authority to limit or postpone the acquisition of titles or series for such period of time as maybe deemed advisable.

Section 5. Property of the State. Title to all materials issued to schools and depositories under the Free Textbook Act shall be vested in the State. (Legislative Provision).

Section 6. Responsible Parties. The district board of trustees shall be responsible for the proper custody of all materials in its schools and depositories and shall be responsible for the administration of the Instructional Materials Management Procedures for Schools in those schools and depositories.

Section 7. Distribution to Schools. The county or district board of trustees shall elect from the procedures listed below the system of distribution to be used.

A. County Depository: A county depository may be established through which all materials in the county will be distributed.

B. District Depository: A district depository may be established through which all materials in the district will be distributed.

C. School Depository: A school depository may be established through which all materials in the school will be distributed. The board of trustees may designate an agent to operate the depository, maintain adequate records and make necessary reports and remittances to the responsible office at the SCDE; however, such designation does not relieve the board of its responsibilities.

Section 8. Shipping of Instructional Materials. Each school or depository will be sent a Shipment Advisory listing the materials shipped to it. The school or depository agent shall verify the materials received with the materials listed on the Shipment Advisory. If the title(s) and number of materials received do not agree with the title(s) and number of materials on the Shipment Advisory, a report must be made promptly to the responsible office at the SCDE showing: (1) the name of the school and county, (2) the number and date of the Shipment Advisory, (3) a complete itemized list of the differences between Shipment Advisory and books received, both over and short.

Section 9. Records and Reports. Each school and depository shall maintain a separate and complete file for instructional material records, correspondence, and forms. Each school and depository shall maintain an accurate record of the number of materials on hand, materials received and materials returned. They, also, shall keep an accurate record of sales, lost materials, and damage fees and report same to the SCDE and remit all funds collected and pay promptly all amounts due. The Department will issue an official receipt covering each remittance. Each school and depository shall furnish the responsible office at the SCDE with membership reports, anticipated membership reports, inventory reports, and other reports as may be requested. Each school shall maintain a record of materials issued to each pupil.

Section 10. Storage. Each school and depository shall provide for instructional materials adequate places of storage which are safe, clean, dry, well arranged, and free of insects. Care must be taken to see that materials do not mold while in storage. Materials should not be stored on floors and should be at least one inch from walls to allow proper ventilation and protection from termites.

Section 11. Distribution Within the School. Materials may be distributed directly to the pupils from the central bookroom or delivered from the bookroom to each teacher to be issued to the pupils. Materials as determined by the responsible office at the SCDE shall be distributed and circulated using the online state textbook manager.

Section 12. Inspection. All materials and materials records shall be subject at any time to inspection by authorized agents of the county and/or district board of trustees and the SCDE. It shall be the duty of each teacher to inspect frequently the materials issued to pupils and to emphasize the proper care and handling of materials.

Section 13. Stamping or Labeling Instructional Materials. Free Instructional materials issued to pupils shall have a barcode label properly affixed marked “Property State of SC”. New materials shall not be stamped or labeled or have a barcode affixed or otherwise marked until issued to pupils

Section 14. Issuing Used Instructional Materials. All used materials of each title shall be issued before any new materials of the same title are issued.

Section 15. Marking in Instructional Materials. Pupil's name may be written below the property stamp impression or on the property label. Pupils may appropriately mark lesson assignments, otherwise they shall not mark or write in instructional materials. Pupils shall not remove, deface, or damage barcodes on state-owned materials. (See Section 20 Damaged Instructional Materials)

Section 16. No Deposits Charged on Instructional Materials. No board or agent thereof shall require a pupil to pay a deposit on any free materials issued by the SCDE.

Section 17. Instructional Materials to be Returned by Pupils. Materials shall be turned in to the school by the pupil, parents or guardians under the following circumstances:

A. When appropriately requested by a teacher or school official.
B. When the course is completed or discontinued by the school or pupil.
C. When the pupil withdraws from school.
D. At the end of the school year.

Section 18. Transfer Students. A school from which a pupil transfers shall make an appropriate notation on the pupil's transcript records as to whether all his or her materials were returned to the school and whether any damage or lost materials fees are unpaid. (See Sections 17, 19, and 20)

Section 19. Lost Instructional Materials. Schools may require pupils, parents or guardians to pay for instructional materials lost and the pupil, parent or guardian may be denied further benefits of the Free Instructional Materials Program until in compliance with this requirement. This requirement may be waived in instances where the judgment of the principal and/or responsible officials believe that the child is a victim of unusual circumstances. The school district shall be responsible for the cost. The report of lost instructional materials paid for and sales should be itemized by titles on an appropriate form sent to each school at the end of the school year. The schedule of charges shall be determined by the State Board of Education upon the recommendation of the SCDE. Fees collected for lost materials shall be remitted to the SCDE.

Section 20. Damaged Instructional Materials. Schools are required to collect appropriate damage fees from any pupil, parent or guardian for abuse or improper care of instructional materials and the pupil, parent or guardian may be denied further benefits of the Free Instructional Materials Program until in compliance with this requirement. This requirement may be waived in instances where the judgment of the principal and/or responsible officials believe that the child is a victim of unusual circumstances. The school or district shall be responsible for the cost. The amount to be charged in such cases shall be determined by the agent in charge of materials. In no case, shall the cost exceed the amount of charge applicable had the material been lost, provided that the pupil, parent, guardian shall have the option of paying the damage fee or purchasing the material according to the schedule in Section 19 above. Materials on which only a damage fee is collected shall remain the property of the state and shall remain with the school for further use. Materials damage fees collected should be reported in a lump sum in the space provided on the annual instructional materials inventory form sent each school at the end of the school year. Fees collected for damaged materials shall be remitted to the SCDE.

Section 21. Fire Loss. Materials destroyed or damaged beyond further use by fire in school buildings or private homes shall not be charged to the individual or school provided an official of the school furnishes the SCDE a certified list of the materials destroyed and the place and date of the fire.

Section 22. Contagious Diseases. Materials issued to a pupil having a contagious disease such as scarlet fever, diphtheria, etc., shall be burned by the local agent provided such destruction has been recommended by the physician attending the child. The local agent shall provide the SCDE with a certified list of the materials destroyed

Section 23. Returning Instructional Materials to Central Depository. Schools or depositories shall not return used free instructional materials except when requested or authorized to do so by the SCDE. New instructional materials (materials which never have been put in use or tagged, stamped, or labeled) may be returned at any time. (See instructions below)

A. Address all shipments to:

Central Depository
301 Greystone Blvd.
Columbia, South Carolina 29210

B. Return instructional materials by completing the Return Form.

C. When preparing the Return Form, list the instructional materials and follow the instructions on the form.

Section 24. Defective Instructional Materials. Defective materials should be clearly marked "DEFECT" on the outside of the front cover and the defect identified on the inside of the front cover or in a visible place on the outside of a nonbook item. Return the defective materials as soon as possible to the Instructional Materials Central Depository and notify the responsible office at the SCDE whether a replacement or an inventory credit is desired.

Section 25. Disposition of Out of Adoption Instructional Materials.

A. Out of adoption instructional materials are those for which the contracts with the publishers have expired.

B. Schools shall return all new out of adoption instructional materials to the Instructional Materials Central Depository promptly after the expiration of the contract.

C. Schools may continue to use a title on which the contract has expired as long as the title is available from stock owned by the state. Schools should continue to use such materials until they have carefully evaluated all newly adopted materials and selected those best suited to their needs. Schools may continue to use the old title for some grade sections and new titles for other grade sections if they wish.

D. Schools which change to new titles may be requested to return all or a portion of the titles that are being discontinued. The remaining copies may be used or disposed of by the school. Maximum use should be made of these materials, such as additional text material including assignments for classroom work or consigned for home study.

E. Out of adoption materials will be removed from the inventory of books charged to the school before the second year after the expiration of the contract with the publisher. Districts should attempt to dispose of out of adoption materials locally. Districts may dispose of those materials in any manner, including selling materials for the purpose of recycle or resale. Funds received by the sale of used materials must be used for the purchase of instructional materials or supplies.

Section 26. Consumable Instructional Materials.

A. The SCDE will publish annually a listing of consumable instructional materials. Any materials not on the listing shall be considered nonconsumable. Schools using nonconsumable materials as consumable shall be responsible for the cost of replacement.

B. Instructional materials such as workbooks, lab manuals, and test booklets that provide space for written comments and answers shall be classified as one year consumables and considered consumed once issued to a student and used for instruction. One year consumable materials issued to a student and used for instruction will be removed from inventory annually.

C. Funds to replace consumable materials will be provided annually to the extent that an Appropriation is provided by the General Assembly for instructional materials with replacement of nonconsumable materials having first priority.

Section 27. Accounts Must Be Settled. Fees for lost and damaged textbooks for the prior school year are due no later than December 1 of the current school year when invoiced by the SCDE. The SCDE may withhold textbook funding from schools that have not paid lost and damaged textbook fees by the payment deadline.

Section 28. Special Adoptions. Instructional materials, textbooks, or series not currently available from the SCDE that are subsequently added as a special adoption or a district adoption under Section 593145 may be purchased with the district's existing allocation. The SCDE may limit the exchange of instructional materials replaced by special and district adoptions.

Section 29. Most Favored Purchaser. Pursuant to South Carolina Code, if publishers sell materials to any other person or entity at a lower price than the price offered to South Carolina, that reduced price automatically becomes the contract price for South Carolina. At the end of each calendar year, publishers shall submit a certified list of all contracts made with other entities during the calendar year just closed on all instructional materials for which the publisher has a contract in South Carolina. That list must include the contract price for those materials. The SCDE may direct the Central Depository to withhold payment for instructional materials purchased from nonresponsive publishers or assess nonresponsive publishers liquidated damages in an amount equal to 5 percent of the contract price of all instructional materials under contract with the publisher, not to exceed $5,000.

Title of Regulation: **Regulation No.: R 43-73**

DISPOSITION OF INSTRUCTIONAL MATERIALS SAMPLES AFTER STATE ADOPTION PROCESS **Effective Date: 5/23/03**

Constitutional and Statutory Provisions:

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

59-5-60(1990)	General powers of [State] Board.
59-5-65 (1990 & Supp. 2002)	Powers and responsibilities of State Board of Education

Descriptor Code: AC

State Board Regulation:

Disposition of Instructional Materials Samples after State Adoption Process.

A. Sample copies of instructional materials, textbooks, and supplementary materials furnished to members of the Instructional Materials Review Panels shall remain in possession of panel members until the adoption process has been completed. State Board of Education action on recommendations from the panels will be considered as the completion of the adopted cycle in a given year. Samples furnished by publishers shall be handled in the following manner:

1. The publisher shall notify the State Department of Education of its intent to reclaim samples when official bids are submitted.

2. Each publisher electing to reclaim samples must arrange for collecting samples at its own expense from panel members within 30 days after the State Board of Education has approved the adoption.

3. Where publishers do not elect to reclaim samples or fail to collect the materials according to the procedures set forth in the policy, panel members may use them in their own work, donate them to public schools, state-supported institutions, or charitable non-profit organizations.

4. A panel member or employee of the State Department of Education shall not dispose of any instructional material samples or supplementary materials for profit or personal gain.

5. Samples furnished to the State Department of Education that are not adopted may be reclaimed at the publisher's expense by mail or picked up by the publisher's representative within 30 days after the adoption. Any samples not collected after 30 days may be donated to public schools, state-supported institutions, or charitable non-profit organizations but may not be sold.

6. A sample copy of all adopted instructional materials including workbooks and other supplemental materials shall be stored at the State Department of Education for the duration of the contract with its publisher.

7. Samples of materials stored at the State Department of Education, with expired contracts, be sent to the Central Depository for donating to public schools, state-supported institutions, charitable non-profit organizations, or disposing/recycling but may not be sold.

B. Samples of Non-Textbook Materials

1. A publisher may propose in writing to the instructional materials adoption program coordinator an alternative plan for sampling of non-textbook materials (kits, software, Internet-based programs, etc.). If the proposal is approved by the program coordinator such sampling shall be deemed acceptable for meeting State Board of Education sampling requirements.

2. Samples under the approved alternative plan must be reclaimed from panel members in the same manner as traditional samples as stated in A.2. of this policy. Unless excluded by the alternative plan, the State Department of Education shall retain non-textbook samples of adopted materials and access to adopted Internet programs for the duration of

Title of Regulation:	**Regulation No.:**	**R 43-80**
OPERATION OF PUBLIC PUPIL TRANSPORTATION SERVICES	**Effective Date:**	04/27/09

Constitutional and Statutory Provisions:

Sections:

59-5-60.	General powers of [State] Board.
59-67-240.	Other duties of driver; discipline of pupils for misconduct.
59-67-410.	Control by State Board of Education of school bus transportation.
59-67-470.	Bus drivers; selection; eligibility, training and certificates.
69-67-570.	Rules and regulations.

S.C. Code Ann. Section(s) (1990) and S.C. Code Ann. Section(s) (Supp. 2000)

Descriptor Code: ED

State Board Regulation:

Operation of Public Pupil Transportation Services

A. The school district board of trustees shall be responsible to the State Board of Education for the supervision of the school transportation program in the district. This shall include the recruitment of school bus drivers, employment and dismissal of school bus drivers, supervision of school bus drivers and the pupils being transported, proposed routing of buses, accurate transportation records as to mileage, number of pupils transported pursuant to Section 59-67-100, driver's time reports, school bus safety, and enforcing all other transportation regulations. The recruitment and employment of school bus drivers and supervisory personnel is the responsibility of the school district board of trustees. The transportation of pupils is an integral and essential part of the school program, and teachers and administrative personnel shall be assigned to school bus duties in the interest of the transportation program.

B. Transportation on regular school bus routes is authorized for public school pupils. Public school pupils include three-year to five-year old pupils that are disabled, kindergarten pupils in half-day programs, and the K-12 regularly enrolled students during the 180 day school year. Three and four-year old children attending public school-sponsored kindergarten or child development programs must be permitted to ride state-owned buses to the extent funds are made available by the General Assembly. Special programs operated and/or sponsored by the governing body of the school district may use school buses as long as transportation services are paid for by the school district at no cost to the State and do not disrupt school bus maintenance servicing or regular school bus routes. A special program is any education or other program sponsored by the school district that is not a program required by State statute or regulation to be operated by the school district. A student that is disabled shall be accompanied by an aide if the student's Individual Education Program so specifies.

Assignment of buses for new routes will be made on the basis of actual need. Justification must be submitted showing that all buses presently assigned to the district or area are being used to the maximum before additional equipment can be assigned.

To enhance school bus routing effectiveness, kindergarten pupils shall be assigned to morning or afternoon sessions on the basis of where they live.

C. The State shall not be required to operate buses for high school, junior high school, middle school, and elementary school pupils separately. Approval of separate transportation will be given only when such transportation can be accomplished with the same number of buses and approximately the same mileage. The schedule of work and the opening and closing hours for all schools served by the same buses must be arranged so as to facilitate a maximum amount of school work and at the same time permit the operation of a satisfactory and economical transportation program. School districts shall stagger school opening times when feasible to maximize the use of the school bus transportation system.

D. Five-year-old through grade 12 public school pupils that have temporary physical handicaps or have a chronic disorder of lengthy duration may have their parents or guardians apply for these students to receive special school bus transportation services. The application process is as follows:

1. Secure appropriate forms for the District Superintendent.

2. Have the pupil examined by a licensed medical doctor and receive a written statement from the licensed medical doctor to the effect that without special school bus transportation service, unusual hardship will be experienced by the pupil in walking the required distance to the regular route.

3. Submit the statement from the licensed medical doctor to the District Superintendent for approval.

4. The District Superintendent shall submit the health statement with a Request For Special School Bus Transportation Service approval to the local representative of the State Department of Education. Approval by the State Department of Education shall be required before a change in a school bus route for this purpose becomes official.

5. Approval for such a change in school bus routes shall terminate at the time the pupil no longer qualifies for special school bus transportation service, or when the pupil for whom the service was intended has moved residences.

E. Each school district shall prepare route descriptions and maps in accordance with laws and regulations and, upon approval of the district's board of trustees, shall submit the route descriptions and maps to the designated representative of the State Department of Education by October 15th of each year. Proposed changes in routes after October 15th must be approved by the designated representative of the State Department of Education before a change is made. In emergencies or unusual situations, districts may make route changes in keeping with laws and regulations with approval by telephone from the designated representative of the State Department of Education. Such approval must then be submitted in writing, with written approval received from the designated representative of the Department. Changes made without notification to and approval by the designated representative of the Department will result in the district being charged the prevailing rate per mile for permit trips. The amount for unauthorized mileage will be deducted from the district's transportation funding.

Written approval or disapproval of all routes will be provided by the State Department of Education no later than November 15th. A period of two weeks will be given to the district for corrections to be made after a notice of disapproval. Districts operating routes after November 15th that have not been approved will be considered as operating unauthorized routes and operated at the expense of the school district.

F. School bus stops on each route shall not be closer than two-tenths of a mile apart at safe points. Stops shall have a clear visibility of 600 feet in each direction or a "School Bus Stop Ahead" sign shall be located at a point 600 feet in each direction of the designated stop. During periods of inclement weather, buses may be allowed to stop on the regular route at safe points nearest the house of each child; however, buses shall not be permitted to leave regular routes. Stops and turn-abouts shall not be made on blind curves, steep grades, or near the crest of hills or in any other unsafe traffic environment.

G. Pupils shall not be transported from one district or attendance area to another when an appropriate school is provided within the district or attendance area. When an intra-district Choice Program is approved by an appropriate school district board of trustees, pupils may be transported across attendance boundaries; however, this transportation shall be provided in the most productive and cost efficient manner and shall not violate the continuous riding time restrictions provided in statute.

H. No school bus shall stop for the purpose of picking up or discharging any non-handicapped school child living within one and one-half miles of the school, unless under the application provisions of Section 59-67-420 the child qualifies for transportation under one of the following conditions.

1. Where no additional state-owned school buses are required, it will be permitted for school buses to transport children, that reside along the route, to and from school on the established route within one and one-half miles distance of the school if there are vacant seats on the school bus. When transporting children that reside within the one and one-half mile distance of the school, other provisions of law and regulations must be maintained, and the school district must assume any additional operational expense.

2. When the school district Board of Trustees of any school district desires to have children transported to and from school within one and one-half miles distance of the school, state-owned buses may be used for this purpose provided the school district Board of Trustees pay to the State Department of Education an amount per mile to be determined annually by the State Department of Education. The per-mile amount should cover at a minimum all costs associated with the provision of the equipment used to provide the service. The methodology to determine this minimum cost shall be approved by the State Board of Education. The driver salary and benefits shall be paid directly by the school district. No additional state-owned buses will be assigned for transportation of students living within one and one-half miles of the school.

I. Regularly assigned buses may be used to transport pupils to vocational classes upon approval of the State Department of Education provided regular buses are the most cost effective method of transportation. If a regular assigned bus is not the most cost effective method, the District shall examine less costly transportation options. The State Department of Education shall reimburse the district for the least expensive alternative transportation mode. When buses are used, the class schedules shall be arranged so that buses can complete their regular morning and afternoon routes. As with all school bus transportation services, the school district Board of Trustees shall be responsible for providing adequate supervision on the bus at all times.

J. Buses shall be removed from routes when, in the opinion of the State Department of Education, abuse or vandalism becomes so excessive that it interferes with the maintenance and operation of buses for the regular school program.

K. The school district Board of Trustees must correct problems in the routing, supervision and/or use of any school bus under its jurisdiction. If problems are not corrected after official notification by the designated representative of the Department of Education, the school district shall assume all financial responsibility and all liability associated with operating the buses.

L. Buses shall be left at the designated school bus parking area during the school day. Exceptions:

1. With prior written approval by the Department of Education drivers of buses may be transported by school bus pool to their home mid-day provided it can be justified economically. The Department of Education for economic justification purposes will allow a pool bus to travel a distance of no more than five miles per driver transported one way per day. Pooling shall be defined as the transportation of more than one bus driver to home or to work on a single bus. In no case shall there be an adverse economic impact upon the bus maintenance services.

2. Drivers of buses may drive their assigned bus home mid-day when the one-way mileage does not exceed five miles. Any additional mileage shall be at the district's expense.

3. Buses may be parked at another school when there will be no adverse economic impact upon bus maintenance services.

4. At the end of the school day, drivers may drive their vehicle back to their home or a designated public parking facility only when it can be proven that to do so can be justified economically.

The exceptions for use of buses and the related economic justifications shall be part of the route and schedule plan submitted by the local school district to the Department of Education.

In exceptions 1 and 3 above, the request for approval shall include a plan to insure the proper servicing and maintenance of the bus.

The school district shall provide for safe loading and unloading of students and a suitable concrete or asphalt-paved area for the parking and servicing of buses during the school hours. The parking and service area shall be located and designed to insure that vehicular traffic, students or unauthorized personnel are not in or around parked buses during the school day and shall be in compliance with all safety regulations.

M. Each school district is required to keep each school bus in a clean and sanitary condition. Each district is responsible for all excessive driver and passenger abuse to the buses. Any school district using a bus on a trip not authorized by the Department of Education shall assume all financial responsibility and liability.

The school district Board of Trustees shall designate, to the Department of Education, a school official to see that proper care is taken of the buses, that the buses shall not be abused; to see that drivers make required reports promptly; to assist in the investigation and collection of the cost for damages to state-owned equipment; and to aid in any proceedings, either civil or criminal.

N. The school bus driver certification program is established by the South Carolina Board of Education (SCBE) and administered by the South Carolina Department of Education (SCDE) to qualify individuals to drive one or more of the numerous types of school buses. A school bus is a vehicle as defined in Sections 59-67-10 and 56-5-195 of the South Carolina Code. The school bus definition designates a Full-functional School Bus (FFSB) vehicle as a school bus vehicle that is equipped with all signage and lamps to meet the requirements of Section 56-5-2770 and meets the National School Bus chrome yellow color requirements in Section 59-67-30, thus allowing it to control traffic when loading and unloading students. The school bus definition also designates the Multi-functional School Activity Bus (MFSAB) vehicle as school bus vehicle that cannot control traffic because it lacks either signage or lamp requirements of Section 56-5-2770 or does not meet the National School Bus chrome yellow color requirements in Section 59-67-30. The vehicle’s manufacturer passenger capacity rating has no effect on the vehicle’s status as a school bus.

An individual driving a school bus, as defined in this regulation, must have a valid SCDE school bus driver’s certificate in his or her possession when transporting or intending to transport preprimary, primary, or secondary students to or from school, and school related activities, or children to and from childcare or related activities.

The SBE directs the SCDE to establish a school bus driver certification program that provides for the following three (3) separate and distinct school bus driver’s certificate categories.

Certificate A—Authorizes an individual to operate any school bus owned or leased by the State, a local school agency, a private contractor, a private school, or a childcare facility for the purpose of transporting school students.

Certificate B—Authorizes an individual to only operate an MFSAB owned or leased by a local school agency, a private contractor, a private school, or a childcare facility for the purpose of transporting school students.

Certificate C—Authorizes an individual to operate a school bus owned or leased by a private school or a childcare facility when the school bus is an FFSB. Additionally, the individual is authorized to operate an MFSAB owned or leased by a local school agency, a private contractor, a private school, or a childcare facility for the purpose of transporting school students.

Certificate categories B and C are divided into two sub classifications: commercial vehicles and non-commercial vehicles. The non-commercial classification is established to certify individuals to only operate a school bus that is not classified as a Commercial Motor Vehicle by the South Carolina Department of Motor Vehicles (SCDMV).

In order to obtain any one of the SCDE School Bus Driver's Certificates, either an A, B, or C, an individual seeking certification or renewal must successfully complete all requirements established by this regulation and the related tests of the SCDE and SCDMV. Certificates are only issued by the SCDE.

The SCDE School Bus Driver Certification Program includes requirements that are common to all three (3) certificate categories plus requirements that are unique to a driver certificate category.

The common requirements that all drivers must satisfy for issuance and renewal of an SCDE School Bus Driver's Certificate are as follows.

1. Driver candidates must not have or have had in the past twelve (12) months more than four (4) points against his/her driver license or driving Motor Vehicle Record (MVR).

2 Driver candidates shall successfully complete the SCDE School Bus Driver's Classroom Training Program.

3. Driver candidates shall have a physical examination administered by a qualified medical examiner; the driver must pass the examination every two years, or more frequently if directed by the medical examiner. The physical examination shall be administered using an "SCDE Medical Examination Report for Commercial Driver Fitness Determination" form provided by the South Carolina Department of Education or the United States Department of Transportation "Medical Examination Report" form. The driver candidate must provide the certificate testing administrator his or her qualifying Medical Examination Report prior to taking the school bus driver physical performance test and the commercial driver's license skills test. The school bus driver candidate must provide a copy of the qualifying Medical Examination Report to his or her employer. An employer may require additional physical examinations as the employer determines to be appropriate. The State assumes no responsibility for the cost incurred by the employer or driver for the physical examinations required by this regulation.

4. Driver candidates shall successfully pass the SCDE School Bus Driver Physical Performance Tests.

5. Driver candidates shall successfully complete a minimum of 10 hours of SCDE Behind-the-Wheel Road Skills Training, for initial issuance only.

6. Driver candidates shall pass the SCDE Behind-the-Wheel Road Skills Examination.

7. Drivers must show proof that they are covered by and will continue to be covered by a substance abuse program. The program must comply with state and Federal laws requiring drivers to participate in a drug and alcohol testing program encompassing at a minimum: (1) a substance abuse policy; (2) a substance abuse education program; (3) substance abuse testing (including pre-employment, reasonable suspension, post-accident, and random selection testing); and (4) a substance abuse referral assistance program. The substance abuse testing program shall comply with the U. S. Department of Transportation Regulation, Title 49, Chapter III, Section 382 et al., and Federal Highway Administration for testing drivers of commercial vehicles.

8. The driver candidate must satisfy the above common requirement items 3 though 7 within one hundred and eighty (180) days after successfully completing item 2.

In addition to the above eight common requirements, certificate categories have unique requirements that a driver must satisfy before issuance and/or renewal of the SCDE School Bus Driver’s Certificate.

1. Certificate-A requires the following.

a. The driver candidate must possess a valid Commercial Driver's License with the appropriate endorsements required by State and Federal law necessary to operate a school bus commercial motor vehicle.

b. The driver must complete a minimum of ten (10) hours of SCDE approved in-service training annually to qualify for renewal.

2. Certificate-B Commercial requires the following.

a. A driver candidate must possess a valid Commercial Driver's License with the appropriate endorsements required by State and Federal law to operate a school bus type vehicle to qualify for issuance.

b. A driver must complete a minimum of two (2) hours of SCDE approved in-service training annually to qualify for renewal.

3. Certificate-B Non-Commercial requires the following.

a. A driver candidate must possess a valid Driver's License that meets the requirements in State and Federal law to operate a non-commercial school bus type vehicle with no restrictions other than vision correction to qualify for issuance.

b. A driver must complete a minimum of two (2) hours of SCDE approved in-service training annually to qualify for renewal.

4. Certificate-C Commercial requires the following.

a. A driver candidate must possess a valid Commercial Driver's License with the appropriate endorsements required by State and Federal law to operate a school bus type vehicle to qualify for issuance.

b. A driver must complete a minimum ten (10) hours of SCDE approved in-service training annually to qualify for renewal.

5. Certificate C Non-Commercial requires the following.

a. A driver candidate must possess a valid Driver's License that meets the requirements in State and Federal law to operate a non-commercial school bus type vehicle with no restrictions other than vision correction to qualify for issuance.

b. A driver must complete ten (10) hours of SCDE approved in-service training annually to qualify for renewal.

Drivers accumulating more than four (4) points after being issued an SCDE School Bus Driver's Certificate shall have the certificate suspended. If a certificated driver receives a ticket for Driving Under the Influence (DUI), the certificate shall be suspended, and if convicted of DUI, the driver's SCDE Certificate shall be revoked. The employer of the driver shall notify the SCDE within thirty (30) days of such excessive driver license points and DUI actions.

Driver candidates are subject to a South Carolina criminal background check that must be conducted by their employer before transporting students. The employer may require additional federal level security and criminal background checks.

The SCDE shall establish procedures to transition the existing SCDE single category school bus driver certification program to the new multi-category School Bus Driver's Certificate program. All drivers that have a valid SCDE school bus driver certificate, and are in good standing with SCDE in-service training requirements, will be converted to a School Bus Driver's Certification A. All drivers that have a valid SCDE school bus driver certificate, but have not completed the SCDE in-service training requirements, will be considered for conversion to a School Bus Driver's Certification B.

Drivers must be in compliance with these requirements on or before August 15, 2008.

O. State-owned school buses shall comply with the minimum posted speed, if greater than 45 miles per hour, for the highway used. Except that public school buses transporting Handicapped students shall comply with Section 59-67-525.

P. All state-owned buses shall be equipped with an operational stop-arm.

Q. The school district Board of Trustees shall have the authority to remove a bus from a regular school bus route when it is determined that the conduct of the passengers or others endangers the life and safety of the bus driver and passengers.

R. The school district Board of Trustees is authorized to assign seats to bus passengers when it is determined to be in the best interest of the transportation program.

S. Each school district shall submit to the Department of Education in writing no later than May 1st of each year, any major changes in school assignments which would require a change in the number of buses for the following school year.

T. SPECIAL TRANSPORTATION SERVICE

1. When state-owned buses or boats are used by the schools for educational purposes other than transporting pupils to and from school, the cost of operation shall be borne by the school district. The operator shall be paid by the local school district. In addition, a charge for the use of the bus or boat (use fee) as determined by the State Department of Education and approved by the State Board of Education, payable to the State Department of Education, shall be made. The school district Board of Trustees will be responsible for damages to the bus or boat as a result of abuse. The bus or boat use fees are applicable to all trips other than the regularly scheduled trips or trip segments to and from school as shown on the approved route description for the school district.

2. The school boat must be operated by an individual with the required U.S. Coast Guard Merchant Marine Officer, Master of Steam and Motor Vessels license.

3. The use of state-owned buses and boats for purposes other than transporting pupils to and from school shall in no way conflict with the regular school schedule.

4. The use of state-owned buses and boats shall be limited to those events and activities sponsored by school districts.

5. Request for documentation of the use of buses and boats for purpose of special services must be secured from the designated representative of the Department of Education prior to the vehicle's use.

6. The use of state-owned buses for special purposes for trips outside the State shall be limited to athletic and other school activities in adjacent counties in Georgia and North Carolina with the following exceptions. In North Carolina: Polk, Henderson, Transylvania, Jackson, and Macon Counties have mountainous terrain. State-owned buses shall not be used for special activities in these counties without prior route approval by the designated representative of the Department of Education.

7. The Department of Education permit For The Use Of School Buses or Boats prepared by the school district must accompany the operator on each trip made by the bus or boat.

Should any of the above regulations governing the use of school buses or boats for special services be violated in any school district, the Department of Education may withdraw approval to use state-owned school buses or boats from any further special service.

U. The bus or boat use fees shall be based on formula approved by the State Board of Education. The formula shall reflect the operational cost experienced by the State Department of Education plus an appropriate vehicle replacement charge. In compliance with approved State Board of Education bus or boat use fee formula, the Department of Education shall establish an annual fee for bus and boat use.

V. Variations from Transportation Regulations may be approved by the State Department of Education when such variations are clearly in the interest of safety, efficiency and economy. School districts seeking a variance from a regulation must submit a written request seeking approval from the Department of Education. The Department will approve or disapprove the request, in writing.

W. In accordance with Section 59-67-520 of the Code of Laws of South Carolina, as amended, it is hereby declared the policy of the State Board of Education to provide transportation for handicapped children within an school district to the nearest school in which a class is located serving the pupil's disabilities.

X. Eligibility for Transportation - Eligibility for transportation under the above provisions shall be limited to the following types of disabilities:

1. Trainable mentally handicapped (TMH)
2. Deaf-blind (DB)
3. Hearing handicapped (HH)
4. Visually handicapped (VH)(Legally Blind)
5. Emotionally handicapped (EH)(Severely)
6. Orthopedically handicapped (OH)
7. Educable mentally handicapped (EMH)
8. Learning disabled (LD)
9. Other health impaired (OHI)
10. Pre-school handicapped
11. Profoundly mentally handicapped (PMH)
12. Traumatic brain injury (TBI)
13. Autistic
14. Other disabilities identified in Section 504 of the Rehabilitation Act and the Americans With Disabilities Act.

Legal age for transporting children with disabilities are three (3) and four (4) years old and public school students (K-12) except for the hearing and visually handicapped which is 4-21 years of age. Students with disabilities may be transported on regular route school buses.

Y. District Boards of Trustees shall be responsible for locating classes for children with the above disabilities in or near the geographic center of the district or area so that all children with these disabilities can be transported on the same bus. The State Department of Education shall not be required to provide separate transportation for children with disabilities.

Z. Transportation will be provided either on state-owned buses or by contract between the State Department of Education and the school district, whichever is most economical to the State.

The following procedure shall be used in requesting transportation:

1. State-Owned Buses - State-owned buses will be assigned when the number of eligible students (usually minimum of 6) live within an area to make a bus route feasible from a time and mileage standpoint. School district officials shall submit a map and route description to the designated representative of the State Department of Education to justify assignment of the bus. Maps and descriptions will be submitted annually in the same manner as for regular bus routes.

2. Contract Transportation - Contract transportation will be limited to pupils who cannot be transported efficiently by state-owned buses. The following procedures will be used in requesting contract transportation.

a. The State Department of Education will be notified of the name of the pupil, location of residence, and school to which such pupil(s) is to be assigned. If it is determined that the pupil or pupils can not be transported on a bus already assigned to the district or if the number of pupils is insufficient to justify an additional bus, then, a contract will be signed between the school district and the parent or other individuals for transportation.

b. Contracts between the school district and parents or other individuals to transport one child will be based on a rate per mile as determined by the State Department of Education and approved by the State Board of Education for each 90 school days. If more than one student is transported, the contract may be used on the rate per vehicle or passenger mile for the actual number of miles traveled.

c. When it is in the best interest of the State, contracts may be written for transporting students who live within 2 miles of the school. The State Board of Education shall establish the funding limitation on the basis of a designated amount of dollars per student for 90 school days.

d. The maximum payment for transportation for any one pupil shall not exceed the amount established annually by the State Board of Education for each 90 school days unless a special exception is approved by the State Board of Education.

e. All proposed contracts must be approved by the State Department of Education prior to commencing transportation. Reimbursement will be from the date of approval.

f. Contract transportation will not be approved if transportation on state-owned buses is more cost effective or productive except when otherwise required by the student's Individual Education Plan. Exceptions may be made in extreme cases upon written recommendation of the affected pupil's licensed medical doctor and the school district and upon approval by the State Department of Education.

AA. Transportation will be provided only during the regular school term not to exceed 180 school days.

BB. Transportation on state-owned buses or by contract of pupils attending multi-district programs or programs conducted by agencies other than the public schools, will be provided only if the home district has received approval of "another facilities agreement" from the State Department of Education. This approval must be received prior to commencing transportation. The home district is responsible for securing contracts for transportation routes and for the requisitioning of funds.

CC. Persons contracting to provide transportation must have insurance coverage at least equal to that carried on state-owned buses as required by Section 59-67-710 of the Code of Laws of South Carolina, as amended.

DD. Reimbursement to the district for contracts shall be made at the end of each 90 school days. Request for reimbursement shall be submitted on a form furnished by the State Department of Education. The request for reimbursement shall be pro-rated if pupil attends less than 90 school days.

EE. The Department of Education will establish a School Bus Specifications Committee for the purpose of creating specifications for the procurement of state-owned school buses. The Committee will be composed of members of the General Assembly or their designees; representatives of the business community; mechanical engineers profession; both local school district and state student transportation officials representing school bus maintenance, administration, driver training, and operations; and a representative of the Budget and Control Board, Materials Management Office. The State Superintendent of Education or designee will make Committee appointments. The Committee will be responsible for reviewing, amending, and developing school bus specifications for all types of school buses purchased by the State. These specifications will assure that the student transportation needs of the State are efficiently and effectively addressed. The Committee will recommend the specifications to the State Superintendent of Education or designee for approval.

Title of Regulation:	**Regulation No.:**	**R43-100**
TEST SECURITY	**Effective Date:**	**06/26/15**

Constitutional and Statutory Provisions:

Section(s):

59-5-60	General powers of [State] Board.
59-1-445.	Violations of mandatory test security; penalties; investigations.
59-1-447.	Regulations for mandatory test security procedures.
59-18-310(B)	Development or adoption of statewide assessment program to promote student learning and measure student perforamance.

Code of Laws of South Carolina, 1976.

State Board Regulation:

43-100. Test Security.

I. Tests administered by or through the State Board of Education shall include but are not limited to:

A. The statewide tests, as defined in State Board of Education Regulation 43-262, including field tests and pilot tests;

B. Examinations for admission to teacher education programs and teacher certification examinations;

C. Examinations for admission to programs such as the gifted and talented program;

D. High school equivalency tests.

II. As used in this regulation, "local school board" means the governing board of a public school district, a public charter school, as well as those of special school districts, special schools, and institutions that utilize tests administered by or through the State Board of Education.

III. Each local school board must develop and adopt a district test security policy. The policy must provide for the security of materials for the entire period of time (before, during, or after testing) the materials are in the district and/or the schools within that district. The policy must address security for paper-based, computer-based, and customized assessments. This also applies to district-owned materials that are the same as those used in any state-operated testing or assessment program. Throughout the time testing materials are under the control of the school district, secure paper-based materials must be stored under lock and key when not in use for approved test administration activities.

IV. Each District Superintendent and the administration from each of the special schools and institutions that utilize tests administered by or through the State Board of Education must designate annually one individual in each district for each mandated assessment who will be the sole individual in the district authorized to procure test instruments that are utilized in testing programs administered by or through the State Board of Education. The name of the designated individual must be provided to the South Carolina Department of Education (SCDE) in writing. When the testing program involves procurement of materials available commercially, the designated individual must be the sole individual in the district

authorized to procure commercial test instruments which are utilized in testing programs administered by or through the State Board of Education.

V. Individuals must adhere to all procedures specified in all operating manuals governing the mandated testing programs. Manuals are provided by or through the SCDE.

VI. A. The State Board of Education may invalidate test scores that reflect improbable gains and that cannot be satisfactorily explained through changes in student populations or instruction.

B. In cases where test results are invalidated because of a breach of security or action of the State Board of Education, any programmatic, evaluative, or certification criteria dependent upon the data will be deemed to not have been met.

VII. Any individual(s) who knowingly engage(s) in any activity that results in the invalidation of scores derived from teacher certification examinations, the examinations for admission to teacher education programs, and/or the high school equivalency tests forfeits all opportunities to retake the test(s).

VIII. Any knowing involvement in the presentation of forged, counterfeit, or altered identification for the purpose of obtaining admission to a test administration site for any of the tests administered by or through the State Board of Education will be considered a breach of test security within the meaning of S.C. Code Ann. Section 59-1-445 (1990, 2004). Any individual(s) who knowingly cause(s) or allow(s) the presentation of forged, counterfeit, or altered identification for the purpose of obtaining admission to any test administration site specified in this paragraph forfeits all opportunities to retake the test(s).

IX. Each of the following is considered a breach of professional ethics which may jeopardize the validity of the inferences made on the basis of test data and, as such, are viewed as security violations which could result in criminal prosecution and/or disciplinary action to an educator's professional certificate.

A. Failing to administer tests on the test dates specified by the SCDE.

B. Failing to maintain an appropriate testing environment, free from undue distractions.

C. Failing to proctor the test to ensure that examinees are engaged in appropriate test-taking activities.

D. Providing examinees with access to test questions or specific test content prior to testing.

E. Providing examinees with access to answer keys prior to or during testing.

F. Keeping, copying, reproducing, or using in any manner inconsistent with the instructions provided by or through the SCDE any test, test question, or specific test content.

G. Keeping, copying, or reproducing in any manner inconsistent with the instructions provided by or through the SCDE any portion of examinee responses to any item or any section of a secured test.

H. Coaching examinees, altering examinee responses, or interfering with examinee responses in any way prior to, during, or after testing. This includes hinting to examinees about the correctness of their responses.

I. Failing to follow instructions specified in the test manuals for the distribution, storage, or return of test materials or failing to account for test materials before, during, or after testing.

J. Failing to follow all directions pertaining to the administration of a test as specified in the test manuals for that test. This section includes failure to clear the memory of calculators used on a test as directed in the test manual.

K. Allowing, participating in, assisting in, or encouraging any unauthorized access to test materials prior to, during, or after testing.

L. Disclosing the contents of any portion of secure materials or discussing the contents of secure tests with examinees, teachers, or other educators before, during, or after testing.

M. Leaving in view of examinees during test administration materials that are content or conceptually related to the subject areas being assessed.

N. Providing references or tools other than those specifically allowed in test manuals. Providing references or tools during test administration at times other than those specifically allowed in test manuals.

O. Failing to provide accommodations and/or customized materials as specified in the student's Individualized Education Program (IEP) or 504 plan. Providing accommodations and/or customized materials not included in the student's IEP or 504 plan.

P. Excluding examinees or exempting from assessment students who should be assessed.

Q. Failing to return test materials for all examinees.

R. Engaging in inappropriate test preparation practices that invalidate the test scores. These practices include activities that result in an increase in test scores without a simultaneous increase in the examinee's real achievement or performance in the content area.

S. Revealing test scores or test performance to anyone not involved in the education of the examinee.

T. Altering test scores in electronic records or files.

U. Failing to report a security breach.

X. The SCDE has the right and responsibility to observe test administration activities without prior notice in order to monitor adherence to test security. Examinees should be made aware that monitoring may occur.

XI. Any suspected violation of security must be reported to the South Carolina Law Enforcement Division.

XII. If a security breach occurs in a district, or charter school, rendering test forms or test items unusable, funds equivalent to replacement costs may be withheld from the district or charter school by the SCDE at the discretion of the State Board of Education.

XIII. At the discretion of the State Board of Education, an educator may receive a public or private reprimand or the credential of an educator may be suspended or revoked based on evidence of violation of test security provisions.

Title of Regulation:	**Regulation No.:**	**R 43-165.1**
PROGRAM FOR ASSISTING, DEVELOPING, AND EVALUATING PRINCIPAL PERFORMANCE (PADEPP)	**Effective Date:**	**06/26/15**

Constitutional and Statutory Provisions:

Section(s):

59-5-60.	General powers of [State] Board.
59-24-30.	Individual professional development plans.
59-24-40.	Development and adoption of statewide performance standards for principals; annual evaluation of principals; training program for principals receiving unsatisfactory rating.

Code of Laws of South Carolina, 1976.

State Board Regulation:

43-165.1. Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP).

I. PURPOSE

The State Board of Education, through the South Carolina Department of Education, is required to adopt statewide performance standards and criteria that shall serve as a foundation for all processes used for assisting, developing, and evaluating principals employed in the school districts of this state. School districts shall use the standards and procedures adopted by the State Board of Education for the purposes of conducting evaluations and guiding the professional development of principals. Districts are to consider evaluation results in making decisions regarding principal development, compensation, promotion, retention, and removal.

The South Carolina Department of Education shall ensure the implementation of principal evaluation in the school districts.

Principals must be evaluated using the Performance Standards and Criteria for Principal Evaluation adopted by the State Board of Education. Additional performance standards and criteria may be established by the superintendent. As required by S.C. Code Ann. Section 59-24-30, the principal's annual Professional Development Plan (PDP) shall be established on the basis of the PADEPP Performance Standards and Criteria and the school's renewal plan.

II. DEFINITIONS FOR THE PURPOSES OF THIS EVALUATION PROGRAM

A. PRINCIPAL: A principal is the chief administrative head or director of an elementary, middle, or secondary school or of a vocational, technical, special education, or alternative school. Induction principals are those serving for the first time as building-level principals. These principals are considered probationary until they have completed the requirements of the Principal Induction Program (PIP) and have received an overall rating of Proficient or higher on the PADEPP evaluation instrument .

B. EVALUATOR: The evaluator is the district superintendent and/or the superintendent's designee. All evaluators must have successfully completed the Office of School Leadership's (OSL) Program for

Assisting, Developing, and Evaluating Principal Performance (PADEPP) training before evaluating principals.

C. EVALUATION INSTRUMENT: The evaluation instrument developed by the South Carolina Department of Education is based upon the PADEPP Performance Standards and Criteria and is available from the Office of School Leadership. In lieu of the state instrument, districts may request permission to use an alternative evaluation process that meets state requirements and national standards. This instrument must be approved by the South Carolina Department of Education and the State Board of Education.

D. EVALUATION CYCLE: The evaluation cycle shall be consistent with the school year as defined by law. After induction , principals shall be evaluated as stated in Section III.

III. PROGRAM IMPLEMENTATION

A. PRINCIPALS WITH TIER 1 CERTIFICATION

(1) First-year principals shall participate in an induction program as provided for in State Board of Education Regulation 43-167, "Principal Induction Program." The superintendent or his or her designee shall provide the first-year principal with written and oral feedback relative to each performance standard and criterion. Principals are to receive this feedback at least at mid-year and end-of-year conferences. The superintendent or his or her designee will observe, collect relevant data, consult with the first-year principal on a regular and consistent basis, and provide the first-year principal with an informal written evaluation.

(2) Upon successful completion of both the South Carolina Principal Induction Program (PIP) and a full evaluation on the PADEPP evaluation instrument , the principal will be eligible for Tier 2 principal certification. If the overall rating on the PADEPP evaluation instrument in any year immediately subsequent to the induction year of employment as a principal is below Proficient, the principal will remain on Tier 1 certification until the South Carolina Department of Education receives verification from the employing school district that the principal has achieved an overall rating of Proficient or higher on PADEPP.

B. PRINCIPALS WITH TIER 2 CERTIFICATION

The superintendent or his or her designee shall evaluate Tier 2 principals annually. A full evaluation using all PADEPP Performance Standards will be conducted at least every third year. The evaluation shall address each of the PADEPP Performance Standards and accompanying Criteria. Principal evaluations on years between full evaluations will include Performance Standards for Instructional Leadership, Student Growth, and all Performance Standards rated the previous year as below “Proficient,” as well as any additional Performance Standards identified in the Principal’s Professional Development Plan (PDP). Full evaluations may, of course, be conducted every year, if the superintendent chooses to do so. A principal is to receive feedback from the superintendent or his designee regarding the principal’s performance at least at mid-year and end-of-year conferences.

IV. PERFORMANCE STANDARDS AND CRITERIA

Principal preparation programs and school districts must address, but are not limited to, the Performance Standards and Criteria for the Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP), as specified in the State Board of Education’s PADEPP implementation guidelines.

V. EVALUATION PROCESS

A. The evaluation of each principal shall consist of both formative and summative phases.

(1) The formative phase shall begin with an initial review of the evaluation instrument by the evaluator with the principal. Regular conferences shall be held to discuss the principal's progress and shall include an analysis of the data collected during the year.

(2) The summative phase shall provide for evaluative conclusions regarding the principal's performance based upon the data collected. Upon completion of the evaluation, the evaluator will meet with the principal to discuss the findings in terms of each of the PADEPP Performance Standards, as well as the overall results. At the conclusion of the meeting, the evaluator and the principal shall sign the evaluation form, and a copy shall be given to the principal.

B. After reviewing the overall results of the evaluation, the principal and evaluator shall establish the principal's annual Professional Development Plan (PDP) on the basis of the identified strengths and weaknesses, as well as the school's renewal plan.

C. Satisfactory performance on an evaluation does not guarantee reemployment as a principal.

D. Each principal has the right to respond in writing to the completed principal evaluation instrument. This written response must be submitted to the evaluator within ten working days of the summative conference.

E. All appeals shall follow local school district policies and procedures governing the local appeal process.

VI. DISTRICT RESPONSIBILITIES

A. Each school district shall ensure that principals receive awareness training that includes

(1) the PADEPP Performance Standards and Criteria for Principal Evaluation,

(2) the PADEPP principal evaluation instrument, and

(3) Regulation 43-165.1, "Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP)."

B. Each school district shall ensure that the district superintendent and the superintendent's designee(s) are trained as evaluators of principals.

C. Each school district shall designate one individual to be trained as a district coordinator for PADEPP. This coordinator shall be responsible for the administration of the evaluation program consistent with this regulation, including an annual submission for all principals in their district.

D. Each school district shall maintain principal evaluation data and shall ensure the confidentiality of the evaluation results in accordance with the Freedom of Information Act.

E. Each school district shall submit annual assurances and required principal evaluation data to the South Carolina Department of Education indicating compliance with this regulation and PADEPP implementation guidelines.

F. Each school district shall utilize the results from the principal evaluations in decisions regarding principal development, compensation, promotion, retention, and removal.

VII. SOUTH CAROLINA DEPARTMENT OF EDUCATION RESPONSIBILITIES

A. The South Carolina Department of Education shall ensure that the PADEPP is appropriately implemented by each school district in accordance with this regulation and PADEPP implementation guidelines.

B. The South Carolina Department of Education shall collect from school districts required principal evaluation data, as well as Assurance/Validation forms, in order to

(1) determine trends and inform decisions concerning educational leadership preparation and professional development, and

(2) ensure that the Program for Assisting, Developing, and Evaluating Principal Performance is being appropriately administered in accordance with this regulation and the law governing the evaluation of principals.

C. The South Carolina Department of Education shall provide school districts with ongoing technical assistance in the form of training, consultation, and advisement. Specifically, the training will ensure that participants have the knowledge and skills necessary to collect and document data relative to a principal's performance, analyze the data to identify the principal's performance strengths and weaknesses, provide feedback to the principal in terms of the PADEPP Performance Standards and Criteria, and counsel, coach, and assist the principal to improve effectiveness. Additionally, the training will ensure that participants are prepared to evaluate the principal in a valid, reliable manner, and to make a summative judgment regarding the principal's performance.

VIII. TRAINING REQUIREMENTS

A. Each school district shall ensure that principals receive awareness training that includes

(1) the Standards and Criteria for Principal Evaluation,

(2) the selected principal evaluation instrument, and

(3) Regulation 43-165.1, "Program for Assisting, Developing, and Evaluating Principal Performance."

B. Each school district shall ensure that the district superintendent and the superintendent's designee(s) are trained as evaluators of principals.

C. Each school district shall designate one individual to be trained as a district coordinator for the Program for Assisting, Developing, and Evaluating Principal Performance. This coordinator shall be responsible for the administration of the evaluation program consistent with this regulation.

D. The South Carolina Department of Education shall provide school districts with ongoing technical assistance in the form of training, consultation, and advisement.

IX. PROGRAM IMPLEMENTATION AND ADMINISTRATION

A. The South Carolina Department of Education shall ensure that the Program for Assisting, Developing, and Evaluating Principal Performance is appropriately implemented by each school district in accordance with this regulation.

B. Local school districts shall provide annual assurances to the Department that the Program for Assisting, Developing, and Evaluating Principal Performance is being appropriately administered in accordance with this regulation and the law governing the evaluation of principals.

C. The South Carolina Department of Education has the authority to develop guidelines, approved by the State Board of Education, in accordance with the provisions of this regulation.

Title of Regulation: **Regulation No.: R 43-166**

STUDENT AND SCHOOL SAFETY **Effective Date:** 03/28/97

Constitutional and Statutory Provisions:

Sections

59-1-380.	Suspension of make up days. Repealed.
59-1-430.	Make up days.
59-5-60.	General powers of [State] Board.
59-5-65.	Powers and responsibilities of [State] Board.
59-19-90(7).	General powers and duties of school trustees.
59-63-910, et seq.	Fire Drills.
59-66-20.	School safety coordinator grant program; funding; requirements.

Code of Laws of South Carolina, 1976 (Revised 1990).

Descriptor Code: None

State Board Regulation:

Student and School Safety

A. School Safety Assessment

1. The State Department of Education shall develop a Model Safe Schools Checklist designed to assess schools' safety strengths and weaknesses. The checklist must include items addressing the following topics:

   a. the existence of a comprehensive safety plan;
   b. communication of discipline policies and procedures;
   c. intra-agency and interagency emergency planning;
   d. recording of disruptive incidents;
   e. training of staff and students;
   f. assessment of buildings and grounds;
   g. procedures for handling visitors;
   h. assignment of personnel in emergencies;
   I. emergency communication and management procedures; and
   j. transportation rules and accident procedures.

2. The State Department of Education shall submit the checklist to the State Board of Education for approval prior to dissemination to the

school districts. The checklist may be revised on an annual basis by the State Board of Education in compliance with relevant provisions of the Safe Schools Act of 1990.

3. Prior to September 30 of each school year, the State Department of Education shall disseminate a copy of the model safe schools checklist to every public school district in the state.

4. School districts shall be advised by the Department of Education of the requirement to use a safe schools checklist in compliance with Section 59-5-65, S.C. Code of Laws, 1976. This safety assessment should be part of the comprehensive needs assessment conducted for school improvement purposes in compliance with Section 59-20-60(4)(d), S.C. Code of Laws, 1976. In particular, a safe schools checklist should be utilized in determining "school climate" needs, one of the six indicators of school effectiveness.

B. First Aid Supplies.

Each school shall provide adequate first aid supplies and equipment.

C. Support for Authorities.

The Board urges all citizens to continue their active and vigorous support of the local school and civil authorities in insuring the personal safety and security of all students and teachers.

D. Emergency and Disaster Plans.

A plan shall be designed to provide for the protection and welfare of students in the event of any disaster (tornado, hurricane, fire, etc.) which threatens to involve the school community. Each school shall conduct at least one emergency drill within the first month of school to insure safety against such disasters.

E. Guidelines will be developed by the State Department of Education, which will refer to statutory provisions relating to school safety, as well as additional information. The State Department of Education will review and update these guidelines as needed.

Title of Regulation:	**Regulation No.:**	**R 43-167**
PRINCIPAL INDUCTION PROGRAM	**Effective Date:**	**03/24/00**

Constitutional and Statutory Provisions:

Sections:

59-5-60.	General powers of [State] Board.
59-24-80.	Formal induction program for first year principals.

S.C. Code Ann. Section(s) (1990) and S.C. Code Ann. Section(s) (Supp. 2000)

Descriptor Code: None

State Board Regulation:

Principal Induction Program

A. Purpose

The purpose of the Principal Induction Program is to add one component of many strategies which are to be combined by the districts to meet the intent of the Education Accountability Act to improve teaching and learning so that students are equipped with a strong academic foundation. The Principal Induction Program will assist public school districts in providing support and professional development for first year principals.

The State Board of Education recognizes that a school district makes one of its most important personnel decisions when it appoints a principal. The Board also recognizes the value of formal induction programs that provide novice school principals with an academy that focuses on developing and refining the leadership skills necessary to help their faculties provide the most effective instructional programs possible. Therefore, the following regulations have been developed to facilitate the implementation of the South Carolina Principal Induction Program.

B. Definitions

1. The Principal Induction Program is a yearlong program (July to June) of support and professional development for new principals in which instructional leadership skills, use of effective schools research, and planning for curricular improvement through the analysis of test scores are central components of the curriculum.

2. A principal is the chief administrator or head building administrator of any public elementary or secondary school or specialized education unit as defined by the local school district, or the chief administrator of an occupational education center.

3. A Principal Induction Program mentor is an experienced, practicing building-level principal or director selected by the school district superintendent/designee to provide support and assistance to new principals.

C. Participation

1. Beginning with the school year 1999-2000, any person appointed to serve for the first time as a building level principal, director of a specialized education unit, or occupational education center director must participate in the Principal Induction Program.

2. Principals appointed after the Principal Induction Program Summer Institute held for a week in July must participate in a make-up session in September and in Induction Program activities for the remainder of that school year.

D. Program Design and Content

The Principal Induction Program must consist of New Principals' Academy activities provided by the State Department of Education and school district orientation activities provided by the individual school districts. All components shall be based on statewide criteria and statewide performance standards for assisting, developing, and evaluating principals.

1. The combination of time for New Principals' Academy and district activities must not be less than twelve days: five days for the New Principals' Academy Summer Institute, three days for New Principals' Academy follow-up meetings, two days for district orientation activities, and two days for professional development related to the individual new principal's Professional Development Plan.

2. Districts developing their own program in lieu of the program offered by the Leadership Academy must secure approval of the program from the South Carolina Leadership Academy.

3. Each district must design a district orientation for new principals. Activities should include, but are not limited to, fiscal/budgetary policies and procedures, plant maintenance procedures, special education policies, student support services, outside agencies available in the district, curriculum requirements and resources, human resource policies and procedures, including ADEPT, and instruction on the Principal Evaluation Program criteria and standards.

4. The Leadership Academy must design a curriculum for the New Principals' Academy program. The New Principals' Academy curriculum should include, but is not limited to, planning, developing, and implementing a standards-driven system, instructional leadership skills, use of effective schools research, analysis of test scores for curricular improvement, school culture, school management, planning for school improvement, public relations, and/or planning for professional development.

5. Each new principal must be assigned a mentor principal from another nearby school district to provide support, information, and feedback. The mentor will assist the protégé in developing, refining, and implementing the protégé's Professional Development Plan based on the protégé's individual needs and the needs of the school as specified in the School Improvement Report. Mentors will be reimbursed travel costs at the state rate.

6. The Leadership Academy will train mentors for their role. Mentor responsibilities include calling and visiting the assigned new principal and having the new principal visit the mentor's school.

7. Each new principal will receive an on-site visit during the fall and one during the spring from a member of the South Carolina Leadership Academy staff to provide coaching, technical assistance, and feedback related to school leadership.

8. New principals may earn three hours of recertification credit if course requirements for attendance and participation are met.

E. Fiscal and Technical Requirements

1. The State Department of Education will pay for all training costs related to the New Principals' Academy. The district will be responsible for costs related to the district orientation and for participants' travel costs.

2. Reimbursement for mentor travel expenses will be made in accordance with the established State Department of Education fiscal policies.

F. Reporting Requirements

1. Each district superintendent will notify the South Carolina Leadership Academy of the appointment of new principals within two weeks of the appointment by the local board of school trustees.

2. Principals appointed after the make-up session must participate in the remaining Principal Induction Program activities for that school year and/or the New Principals' Academy Summer Institute the following year.

3. Each district superintendent will submit the names of experienced principals to serve as mentors when requested to do so by the Leadership Academy.

4. Each district will conduct evaluations for the district orientation and use the results to modify the orientation on an annual basis.

G. Additional Leadership Academy Responsibilities

1. The Leadership Academy will maintain a database of mentors nominated by the district superintendents and will assign mentors for new principals based on school level and proximity.

2. The Leadership Academy will maintain a database of new principals for each school year to provide information about program activities for all new principals.

3. The Leadership Academy will conduct evaluations for each part of the New Principals' Academy and use the results to modify the program on an annual basis.

Title of Regulation: **Regulation No.:** **R 43-168**

NUTRITION STANDARDS FOR ELEMENTARY SCHOOLS (K-5) SCHOOL FOOD SERVICE MEALS AND COMPETITIVE FOODS

Effective Date: **02/27/09**

Constitutional and Statutory Provisions:

Section(s):

59-5-60	General powers of [State] Board.
59-5-65	Powers and responsibilities of State Board of Education.
59-10-310, et seq.	Nutrition Standards

Code of Laws of South Carolina, 1976.

State Board Regulation:

Nutrition Standards for Elementary Schools (K-5) School Food Service Meals and Competitive Foods.

I. School Meals

Federal law--specifically, the National School Lunch Act (42 U.S.C. Section 1758(f), the National School Lunch Program (7 C.F.R. Section 210.10), and the School Breakfast Program (7 C.F.R. Section 220.8)--regulates the nutritional quality of foods served in the nation's school meal programs. For a school meal program to receive USDA subsidies, school meals must meet nutrition standards for saturated fat, vitamins, minerals, protein, calories, and portion sizes.

A. School food service meals should be made attractive to students by appealing to their taste preferences and meeting their cultural needs. Therefore, school districts must:

1. Offer a choice of entrées at lunch--a minimum of two in elementary (K-5) schools (one choice may be an entrée salad).

2. Encourage input regarding the selection of food items in elementary (K-5) schools to be offered in the school meal programs by promoting and encouraging student and parent participation in taste-testing events, in menu-review panels, and in online recipe reviewing.

3. Require that school cafeteria managers meet with student advisory committees in grades four through five a minimum of twice each year.

4. Allow students to purchase at ¶ la carte prices additional servings of any food item that is part of a reimbursable school meal (serving sizes should be comparable to those of the meal components).

B. School food service meals should not only provide the optimal nutrition that students need for growth, development, and academic achievement but should also support the development of healthful eating behaviors in students, including their learning to eat a variety of foods. Therefore, school districts must:

1. Offer a minimum of two milk choices (1 percent fat and nonfat milk) for all grade levels at breakfast and lunch. Whole milk is no longer required by USDA regulations.

2. Offer a low-fat meal choice (30 percent or less of calories from fat) at every meal.

3. Provide low-fat and nonfat salad dressings.

4. Provide information on calories, percentages of fat, and serving sizes of school meal items to help children select appropriate portions of food.

5. Offer a minimum of four choices of fruits and vegetables daily, including fresh fruits and vegetables in season, in elementary (K-5) schools (salad bars or prepackaged salads may be included). Students can take two to four servings based on the school district's discretion.

6. Offer whole-grain foods in all programs in elementary (K-5) schools, whenever possible, to meet bread and cereal requirements.

7. Encourage preschool, kindergarten, and elementary students to try a variety of foods by serving the full reimbursable meal.

II. Other Foods and Beverages (Competitive Foods)

A. All foods sold at any K-5 public school site should not only provide the optimal nutrition that students need for growth, development, and academic achievement but should also support the development of healthful eating behaviors in students. Therefore, school districts must:

1. Ensure that one serving of snacks, sweets, and side dishes has no more than 30 percent of calories from fat, less than 10 percent of calories from saturated fat, no more than 1 percent of calories from trans fatty acids, and no more than 35 percent of added sugar by weight. (Note: Nuts, seeds, and some cheeses are exceptions. Although more than 30 percent of their calories come from fat, these foods can be considered appropriate and nutritious snacks when served in small portions.)

2. Limit single-serving food items sold to students to the following maximum portion sizes: 1.25 ounces for snacks (includes baked chips, crackers, popcorn, cereal, trail mix, nuts, seeds, dried fruits, jerky); 2 ounces for cookies or cereal bars; 3 ounces for other bakery items (sweet rolls, muffins, etc.); 4 ounces for frozen desserts, including ice cream; 8 ounces for yogurt (not frozen); and 1/2 cup for fried potatoes or other fried vegetables.

3. Ensure that single servings of entrée items and side dishes are no larger than the portions of those foods served by school food services.

B. All beverages sold or otherwise made available to students at any K-5 public school site should not only provide the optimal nutrition that students need for growth, development, and academic achievement but should also support the development of healthful eating behaviors in students. Therefore, school districts must:

1. Make the following beverages available to all students: nonfat and 1 percent milk, water, and 100 percent juices that do not contain added sugars or sweeteners.

2. Not sell or serve the following beverages to students until after the last regularly scheduled class: soda, soft drinks, sports drinks, punches, iced teas and coffees, and fruit-based drinks that contain less than 100 percent real fruit juice or that contain added sweeteners.

3. Not sell beverages--except water or nonfat, low fat, or reduced-fat milk--in portions larger than 12 ounces.

Title of Regulation:	**Regulation No.:**	**R 43-188**
DISPLAYING THE FLAG	**Effective Date:**	**06/27/14**

Constitutional and Statutory Provisions:

Section(s):

10-1-161	State Capitol Building flags flown at half-staff.
59-5-60	General powers of [State] Board.
59-1-320	Display of United States and State flags.
	4 U.S.C. Section 1, *et seq.*

Code of Laws of South Carolina, 1976.

4 U.S.C. 1, *et seq.*	The Flag Code.

U.S. Code of Laws

State Board Regulation:

Displaying the Flag.

43-188. Displaying the Flag.

I. Display of the United States Flag

Schools shall display the United States flag each school day and shall fly the flag in accordance with the laws regulating the display of the United States flag as set forth in 4 U.S.C. Section 6-10 and consistent with the guidance related to the State Capitol Building as set forth in S.C. Code Ann. Section 10-1-161.

II. South Carolina Flag

The South Carolina flag shall be flown consistent with 4 U.S.C. Section 6-10 and the guidance related to the State Capitol Building as set forth in S.C. Code Ann. Section 10-1-161 as it applies to the flying of state flags with the United States flag.

Personnel & Certification

Title of Regulation:	**Regulation No.:**	**R43-50**
PERSONS REQUIRED TO HOLD A TEACHING CERTIFICATE	**Effective Date:**	**06/25/99**

Constitutional and Statutory Provisions:

Section(s):
59-5-60. General powers of [State] Board.
Code of Laws of South Carolina, 1976.

State Board Regulation:

Persons Required to Hold a Teaching Certificate

Each individual employed in an instructional, classroom teaching position or who serves in a position designed for the support of the instructional program in a public school of this state must hold an appropriate South Carolina teaching credential. The licensing of related educational professionals in the areas of Audiology, Nursing, and Social Work is remanded to the established licensing boards effective July 1, 2000. Individuals employed as Trade and Industrial teachers are required to meet all general certification requirements except where specified otherwise.

Title of Regulation: **Regulation No.:** **R 43-51**

CERTIFICATION REQUIREMENTS **Effective Date:** **06/27/03**

Constitutional and Statutory Provisions:

Section(s):

59-5-60.	General powers of [State] Board.
59-25-110.	System for examination and certification of teachers.

Code of Laws of South Carolina, 1976.

State Board Regulation:

Certification Requirements.

I. Requirements for Certification

The applicant must meet all requirements for certification that are in effect in the current application year (July 1-June 30). The responsibility for providing accurate and complete documentation of eligibility for certification is that of the applicant. To qualify for certification in South Carolina, the applicant must fulfill the following requirements:

A. Earn a bachelor's or master's degree either from an institution that has a state-approved teacher education program and is accredited for general collegiate purposes by a regional accreditation association, or from a South Carolina institution that has programs approved for teacher education by the State Board of Education, or from an institution that has programs approved for teacher education by the National Council for Accreditation of Teacher Education (NCATE). Professional education credit must be earned through an institution that has a teacher education program approved for initial certification.

1. Graduate degrees acceptable for certificate advancement include academic or professional degrees in the field of education or in an academic area for which a corresponding or relevant teaching area is authorized by the State Board of Education.

2. All credit at the graduate level must be earned through the graduate school of an institution that is accredited for general collegiate purposes by a regional accreditation association and that has a regular graduate division that meets regional accreditation requirements. Graduate credit can also be earned through a South Carolina institution that has graduate programs approved for teacher education by the State Board of Education or through an institution that has graduate programs approved for teacher education by the National Council for Accreditation of Teacher Education (NCATE).

B. Submit the required teacher area examination score(s) as adopted by the State Board of Education for purposes of certification. Effective July 1, 2006, the required score on the examination of general professional knowledge (pedagogy) as adopted by the State Board of Education for purposes of certification will be required for initial certification. Until that date, the general professional knowledge (pedagogy) examination will be required only for professional certification.

C. Be at least eighteen years of age.

D. Undergo a criminal records check by the South Carolina Law Enforcement Division and a national criminal records check supported by fingerprints conducted by the Federal Bureau of Investigation. If the applicant does not complete the initial certification process within eighteen months from the original date of application, the FBI fingerprint process must be repeated. Eligible applicants who have prior arrests and/or convictions must undergo a review by the State Board of Education and be approved before a certificate can be issued to them. Background checks from other states are not transferable to South Carolina.

II. Acceptable Credits

A. All credits are computed by semester hours; three quarter hours are equivalent to two semester hours.

B. Duplicate credit will not be allowed for courses with the same title unless approved by the Office of Teacher Certification of the State Department of Education.

III. Out-of-State Applicants

A. To be eligible for a South Carolina teaching certificate, the out-of-state applicant must submit the teaching area examination score(s) and the score on the examination of general professional knowledge (pedagogy) that are required for certification in the state in which he or she holds a valid standard out-of-state certificate. If no tests were required for certification in the state where the individual holds a valid standard certificate, the applicant for South Carolina certification must submit the required teaching area examination score(s) as adopted by the State Board of Education for purposes of certification. If the applicant has less than twenty-seven months of successful teaching experience within the last seven years in the state in which he or she holds a valid standard certificate, he or she must also submit the required score on the examination of general professional knowledge (pedagogy) as adopted by the State Board of Education for purposes of certification.

B. Initial or advanced certification will be awarded only in the area(s) of certification held by the out-of-state applicant that most closely conform(s) to corresponding or relevant South Carolina area(s) of certification.

IV. Program of Alternative Certification for Educators (Alternative Teacher Preparation).

An individual who qualifies under the Program of Alternative Certification for Educators (PACE) guidelines as adopted by the State Board of Education may be issued an alternative route certificate. Successful completion of certification requirements as prescribed in the PACE guidelines will qualify the applicant for a professional certificate.

V. Student Teachers

A. All individuals pursuing undergraduate or graduate programs leading to initial teacher certification must complete the student teaching requirement adopted by the State Board of Education.

B. An individual who has met all requirements for certification except student teaching may request that three years teaching experience be used in lieu of student teaching for certification purposes under the following conditions:

1. The teaching experience must be at least three full years as the teacher of record and earned in an accredited public or private school in grades K-12 or at a postsecondary institution. Combinations of

partial year teaching assignments may be used. Experience must be post baccalaureate to be eligible for consideration.

2. The teaching experience must be in the area of preparation and in the area in which the applicant is applying for certification.

3. The individual must submit a letter or letters of recommendation, attesting to the successful evaluation of teaching in the certification area, written by the administrative authority of the school or school district where he or she has taught for the specified period.

4. The individual must submit copies of school or school district evaluations providing evidence of his or her successful teaching.

5. The individual must submit evidence from the institution of higher education affirming that he or she has met all requirements for the approved teacher education program with the exception of student teaching.

C. Applicants for certification in work-based career and technology education are not required to complete student teaching.

VI. Required Examinations.

A. All applicants must submit the required teaching area examination score(s) as adopted by the State Board of Education for purposes of certification. Effective July 1, 2006, the required score on the examination of general professional knowledge (pedagogy) as adopted by the State Board of Education for purposes of certification will be required for initial certification. Until this date, the general professional knowledge (pedagogy) exam will be required only for professional certification.

B. An initial certificate will be issued to individuals who seek certification in areas for which no teaching area examination exists and who meet all requirements for certification in effect on the date that the Office of Teacher Certification receives all required documentation other than a certification test score. Once a test for the particular area of certification is adopted by the State Board of Education, these individuals will be required to present a passing score on the test within one year following the Board's action.

C. Certification in work-based career and technology education requires the successful completion of all sections of the basic skills examination and the trade competency examination adopted by the State Board of Education for work-based career and technology education.

VII. Verification of Eligibility

The Office of Teacher Certification of the State Department of Education may verify the eligibility of an applicant for certification by ascertaining

(a) that the applicant has verified his or her completion of a state approved teacher preparation program

OR

(b) that the applicant has a valid corresponding certificate from a state with which South Carolina has reciprocity through the Interstate Agreement on Qualifications of Educational Personnel

OR

(c) that the applicant has met the requirements for the Program of Alternative Certification for Educators (PACE) for certification.

Title of Regulation:	**Regulation No.:**	**R 43-53**
CREDENTIAL CLASSIFICATION	**Effective Date:**	**05/25/12**

Constitutional and Statutory Provisions:

Section(s):

59-5-60(1).	General powers of [State] Board
59-25-110.	System for examination and certification of teachers
59-26-10, et seq.	Training, Certification, and Evaluation of Public Educators

Code of Laws of South Carolina, 1976.

20 U.S.C. § 6301, et seq. No Child Left Behind Act of 2001
U.S. Code of Laws

State Board Regulation:

Credential Classification

I. Types of Credential Classification

A. Initial Certificate

An initial certificate is valid for three years. Beyond the initial three-year validity period, teachers who do not yet meet the requirements for professional certification, but who are employed by a public school district at the annual contract level, as defined in S.C. Code Ann. Section 59-26-40, may have their certificates renewed annually at the request of the employing school district.

Teachers who hold initial certificates and are employed in a nonpublic school educational setting may have their certificates renewed annually for an indefinite period at the request of the educational entity, provided that certificate renewal requirements, as specified in R.43-55 (Renewal of Credentials) are met every five years.

Teachers who hold initial certificates but who are not employed by a public school district in a position requiring certification at the time the initial certificate expires, and who have not otherwise met the requirements for professional certification, may reapply for an initial certificate at such time as they become employed by a public school district or private school, subject to the requirements for initial certification in effect at the time of reapplication. To qualify for an initial certificate, the applicant must fulfill the following requirements:

1. Earn a bachelor's or master's degree either from an institution that has a state-approved teacher education program and is accredited for general collegiate purposes by a regional accreditation association, or from a South Carolina institution that has programs approved for teacher education by the State Board of Education, or from an institution that has programs approved for teacher education by the National Council for Accreditation of Teacher Education (NCATE). Professional education credit must be earned through an institution that has a teacher education program approved for initial certification.

2. Submit the required teaching area examination score(s) as adopted by the State Board of Education for purposes of certification. Effective July 1, 2006, the required score on the examination of general professional knowledge (pedagogy) as adopted by the State Board of Education for purposes of certification will also be required for the initial certification. Until that date, the general professional knowledge (pedagogy) exam will be required only for the professional certification.

3. Undergo a criminal records check by the South Carolina Law Enforcement Division and a national criminal records check supported by fingerprints conducted by the Federal Bureau of Investigation. If the applicant does not complete the initial certification process within eighteen months from the original date of application, the FBI fingerprint process must be repeated. Eligible applicants who have prior arrests and/or convictions must undergo a review by the State Board of Education and be approved before a certificate may be issued. Background checks from other states or agencies are not transferable to South Carolina.

B. Professional Certificate

All professional certificates are valid for five years. To qualify for each successive level of professional certification (bachelor's degree, bachelor's degree plus 18 hours, master's degree, master's degree plus 30 hours, and doctorate), an applicant must

1. Meet all criteria for initial area of certification and have earned a bachelor's degree that meets State Board of Education regulations for teacher certification and program approval and successfully complete the induction program, the ancillary requirements (including any additional testing requirements approved by the State Board of Education), and the formal evaluation of teaching performance and effectiveness approved by the State Board of Education

OR

2. Successfully complete the requirements for reciprocity according to Interstate Agreement on Qualifications of Educational Personnel

OR

3. Hold a valid National Board teaching certification.

C. Alternative Route Certificate

The alternative route certificate is valid for one year initially. The certificate will be issued to those individuals who qualify under the Program for Alternative Certification for Educators (PACE) guidelines as adopted by the State Board of Education. Alternative certificates can be renewed twice on the basis of successful completion of annual program requirements as approved by the State Board of Education. The teacher will be eligible for a professional certificate upon his or her successful completion of all program requirements within the three-year program period, including additional testing requirements approved by the State Board of Education and the formal evaluation of teaching performance and effectiveness approved by the State Board of Education.

D. International Certificate

An International Certificate may be issued to a teacher from a country outside of the United States provided the individual has completed at least a bachelor's degree with a major in the teaching field. Organizations that recruit and select teachers from other countries to teach in South Carolina must assure that all cultural/educational visa requirements have been met. The International Certificate will be renewed annually for up to three years at the request of the local school district, provided the teacher has met the certification examination requirements specified by the State Board of Education during the first year of certification.

E. Internship Certificate

1. The Internship Certificate will be issued to individuals who are currently enrolled in a State Board of Education approved teacher education program in South Carolina and have completed all academic and bachelor's degree requirements, with the exception of the teaching internship, as well as all certification examination requirements. The certificate will be issued for up to one year, and must be requested by the employing school

district. Upon completion of the teaching internship and verification by the college or university that all approved program requirements have been met, the internship certificate will be converted to an initial certificate.

2. The Internship Certificate will also be issued to any individual who is serving the required internship for certification as a School Psychologist I or II under the supervision of a certified School Psychologist II or III, or who is serving the required internship for School Psychologist III under the supervision of a certified School Psychologist III.

The applicant for the Internship Certificate in School Psychology must submit official written verification from the college or university that he or she is currently enrolled and working toward full certification as a school psychologist, and that the internship is being served through a State Board of Education-approved training program. The Internship Certificate may be renewed once on the basis of written documentation from the director of the school psychology program that the applicant is a full-time student in the program during the second year of the renewed certificate.

3. The Internship Certificate will also be issued to any individual who holds the Certificate of Clinical Competence in Speech-Language Pathology issued by the American Speech-Hearing Association (ASHA) or who has completed a master's degree that includes the academic and clinical requirements for the ASHA Certificate of Clinical Competence and has achieved the minimum qualifying score on the required certification examination(s). The certificate will be effective for one academic year and must be requested by the employing school district. The Internship Certificate may be converted to a professional certificate upon verification of a successful evaluation of the individual's performance during the initial year of employment.

F. Limited Professional Certificate

The purpose of the Limited Professional Certificate is to provide a certificate advancement option for educators who hold South Carolina Initial teaching certificates and who are employed as educators in eligible, non-regulated educational entities in this state. In this context, “non-regulated” means that the entity is not required to comply with State Board of Education regulations and guidelines for evaluating educator performance and effectiveness. Examples of eligible, non-regulated educational entities include South Carolina public charter schools that elect not to participate in the State Board of Education–approved process for evaluating teacher performance and effectiveness, state or regionally accredited private and parochial schools in South Carolina, and South Carolina institutions of higher education that have programs approved for teacher preparation by the State Board of Education.

1. In order to be eligible to advance from an initial certificate to a Limited Professional Certificate, the educator must be employed by an eligible, non-regulated educational entity in South Carolina and must have accrued a minimum total of three years of experience credit over the previous seven years in one or more of these entities. During the entirety of the qualifying time period, the educator must

(a) hold a valid South Carolina Initial teaching certificate,

(b) be employed as a teacher or a professional support specialist, such as a library media specialist, school guidance counselor, or other support professional, in an area in which the educator holds Initial certification, and

(c) successfully complete an annual performance evaluation process that is approved by the employing educational entity.

2. In order to activate the certificate advancement process (i.e., from Initial to Limited Professional), the educator must submit the following documents to the SCDE office that is responsible for educator certification:

(a) a request for change/action requesting advancement for the Limited Professional Certificate,

(b) official verification of experience,

(c) verification of successful annual performance evaluations from each employing entity, and

(d) a recommendation for the Limited Professional Certificate signed by the head of the educational entity in which the educator is employed at the time the certificate is requested.

3. All Limited Professional Certificates are valid for a period of five years.

4. Requirements for renewing Limited Professional Certificates, including the provisions for expired certificates, are the same as those for Professional Certificates, as specified in State Board of Education Regulation 43-55 (Renewal of Credentials).

5. An educator who holds a valid Limited Professional Certificate and who applies for a position as a teacher or a professional support specialist in a "regulated" South Carolina public school is eligible for employment at the annual-contract level. Once employed under an annual contract, the teacher is subject to all requirements and sanctions for annual-contract teachers, as set forth in the applicable state statutes, regulations, and guidelines. Upon successful completion of the State Board of Education–approved process for evaluating teaching performance and effectiveness, the educator is eligible to move from a Limited Professional Certificate to a Professional Certificate and to be employed under a continuing contract.

G. Temporary Certificate

A temporary certificate is valid for a period of one year. Full certification (initial or professional) may be obtained when the educator submits verification of the required course work, required practicum, and/or required certification examination scores. Due to the requirements for highly qualified teachers mandated by the No Child Left Behind Act of 2001, 20 U.S.C. Section 6301 *et seq.* (2002), the following types of temporary certificates may be issued only until June 30, 2006, and will be limited or phased out after that date.

1. Temporary Certificate for Out-of-State Certified Teacher

(a) Any individual who holds a valid teaching certificate from another state but does not meet one or more of South Carolina's certification requirements is eligible for a temporary certificate for up to one year. Temporary certificates issued to out-of-state certified teachers are issued only for the academic year in which they are requested and expire June 30.

(b) After June 30, 2006, temporary certificates may no longer be issued to teachers who teach core academic subjects as specified by the No Child Left Behind Act of 2001. The core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics, government, economics, history, geography, and the arts. Temporary certificates may be issued, however, in other instructional or instructional support fields not considered to be core content subjects under No Child Left Behind.

2. Transitional Certificate

Any individual who has completed a teacher preparation program but has not submitted a passing score on the required certification examination(s) will be eligible for a transitional certificate for up to one year. Transitional certificates are issued only at the request of the employing school district. The employing district must apply for a transitional certificate no later than thirty days after the date of assignment. Transitional certificates are issued only for the academic year in which they are requested and expire June 30. The transitional certificate will no longer be issued after June 30, 2006.

3. Out-of-Field Permit

(a) Any individual who holds a valid South Carolina temporary, professional, initial, alternative, graded, or warrant certificate and is assigned teaching duties for any amount of time in an area for which he or she is not appropriately certified is eligible to receive a permit to teach out-of-field. However, permits are not issued for school

psychologists, speech-language therapists, and special subject educators. Out-of-field permits are issued only under the following conditions:

(i) The school district must request the out-of-field permit for its employee. The employing district must apply for a permit no later than thirty days after the date of assignment. Out-of-field permits are issued only for the academic year in which they are requested and expire June 30.

(ii) The individual for whom the permit is requested must hold a valid South Carolina teaching credential and have twelve semester hours of credit toward full certification in the area of preparation for which the permit is requested.

(b) Out-of-field permits may be renewed upon presentation of six semester hours of credit in the area for which the permit is issued. Once the teacher meets all the certification requirements, including the required certification examination(s), he or she may apply for a certificate in the new area.

(c) After June 30, 2006, out-of-field permits may no longer be issued to teachers who teach core academic subjects as specified by the No Child Left Behind Act of 2001. The core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics, government, economics, history, geography, and the arts. Permits may be issued, however, in other instructional or instructional support fields not considered to be core content subject areas under No Child Left Behind.

4. Graded Certificate and Warrant

The State Board of Education discontinued the issuance of graded certificates on July 1, 1971, and the issuance of warrants in November 1976. Due to the requirements of the No Child Left Behind Act of 2001 for highly qualified teachers, neither warrants nor graded certificates with less than a grade of A will be acceptable certificates for teaching in a South Carolina public school after June 30, 2006.

(a) Graded Certificate. To qualify for the professional certificate, an individual who currently holds a grade B, C, or D certificate must fulfill one of the following requirements:

(i) achieve the minimum required score on the required specialty area examination(s)

OR

(ii) add an area of certification to the initial graded certificate by meeting all requirements of the State Board of Education for that additional area, including a minimum qualifying score on the appropriate certification examinations(s) and verification of at least three years of teaching experience in the additional area.

(b) Warrant. Current warrant certification cannot be advanced beyond the bachelor's degree level or beyond four years of experience. Only a bachelor's degree-level certification may be added to a warrant certification. To qualify for a professional certificate or to maintain a warrant certification (until June 30, 2006), the individual must

(i) earn the required six semester hours or the equivalent every five years, as stipulated in certificate renewal requirements, and

(ii) remove all certification deficiencies (specialty area examination(s) and/or course requirements) by meeting current certification requirements.

5. Special Subject Certificate

A Special Subject Certificate may be issued to an individual who qualifies under the guidelines established by the State Board of Education and must be requested by the employing school district. The certificate will be issued initially for one year but may be renewed annually provided the applicant submits the required score on the appropriate certification examination(s) in the content area in which he or she is teaching during the initial year of

certification. After June 30, 2006, special subject certificates may no longer be issued to teachers who teach core academic subjects as specified by the No Child Left Behind Act of 2001. The core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics, government, economics, history, geography, and the arts. Special subject certificates may be issued, however, in other instructional fields not considered to be core content subjects under No Child Left Behind.

II. Levels of Credential Classification

A. Bachelor's degree: the educator must meet all criteria for an initial area of certification and have earned a bachelor's degree that meets State Board of Education regulations for teacher certification and program approval.

B. Bachelor's degree plus 18 hours: the educator must have 18 hours of graduate credit that he or she earns within seven years from the time the course work is started. Individuals who do not complete the requirements during the seven years must request that the college/university revalidate the course credits before the work can be submitted for credential advancement.

C. Master's degree: the educator must have earned a master's degree that meets State Board of Education regulations for teacher certification and program approval.

D. Master's degree plus 30 hours:

In order to advance to the level of master's degree plus 30 hours, the educator must fulfill either one of the following requirements:

1. The educator must earn 30 semester hours of graduate credit above the master's degree with 21 hours of the graduate credit in one area of concentration. These hours may or may not be in the teacher's initial area of certification. The course work must be completed within seven years from the time it was started. Individuals who do not complete the course work during the seven years must request that the college/university revalidate the course credits before the work can be submitted for credential advancement.

OR

2. The educator must earn an additional master's degree or specialist's degree that meets State Board of Education regulations for teacher certification and program approval.

E. Doctorate: the teacher must have earned a doctoral degree that meets the State Board of Education regulations for teacher certification and program approval.

III. Requirements for Credential Advancement

A. To advance his or her credential from one classification to another, the applicant must submit to the Office of Teacher Certification the following:

1. Written request to have the certificate advanced on the designated Office of Teacher Certification action form.

2. Documentation, including transcripts, that State Board of Education requirements have been met for certificate advancement.

3. The specified fee, if such a fee is currently being charged.

B. The effective date of the credential advancement will be based on the following:

1. If the applicant becomes eligible for a revised level of credential between November 1 and April 30, the credential will become valid either from the date the teacher submits the completed application with all the necessary

documentation or from the date on which the teacher completes the requirements for the credential, provided that the teacher files his or her application in the Office of Teacher Certification within forty-five calendar days after the date on which he or she completes the requirements.

2. If the applicant becomes eligible for a revised level of credential after April 30, the credential will become valid on July 1 of the calendar year in which he or she completes the existing requirements, provided that the completed application is submitted on or before November 1.

Title of Regulation: **Regulation No.: R 43-55**

RENEWAL OF CREDITS **Effective Date**: **6/27/03**

Constitutional and Statutory Provisions:

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

59-5-60 (1990)	General powers of [State] Board
59-5-65 (1990 and Supp. 2002)	Powers and responsibilities of State Board of Education
59-25-110 (1990)	System for examination and certification of teachers

Descriptor Code: None

State Board Regulation:

Renewal of Credentials

I. For the purposes of this regulation an educator is defined as any person who holds a professional certificate issued by the South Carolina Department of Education.

II. An educator's professional certificate is valid for five years and expires on June 30 of the expiration year.

III. The total number of years an individual has held any type of temporary credential issued by the South Carolina Department of Education will be deducted from the normal five-year period of the professional certificate at the time of issue.

IV. To renew a professional certificate, educators must comply with all applicable guidelines relative to certificate renewal options and criteria, renewal credits, and verification requirements, in accordance with the current Certificate Renewal Plan, as developed by the Office of Teacher Certification and approved by the State Board of Education, as follows:

(A) An applicant who is employed in a position that requires educator certification must maintain verification of having earned a minimum of 120 renewal credits during the certificate's five-year validity period. Renewal credits may be earned through professional activities that directly relate to the educator's professional growth and development plan, support the goals of the employing educational entity, and promote student achievement, as required by Regulation 43-205.1, Assisting, Developing, and Evaluating Professional Teaching (ADEPT), and Regulation 43-165.1, Program for Assisting, Developing, and Evaluating Principal Performance (ADEPP).

(B) An applicant who is not employed in a position that requires educator certification but who chooses to maintain a current certificate must submit verification of having earned a minimum of 120 renewal credits during the certificate's five-year validity period. Renewal credits may be earned through professional activities that directly relate to the educator's current area(s) of certification or to a formal program of study (master's, specialist, or doctorate) in a certification area in which the educator is officially enrolled.

V. Educators who do not hold a master's degree must earn a minimum of sixty renewal credits of the 120 credits required during each five-year validity period by completing at least three semester hours of college credit at the graduate level. These credits must be earned from a national or regionally accredited college or university or through a college or university that has *graduate* programs approved for teacher education by the State Board of Education.

VI. Renewal credits earned in state-identified areas of critical needs may be applied toward certificate renewal.

VII. Applicants must comply with current State Department of Education approved Certificate Renewal Plan guidelines relative to obtaining, verifying, and submitting renewal credits. Applicants also are responsible for paying any required fee for credential renewal to the Office of Teacher Certification.

VIII. Credit will not be allowed for a renewal activity that is repeated unless the activity has received prior written approval in writing from the Office of Teacher Certification.

IX. Regulations governing effective dates of renewed certificates will be the same as those for initial and revised certificates, as specified in State Board of Education Regulation 43-52.

X. A South Carolina professional teaching credential that has been expired

(A) for less than five (5) years may be extended upon written request from the educator to the Office of Teacher Certification. This nonrenewable extension is valid for one (1) year, during which time the school district or educator must submit verification that the educator has fulfilled all current requirements for renewal of the Professional Certificate. Upon verification that all requirements have been met, the Professional Certificate will be renewed for the remainder of the validation period (i.e., four additional years).

(B) for more than five (5) years, but less than ten (10) years, may be extended for a maximum of one (1) year at the written request of the school district that intends to employ the educator. During this one-year extension, the school district or educator must submit verification that the educator has met all current requirements for renewal of the Professional Certificate. Upon verification that all requirements have been met, the Professional Certificate will be renewed for the remainder of the validation period (i.e., four additional years).

(C) for more than ten (10) years will require that the educator either reapply for initial certification under the current requirements or satisfy current interstate reciprocity requirements.

Title of Regulation:	**Regulation No.:** **R43-56**
FOREIGN APPLICANTS	**Effective Date:** **06/25/99**

Constitutional and Statutory Provisions:

Section 59-5-60. General powers of [State] Board.
Code of Laws of South Carolina, 1976 (Revised 1990).

Descriptor Code: None

State Board Regulation:

Foreign Applicants

Applicants for initial teacher certification who have foreign transcripts or other credentials must consult with appropriate personnel at a regionally or nationally accredited college approved for teacher education purposes or which has programs approved for teacher education by the South Carolina State Board of Education to determine if requirements are met in the certification area.

Title of Regulation:	**Regulation No.:**	**R 43-57**
PRIOR WORK EXPERIENCE TEACHERS	**Effective Date:**	**05/88**

Constitutional and Statutory Provisions:

Section(s):
59-5-60. General powers of [State] Board.
Code of Laws of South Carolina, 1976.

State Board Regulation:

Prior Work Experience.

The State Department of Education shall maintain records indicating the work experience for which persons are entitled.

Title of Regulation:	**Regulation No.:**	**R 43-57.1**
COMPUTING THE EXPERIENCE OF TEACHERS	**Effective Date:**	**06/22/01**

Constitutional and Statutory Provisions:

Sections:

59-5-60.	General powers of [State] Board.
59-5-110.	Powers and duties of State Educational Finance Commission devolved upon Board; survey of school system.

S.C. Code Ann. Section(s) (1990) and S.C. Code Ann. Section(s) (Supp. 2000)

Descriptor Code:

State Board Regulation:

Computing the Experience of Teachers

A. In the computation of experience credit, the following conditions will apply.

1. Full-time equivalents (FTEs) of the 190-day school year will be utilized as the basis of computation. The minimum experience to be credited shall be one-tenth (.1) FTE per year; the maximum experience to be credited shall be one (1) FTE per year. A school day is defined as a minimum of seven hours.

2. One year of experience may be credited provided the teacher is employed in a full-time position for a minimum of eight-tenths (.8) of the contract year but in no case fewer than 152 days.

3. Partial-year experience may be utilized to compute full years of experience provided the sum of the partial experience meets the requirement stated in number 1, above.

4. Summer school teaching credit will be calculated at the rate of two (2) days of summer school as the equivalent of one (1) regular school day provided the teacher works one (1) session for four (4) hours per day or at the rate of one (1) regular school day provided the teacher works two (2) sessions for eight (8) hours per day. Summer school teaching credit may be added to partial years of experience.

Title of Regulation:	**Regulation No.:**	**R43-57.2**
TEACHING EXPERIENCE ACCEPTABLE FOR CREDIT	**Effective Date:**	**06/22/01**

Constitutional and Statutory Provisions:

Section 59-5-60. General powers of [State] Board.
S.C. Code Ann. Section(s) (1990) and S.C. Code Ann. Section(s) (Supp. 2000).

Descriptor Code: None

State Board Regulation:

Teaching Experience Acceptable for Credit

A. To receive experience credit, the applicant must provide an official description of the professional duties for which he or she wishes to receive the credit. These duties must have been connected to the primary educational program through teaching, education administration, curriculum development, or teacher training. With the exception of trade and industry experience credit (see R. 43-63), employment must meet the requirements for full-time or half-time employment as stated below.

B. For an individual to receive experience credit, he or she must verify full-time or half-time employment in one of the following educational positions:

1. A professional position in a public, private, or parochial elementary or secondary school.

2. A professional position in a regionally or nationally accredited institution of higher education or an institution with teacher education programs approved by the South Carolina State Board of Education.

3. A position as a teacher's aide, provided the applicant had an earned undergraduate degree during the period of employment.

4. A professional education position in a teacher exchange program or a city, county, state, or federal education program for school-aged or adult populations.

5. A professional education or training position in a privately funded education program for school-aged or adult populations.

6. A professional education position in a city, county, state, or federal educational system that supports the primary education program for a school-aged or adult population.

Title of Regulation:	**Regulation No.:**	**R 43-57.5**
MILITARY EXPERIENCE	**Effective Date:**	**1991**

Constitutional and Statutory Provisions:

S.C. Code Ann. Section 59-5-60 (1990)	General powers of [State] Board
S.C. Code Ann. Section 59-5-65 (1990 and Supp. 2001)	Powers and responsibilities of State Board of Education

Descriptor Code:

State Board Regulation:

Experience credit may be granted for up to five years of service in the Armed Forces provided the applicant held a valid South Carolina or out-of-state teaching credential prior to or during the period of military service.

Title of Regulation:	**Regulation No.:**	**R 43-58**
DISCIPLINARY ACTION ON EDUCATOR CERTIFICATES	**Effective Date:**	**5/26/06**

Constitutional and Statutory Provisions:

S.C. Code Ann. §§:

59-1-445 (2004)	Violations of mandatory test security; penalties; investigations.
59-5-60 (2004)	General powers of [State] Board.
59-5-65 (2004)	Powers and responsibilities of State Board of Education.
59-25-110, *et seq.* (2004)	System for examination and certification of teachers.
59-25-530 (2004)	Unprofessional conduct; breach of contract.
59-26-40 (Supp. 2005)	Induction; annual and continuing contracts; evaluations; termination of employment for annual contract teacher; hearing.
20-7-840, *et seq.* (Supp. 2005)	Persons who may file petition for support

Descriptor Code:

State Board Regulation:

The State Board of Education has the legal authority to deny, revoke, or suspend a certificate, or issue a public reprimand, for the following causes:

1. incompetence,
2. willful neglect of duty,
3. willful violation of the rules and regulations of the State Board of Education,
4. unprofessional conduct,
5. drunkenness,
6. cruelty,
7. crime against the law of this state or the United States,
8. immorality,
9. any conduct involving moral turpitude,
10. dishonesty,
11. evident unfitness for the position for which one is employed,
12. sale or possession of narcotics,
13. obtaining or attempting to obtain a certificate by fraudulent means or through misrepresentation of material facts,
14. failure to comply with the provisions of a contract without the written consent of the local school board,
15. test security violation,
16. failure to comply with a court order for child support, and
17. failure for a second time to complete successfully the formal evaluation process as an annual contract teacher.

Title of Regulation: **Regulation No.: R43-58.1**

REPORTING TERMINATIONS OF CERTAIN SCHOOL DISTRICT EMPLOYEES **Effective Date:** 07/93

Constitutional and Statutory Provisions:

Sections:

59-5-60. General powers of [State] Board.

59-25-110, et seq. System for examination and certification of teachers.

Code of Laws of South Carolina, 1976.

Descriptor Code: None

State Board Policy:

Reporting of Terminations of Certain School District Employees.

A district superintendent, on behalf of the local board of education, shall report to the Chair of the State Board of Education and the State Superintendent of Education, the name and certificate number of any certified educator who is dismissed, resigns, or is otherwise separated from employment with that district based on allegations of misconduct including, but not limited to, misconduct involving drugs, sexual misconduct, the commission of a crime, immorality, moral turpitude, or dishonesty, that is reasonably believed by the district superintendent to constitute grounds for revocation or suspension of the certificate issued to the educator by the State Board. This report is required notwithstanding any termination agreement to the contrary that the district board of trustees or superintendent may enter into with the educator. The reasons for the educator's termination of employment with the district shall also be provided along with all evidence in the possession of the district relating to the termination.

The intentional failure of a district board of trustees to instruct the district superintendent to report the termination of school employees as required by this regulation shall be considered by the State Department as an accreditation deficiency pursuant to R43-130 and, upon approval of the State Board of Education, all district schools will be placed on an accreditation status of probation.

The intentional failure of a district superintendent to report the termination of employees as required by this regulation shall be considered an act of unprofessional conduct and may be sufficient cause for revocation of such person's education certificate pursuant to Section 59-25-160, Code of Laws of South Carolina, 1976.

Pending the issuance of a Final Order revoking or suspending a certificate by the State Board in a proceeding pursuant to Section 59-25-260, Code of Laws of South Carolina, 1976, no preliminary information gathered by the State Department of Education concerning misconduct reasonably believed to constitute grounds for revocation or suspension of a certificate, including the name and certificate number of the certified educator, shall be disclosed to any third party.

Title of Regulation	**Regulation No.:**	**43-62**
REQUIREMENTS FOR ADDITIONAL AREAS OF CERTIFICATION	**Effective Date:**	**06/26/15**

Constitutional and Statutory Provisions:

Section(s):

59-5-60(1).	General powers of [State] Board
59-25-110.	System for examination and certification of teachers
59-26-10, et seq.	Training, Certification, and Evaluation of Public Educators

Code of Laws of South Carolina, 1976.

20 U.S.C. § 6301, et seq. No Child Left Behind Act of 2001
U.S. Code of Laws

State Board Regulation

43-62. Requirements for Additional Areas of Certification.

I. GENERAL INFORMATION

A. Individuals who desire to add a full-field content area of certification to an existing certificate must complete a State Board of Education–approved program and present a passing score on the appropriate content-area examination(s) in the specific subject field, or complete the content area add-on certification requirements specified in the State Board of Education–approved Guidelines and Requirements for Content Area Add-on Certification and Endorsements.

B. In addition to adding on full-field content areas to an existing certificate, an individual may add endorsements in specialized areas to recognize additional expertise. In some instances, an endorsement may be required to teach specific courses. In other instances, the endorsement represents additional training and study to enhance an educator's professional practice. In order to add an endorsement, an educator must complete the specific requirements for that area as outlined in the State Board of Education–approved Guidelines and Requirements for Content Area Add-on Certification and Endorsements.

C. In the event that the State Board of Education should eliminate, revise, or adopt new certification areas, currently certified individuals who are affected may retain the areas of certification for which they previously qualified. However, the State Board of Education may require previously certified individuals to upgrade their certification by completing the new requirements within a specified period of time.

D. The following designations apply to the grade spans for teacher certification in South Carolina, effective September 1, 2005.

CERTIFICATION GRADE SPANS

Early Childhood = pre-Kindergarten–grade 3
Elementary = grades 2–6

Middle-level = grades 5–8
Secondary = grades 9–12

The areas of art, music, physical education, English for Speakers of Other Languages (ESOL), foreign languages, theater, and exceptional children education have a pre-Kindergarten (pre-K–12) grade span, with the exception of Early Childhood Special Education.

E. Instructional areas may not be added to certificates in guidance, media specialist, or school psychologist unless the applicant has completed a teacher education program designed and approved for initial certification purposes.

F. Certification is divided into five sections: (1) content area, (2) exceptional children education, (3) career and technology education, (4) specialized endorsements, and (5) specialized alternative certification.

II. CONTENT AREA ADD-ON CERTIFICATION REQUIREMENTS

A. The add-on of a content area of certification to an existing valid certificate allows the educator to practice and be considered in-field in that additional content area. Prerequisites for adding-on a content area to a current certificate are the following:

1. Bachelor's degree;
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 Level;
3. Minimum qualifying score(s) on the content area examination(s) required by the State Board of Education; and
4. Completion of all required course work with an equivalent of a grade of "C" or better.

B. The following content areas may be added to an existing valid certificate. Specific requirements for each area will be outlined in the State Board of Education–approved Guidelines and Requirements for Content Area Add-on Certification and Endorsements.

1. Art
2. Driver Education
3. Early Childhood Education
4. Elementary Education
5. English
6. English for Speakers of Other Languages (ESOL)
7. Gifted and Talented
8. Health Education
9. Mathematics
10. Middle-level Education
11. Music Education
12. Physical Education
13. Science
14. Social Studies
15. Theater
16. World Languages
17. Literacy

III. EXCEPTIONAL CHILDREN ADD-ON CERTIFICATION

A. The add-on of a content area of certification to an existing valid certificate allows the educator to practice and be considered in-field in the additional content area. Prerequisites for adding-on a content area to a current certificate are the following:

1. Bachelor's degree;
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 Level;
3. Minimum qualifying score(s) on the content area examination(s) required by the State Board of Education; and
4. Completion of all required course work with an equivalent of a grade of "C" or better.

B. The following areas of special education may be added to an existing valid certificate. Specific requirements for each area will be outlined in the State Board of Education–approved Guidelines and Requirements for Content Area Add-on Certification and Endorsements.

1. Early Childhood Special Education (Ages 3–6)
2. Education of Blind and Visually Impaired
3. Education of Deaf and Hard of Hearing
4. Emotional Disabilities
5. Learning Disabilities
6. Intellectual Disabilities
7. Multi-categorical Special Education
8. Severe Disabilities
9. Speech Language Therapist Requirements for this area are included in R 43-64 under Requirements for Certification at the Advanced Level

IV. CAREER AND TECHNOLOGY ADD-ON CERTIFICATION

A. The add-on of a career and technology area of certification to an existing valid certificate allows the educator to practice and be considered in-field in the additional content area. Prerequisites for adding-on a content area to a current certificate are the following:

1. Bachelor's degree;
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K–12 Level;
3. Minimum qualifying score(s) on the content area examination(s) required by the State Board of Education; and
4. Completion of all required course work with an equivalent of a grade of "C" or better.

B. The following areas may be added to an existing valid Career and Technology certificate. Specific requirements for each area will be outlined in the State Board of Education–approved Guidelines and Requirements for Content Area Add-on Certification and Endorsements.

1. Agriculture
2. Business and Marketing Technology
3. Computer Programming (for Career and Technology programming courses)
4. Family and Consumer Science
5. Industrial Technology

V. SPECIALIZED ENDORSEMENTS

A. In addition to adding on full-field content areas to an existing certificate, an individual may add endorsements in specialized areas to recognize additional expertise. In some instances, an endorsement may be required to teach specific courses. In other instances, the endorsement represents additional training and study to enhance an educator's professional practice. In order to add an endorsement, an educator must complete the specific requirements for that area as outlined in the State Board of Education–approved Guidelines and Requirements for Content Area Add-on Certification and Endorsements.

B. The following specialized endorsements may be added to an existing valid certificate:

1. Online Teaching
2. Teaching Children of Poverty
3. Advanced Placement
4. Gifted and Talented
5. Literacy Teacher
6. Literacy Coach
7. Literacy Specialist
8. Secondary Transition Specialist
9. Project-based Learning
10. Teacher Leader
11. Computer Science

VI. Specialized Alternative Certification

A. ADJUNCT INSTRUCTOR

Eligibility Requirements

1. The individual must have earned a bachelor's degree or higher from a regionally accredited college or university, and

2. A school district in the state must be willing to employ the individual as a teacher on a part-time basis in a content field at the middle or secondary school level, or in the related arts or physical education at the elementary level.

Application Requirements

3. The applicant must

(a) complete the application process for South Carolina educator certification, including an all-clear fingerprint review;

(b) have earned a bachelor's degree or higher with a major in the field of certification, or must submit passing scores on the content certification exam(s) required for the certification area; and

(c) submit verification of five years of occupational experience within the past ten years in, or related to, the content field of the certificate for which the individual is applying; and

4. The school district seeking to employ the individual must provide the following documentation to the Office of Educator Certification:

(a) a request and justification for employment of the instructor,

(b) an assurance that the employment of this instructor will not displace a certified teacher already employed, and

(c) an assurance that the adjunct instructor's teaching assignment will be less than a .5 full-time equivalent position and will not exceed two credit-bearing courses in an academic year.

Stipulations

The following stipulations apply to the South Carolina Adjunct Teaching Certificate:

5. The Adjunct Teaching Certificate is valid only in the sponsoring school district and is not transferrable to any other school district or state.

6. The adjunct instructor must be assigned a state-certified mentor in the same general subject area(s) in which the instructor is assigned to teach.

7. The adjunct instructor must be evaluated annually by the school district and must receive successful performance reviews for the certificate to be reissued for subsequent years at the request of the sponsoring school district.

8. The adjunct instructor must complete a minimum of 20 contact hours of professional development approved by the employing school district each three-year period the certificate is held.

9. The salary for the adjunct instructor will be determined by the employing school district.

B. ADVANCED FINE ARTS

1. Teachers for advanced fine arts programs who do not meet the requirements for certification in any existing area of certification will be issued an initial teaching certification if all of the following requirements are met:

(a) The school district has in operation an advanced program in the fine arts that has been approved by the South Carolina Department of Education.

(b) The school district superintendent requests certification for the prospective teacher in writing, describing the situation in which the teacher will work and the exact nature of the proposed duties of the teacher.

(c) The candidate has earned an undergraduate or graduate degree in fine arts from a nationally or regionally accredited institution of higher education or an institution that has programs approved for teacher education by the State Board of Education in the area of the fine arts that the teacher is to teach.

(d) The candidate presents evidence of at least two years of successful professional experience in the area of the fine arts that he or she is expected to teach.

(e) The candidate presents an acceptable score(s) on the required teaching content-area examination(s).

2. The initial certificate in Advanced Fine Arts will be issued for three years. It can be renewed in accordance with R 43-5(I)(A). A total of twelve (12) semester hours of credit, which includes teaching methods and psychology of learning in graduate professional education, will be required for professional certification.

3. In addition to the graduate professional education requirement specified above, the initial certificate will be converted to the professional certificate upon successful completion of induction requirements, ADEPT, and the pedagogy examination required by the State Board of Education.

C. MONTESSORI

1. Levels of Montessori Certification
   Primary (3K–5K)
   Elementary I (Grades 1–3)
   Elementary II (Grades 4–6)
   Middle (Grades 6–8)

2. Individuals who wish to add Montessori to an existing certificate must meet the following requirements.

(a) Bachelor's degree

(b) Initial or professional certificate at the appropriate level (early childhood, elementary, middle, or pre-K–12 level *)

(c) Completion of a training program at the appropriate level accredited by the Montessori Accreditation Council for Teacher Education (MACTE)

*A minimum qualifying score on the content area examination(s) required by the State Board of Education for early childhood, elementary, or middle level certification is also required for individuals with a prerequisite certificate in a pre-K–12 field who wish to add the appropriate Montessori level.

3. Individuals who wish to qualify for initial Montessori certification must complete a State Board of Education–approved undergraduate or graduate teacher preparation program in early childhood, elementary, or middle-level with a Montessori emphasis (i.e., includes all requirements for a MACTE training program) AND submit passing scores on the certification examinations approved by the State Board of Education at the appropriate level.

OR

4. Verify completion of a bachelor's degree, a MACTE-approved training program, and passing scores on the appropriate certification examination(s) approved by the State Board of Education, including the pedagogy exam. Additional certification fields may not be added to an initial Montessori certificate under this option unless the educator completes a State Board of Education–approved teacher preparation program in the additional field.

Title of Regulation: **Regulation No.:** **R 43-63**

REQUIREMENTS FOR CAREER AND TECHNOLOGY EDUCATION WORK-BASED CERTIFICATION **Effective Date:** **07/26/02**

Constitutional and Statutory Provisions:

Section(s):
59-5-60. General powers of [State] Board.
Code of Laws of South Carolina, 1976.

State Board Regulation:

Requirements for Career and Technology Education Work-Based Certification.

A.POLICIES AND REGULATIONS GOVERNING CERTIFICATION

The policies and regulations governing the certification requirements for Career and Technology Education educators as presented in this document replace all such procedures and regulations approved prior to this publication, except as indicated.

(1) Certificates are issued in levels based on educational background and experience in the field in which the certificate is requested. The level of the certificate is used to determine salary.

(2) Career and Technology Education Program Areas Covered in This Regulation

(a) Engineer/Industrial Technology Cluster: All courses in this program area are included in this regulation. Entry level into teaching these courses shall be defined in this regulation.

(b) Family and Consumer Sciences Cluster: The courses covered in this program area are Clothing and Interior Design, Culinary Arts, and Early Childhood. An associate degree is the minimum requirement for entry level into teaching these courses.

(c) Health Science Technology Cluster: All courses in this program area are included in this regulation. An associate degree is the minimum requirement for entry level into teaching these courses.

(d) Hospitality and Tourism Cluster: All courses in this program area are included in this regulation. An associate degree is the minimum requirement for entry level into teaching these courses.

(e) Information Technology Cluster: All courses in this program area are included in this regulation. An associate degree is the minimum requirement for entry level into teaching these courses.

B.PERSONS REQUIRED TO HOLD A CERTIFICATE

(1) A valid South Carolina educator's certificate is required of each individual employed in an instructional or classroom teaching position in a public school of this state.

(2) Each individual who serves in a position designed for the support of the instructional program is also required to hold the appropriate South Carolina educator's certificate.

C. REQUIREMENTS FOR CERTIFICATION

(1) The applicant must meet all requirements for certification that are in effect on the date of receipt by the Office of Teacher Certification, Division of Teacher Quality, of all required documentation. The responsibility for providing accurate and complete documentation of eligibility is that of the applicant.

(2) Age requirement: A person must be at least 18 years of age before making application for an educator's certificate.

(3) The Application

(a) The statement of qualifications or appropriate educator's application should be secured from the Office of Teacher Certification, Division of Teacher Quality, State Department of Education, Columbia, South Carolina 29201. The completed application should be submitted to the same address.

(b) The applicant will be informed in writing after the application is received what documentation is necessary to complete the certification process.

(4) Documentation Required

(a) Verification of all work experience in the field for which the applicant wishes to be certified must be provided (Forms available). Work experience completed while in the armed forces may be validated by providing official military documents certified as true copies by a notary public. These documents must show what the work experience was and the time served in that field.

(b) Two (2) technical references from employers in the area for which the applicant wishes to be certified must be provided (Forms available).

(c) A notarized copy of high school diploma or state high school equivalency certificate.

(d) Official transcripts of any college or technical college credit must be provided. Transcripts must be sent directly from the registrar and bear the seal of the issuing institution (Request form available).

(e) Copies of certificates of completion of any industry-sponsored training must be sent directly from the sponsoring agency or company. Copies certified as a true copy of the original by a notary public may be provided by the applicant.

(f) Successful completion of the approved competency examination and basic skills examination as approved by the State Board of Education is required

(g) Applicants in Cosmetology and Barbering shall provide copies of their South Carolina Board of Cosmetology Licenses. These copies must be certified as true copies by a notary public. This documentation is accepted in lieu of the approved competency examination.

(h) Applicants in Health Science Technology shall provide copies of active, nationally recognized health professions licenses, certificates, or registrations. The requirements for the licensure, certification, or registration must include at least two (2) years of formal postsecondary education in addition to the

program prerequisites. These copies must be certified as true copies by a notary public. This is used in lieu of the approved competency examination.

(i)Applicants for certification must successfully complete the approved program designed to prepare these prospective Work-Based Certified Career and Technology Education educators for the instructional environment. The program components will include, but not be limited to, a two-week (10-day) institute, training seminars, and professional development meetings. Successful completion of the two-week institute is a requirement for issuing the certificate. Applicants are expected to meet the standards for all Career and Technology Education educators as outlined in the guidelines which may include additional preparation.

D.CERTIFICATION EXAMINATIONS

(1) Certification examinations are required of all educators certified under the Career and Technology Education Work-Based Certification process. Examinations may include the following:

(a) Competency Examination

(i)The successful completion of a related competency examination is a prerequisite to issuance of the professional Career and Technology Education certificate. The required examination and minimum qualifying scores acceptable for certification in each area are determined by the State Board of Education.

(ii) Applicants not bearing proof of competence (i.e., nationally recognized certification, licensure, or registration) must pass a nationally recognized competency examination within two (2) years of application. Refer to the guidelines for accepted certification, licensure, or registration.

(b) Basic Skills Examination

(i)Successful completion of the basic skills examination is prerequisite to issuance of the professional Career and Technology Education certificate. The required minimum qualifying score is determined by the State Board of Education.

(ii) The exam must be taken during the first year of induction certification. The candidate will have five years to successfully pass the examination.

E. EDUCATION AND WORK EXPERIENCE REQUIRED FOR CERTIFICATE CLASSIFICATION

(1) The classification of the educator's certificate is determined by the applicant's level of formal education and formal work experience and the degree to which that education and formal work experience are appropriate to the area in which certification is desired. An appropriate degree shall include a minimum of 30 semester hours of course work appropriate to the field of certification. The requirements for achieving these classifications are to be met in conjunction with the requirements delineated on pages 1 and 2. The Career and Technology Education educator's certificate classifications are as follows:

(2) Levels of Certification

(a) Level VIII- Doctorate

(i)An applicant shall have an earned doctoral degree in accordance with State Board of Education regulations, shall meet requirements in an initial area of certification, and have at least six months of work

experience related to the area of certification and/or internship (at least 21 hours in a concentrated field of study).

(ii) The certificate is valid for a five-year period after obtaining a professional certificate.

(b) Level VII - Specialist

(i)An applicant shall have a master's degree in accordance with State Board of Education regulations in an initial area of certification. Also required are thirty (30) semester hours beyond the master's degree of which twenty-one (21) hours must be in a concentrated area of study. Further, the applicant must have at least six months of work experience or an internship related to the area of certification.

(ii) The certificate is valid for a five-year period after obtaining a professional certificate.

(c) Level I - Career And Technology Education

(i)An applicant shall have earned a master's degree in accordance with State Board of Education regulations, shall meet requirements in an initial area of certification, and have at least six months of full-time work experience and/or internship related to the area of certification. The certificate is valid for a five-year period after obtaining a professional certificate; OR

(ii) Bachelor's Degree:

(a) Bachelor's Degree and eighteen (18) semester hours post-baccalaureate credits in an appropriate field plus one (1) year of full-time work experience or internship related to the area of certification OR

(b) A Bachelor's Degree in an appropriate field plus two years of full-time work experience and/or internship related to the area of certification; OR

(iii) No Bachelor's Degree:

(a) Successful completion of three (3) years of college (ninety [90]) semester hours or equivalent) in an approved postsecondary program plus three (3) years' full-time work experience related to the area of certification; OR

(b) Successful completion of two (2) years (sixty [60]) semester hours or equivalent) in an approved post-secondary program plus four (4) years of full-time work experience related to the area of certification; OR

(c) Successful completion of one (1) year (thirty [30] semester hours or equivalent) in an approved post-secondary program plus five (5) years of full-time work experience related to the area of certification; OR

(d) Six (6) years of successful full-time work experience in the field employed to teach plus a high school diploma or equivalent.

(d) Level II - Career And Technology Education

(i)An applicant shall have earned a bachelor's degree and eighteen (18) semester hours post-graduate credits in an appropriate field, have at least six months of full-time work experience and/or internship related to the area of certification, and shall meet requirements in an initial area of certification. The certificate is valid for a five-year period after obtaining a professional certificate; OR

(ii) A Bachelor's Degree in an appropriate field plus one (1) year's full-time work experience related to the area of certification; OR

(iii) Successful completion of three (3) years of college (ninety [90]) semester hours or equivalent) in an approved postsecondary program plus two (2) years full-time work experience related to the area of certification; OR

(iv) Successful completion of two (2) years (sixty [60]) semester hours or equivalent) in an approved post-secondary program plus three (3) years' full-time work experience related to the area of certification; OR

(v) Successful completion of one (1) year (thirty [30]) semester hours or equivalent) in an approved post-secondary program plus four (4) years of full-time work experience related to the area of certification; OR

(vi) Five (5) years of successful full-time work experience in the field employed to teach plus a high school diploma or equivalent.

(e) Level III - Career And Technology Education

(i)An applicant shall have earned a bachelor's degree in an appropriate field in accordance with State Board of Education regulations and have at least six months of full-time work experience and/or internship related to the area of certification, and shall meet requirements in an initial area of certification; OR

(ii) Successful completion of three (3) years of college (ninety [90]) semester hours or equivalent) in an approved postsecondary program plus one (1) year of full-time work experience related to the area of certification; OR

(iii) Successful completion of two (2) years (sixty [60]) semester hours or equivalent) in an approved post-secondary program plus two (2) years of full-time work experience related to the area of certification; OR

(iv) Successful completion of one (1) year (thirty [30]) semester hours or equivalent) in an approved post-secondary program plus three (3) years of full-time work experience related to the area of certification; OR

(v) Four (4) years of successful full-time work experience in the field employed to teach plus a high school diploma or equivalent.

F. INITIAL WORK-BASED CERTIFICATE

(1) Induction Certificate

(a) A two-year nonrenewable induction certificate will be issued in the same five classifications listed in Section E.(2) if the following conditions are met:

(i)Verification of full-time work experience as required for certification;

(ii) Two references from person having firsthand knowledge of the applicant's technical experience; and

(iii) An official verification of all formal education.

(b) Term of issuance-one year with the provision to renew for a second year.

(c) Employment as a full- or part-time teacher in a South Carolina public school.

(2) Three-Year Pre-Professional Certificates

(a) A three-year nonrenewable pre-professional certificate may be issued after the expiration of the two-year induction certificate if the following requirements are met:

(i)Attain minimum qualifying score on the competency exam in the field for which induction certification is held,

(ii) Demonstrate competency in teaching methods as specified in the Regulation 205.1, Assisting, Developing, and Evaluating Professional Teaching, and

(iii) Take the basic skills examination as approved by the State Board of Education.

(3) Professional Certificate

(a) Upon the expiration of the three-year pre-professional certificate, a professional Career and Technology Education certificate valid for five years will be issued if the following requirements are met:

(i)Demonstrate competency in teaching methods as specified in the guidelines, and

(ii) Attain at least the minimum qualifying score on the approved basic skills examination.

(b) Applicants who do not complete the requirements for a professional certificate during the five years of induction and pre-professional certification must meet all certification requirements for a professional certificate in effect at the time they qualify.

G. ADVANCEMENT OF CERTIFICATES

(1) Certificates may be advanced based on guidelines approved by the State Board of Education.

(2) Certificates may be advanced by:

(a) Providing the required documentation of indicating that State Board of Education requirements for certificate advancement have been met;

(b) Making a written request to the Career and Technology Education Certification Section, Office of Teacher Certification, Division of Teacher Quality, to have the certificate advanced; and

(c) Paying the required fee for advancement of the certificate.

H. GENERAL INFORMATION

(1) Correspondence Schools

If courses are in the area in which the applicant teaches or are in general education, upon presentation of substantiating evidence correspondence courses may be accepted as renewal credit.

(2) Supervised Skill Update

Three hundred twenty (320) clock hours of work experience in the area being taught can be counted to substitute for three (3) semester hours of approved renewal credit. Self-employment experience is not acceptable. The proposed work experience must show that appropriate new skills will be developed. This allowance is to be made only one (1) time during any five-year renewal period. Prior application and approval is required for this credit. Applications may be secured from the Office of Teacher Certification, Division of Teacher Quality, State Department of Education, Columbia, South Carolina 29201.

(3) Approved Subject Area Work Experience Completed Five (5) Years Prior To Application

At least twelve (12) months of full-time work experience in the certificate area must have been completed within five (5) years of making application for certification. Applicants with valid out-of-state certificates with three (3) years teaching experience in the five (5) years prior to the application shall meet this requirement.

(4) Part-Time Work Experience Related To The Area Of Certification

Part-time work experience may be used to meet up to fifty (50) percent of the work experience requirements for any level of certificate.

(5) Semester Hours

All credits are computed in semester hours. (Three quarter hours are equivalent to two (2) semester hours.)

(6) Out-Of-State Candidates

Out-of-state candidates holding valid, standard certificates from other states must meet the State Board of Education requirement for full or initial certification. These certificates may be renewed as any other.

(7) Continuing Education Units

Continuing education courses may be accepted when earned in the content area of the specialized body of knowledge and approved by the Office of Teacher Certification, Division of Teacher Quality, South Carolina Department of Education, Columbia, South Carolina 29201.

(8) Student Teaching

Career and Technology Education certified personnel are not required to do student teaching.

(9) Acquiring Additional Areas Of Certification

A person who holds a valid South Carolina Career and Technology Education educator's certificate may, upon written request and payment of the required fee, add additional endorsements in accordance with the following criteria:

(a) Verification of full-time work experience as required for certification;

(b) Two technical references from persons having firsthand knowledge of the applicant's work experience, and

(c) Attainment of at least the minimum qualifying score on the required competency examination.

(10) Certification For Individuals With Unique Occupational Training And Experience For Which There Is No Competency Examination

The changing nature of business and industry and their employment needs require that school districts be able to develop and implement new training programs to meet those needs in areas where no competency examination is available.

(a) The applicant must meet all other requirements for Career and Technology Education certification (except the competency examination)~~;~~. Application for a certificate will be allowed in the cases of new and innovative programs providing the following additional criteria are met. The applicant must have:

(i)A bachelor's degree from a regionally accredited college or university in the area of assignment and at least one year of related work experience in the area of assignment. The~~-~~certificate level will be based upon the highest degree held and years of documented related work experience; and

(ii) Documentation of outstanding achievements related to the area of assignment, which could be used to verify competence in the field.

(iii) The district must submit documentation of the need (local needs assessment) for the new program for which licensure is sought. In 1994 the State Board of Education called for the following criteria for needs assessments:
Written documentation of the employment needs of new or expanding business/industries employing graduates of the program(s), ... must be submitted and endorsed by the CEO, President, or Human Resources Manager of one of the businesses in question and must include, as a minimum, (a) current and three-year projected employment needs, (b) indication of business/industry involvement with the local educational agency ..., (c) letters from the local Employment Security Commission, local development board, or local chamber of commerce specifying the needs for graduates of the program(s) for which licensure is requested.

I. EMPLOYMENT OF INDIVIDUALS WITH INDUSTRY CERTIFIED CAREER AND TECHNOLOGY EDUCATION TRAINING AND EXPERIENCE

(1) School districts shall be allowed to hire individuals with recognized eminence in career and technology areas to teach in high schools and career centers. This employment provides districts the opportunity to take advantage of outstanding expertise available where (a) programs and certification have not been approved by the State Board of Education and (b) programs have been approved by the State Board of Education but no certified teacher is available.

(a) School districts will be allowed to petition the State Board of Education through the Division of Teacher Quality at the State Department of Education for a temporary certificate that will allow the employment of an individual in an instructional position provided the individual meets the criteria listed below. The temporary two-year certificates are nontransferable to another district and can only be requested by the school district.

(b) An individual seeking employment under this provision will be issued a certificate that will be valid for one year unless revoked at the request of the district. The temporary certificate may be renewed one additional year. After two years the individual will be required to meet certification requirements listed in this regulation.

(c) The individual must have at least four years of experience in the area of assignment. The certificate will be issued at the corresponding level of educational attainment and/or verified work experience listed in this regulation.

(d) Documentation of outstanding achievements related to the area of assignment can be used to verify competency in the field.

(e) The individual must have received an "all clear" report from the FBI fingerprint process before the two-year temporary certificate can be issued.

(f) School districts shall closely monitor teaching content and techniques utilized by such individuals to ensure that appropriate instructional methods are used in accordance with State Board of Education guidelines. The Office of Career and Technology Education will monitor course content.

J. GUIDELINES

The State Department of Education has authority to develop guidelines in accordance with provisions of this regulation.

Title of Regulation:	**Regulation No.:**	**R 43-64**
REQUIREMENTS FOR INITIAL CERTIFICATION AT THE ADVANCED LEVEL	**Effective Date:**	**06/27/14**

Constitutional and Statutory Provisions:

Section(s):

59-5-60(1).	General powers of [State] Board
59-25-110.	System for examination and certification of teachers
59-26-10, et seq.	Training, Certification, and Evaluation of Public Educators

Code of Laws of South Carolina, 1976.

20 U.S.C. § 6301, et seq. No Child Left Behind Act of 2001

State Board Regulation:

Requirements for Initial Certification at the Advanced Level

Text:

43-64. Requirements for Certification at the Advanced Level

I. ADMINISTRATION

A. Elementary School Principal and Supervisor (Tier 1)

1. Master's degree

2. Valid South Carolina Educator's Professional Certificate at the elementary level

3. Minimum qualifying score(s) on the area examinations required by the State Board of Education

4. Verification of three years' teaching experience, including at least one year of teaching in grades PreK–8

5. Completion of an advanced program approved by the State Board of Education for the training of elementary principals and supervisors Note: Eligibility for Tier 2 certification requires successful completion of the Principal Induction Program (PIP) in the principal's first year, as well as an overall rating of Proficient or Exemplary on the Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP) evaluation instrument in the second year of employment as a principal.

B. Secondary School Principal and Supervisor (Tier 1)

1. Master's degree

2. Valid South Carolina Professional Certificate at the secondary level

3. Minimum qualifying score(s) on the area examination(s) required by the State Board of Education

4. Verification of three years' teaching experience, including at least one year of teaching in grades 7-12

5. Completion of an advanced program approved by the State Board of Education for the training of secondary principals and supervisors Note: Eligibility for Tier 2 certification requires successful completion of the PIP in the principal's first year, as well as an overall rating of Proficient or Exemplary on the PADEPP evaluation instrument in the second year of employment as a principal.

C. Elementary or Secondary School Principal or Supervisor (Tier 1 Alternative Route for Career Changers)

1. Master's degree

2. Verification of at least three years of successful experience in leadership, supervision, upper-level management, or other position in a business, corporation, agency, or the military with responsibilities similar to those of a principal

3. Recommendation for elementary or secondary principal certification (Tier 1 Alternative Route for Career Changers) by the superintendent of a South Carolina public school district interested in employing the individual as an assistant principal

4. Elementary or Secondary Principal Certification (Tier 1 Alternative Route for Career Changers. A one-year certificate that may be extended annually provided that the following requirements are met:

(a) Year One: At the end of this year, the South Carolina Department of Education (SCDE) must receive verification that the educator has completed a full year of experience as an assistant principal in a public school, has received a passing score on the area examination(s) required for certification of principals by the State Board of Education, and has received a successful rating on an SCDE-approved evaluation instrument from the employing school district. Additionally, the employing school district must submit a written request for a one-year extension of the educator's elementary or secondary principal certificate (Tier 1 Alternative Route for Career Changers).

(b) Years Two and Three: At the end of each of these years, the SCDE must receive verification that the educator has completed a full year of experience as an assistant principal in a public school and has received a successful rating on an SCDE-approved evaluation instrument from the employing school district. At the end of each year, the employing school district must submit a written request for a one-year extension to the educator's elementary or secondary principal certificate (Tier 1 Alternative Route for Career Changers). Also, by the end of Year Three, the educator must have successfully completed the program of study (i.e., training program) approved by the State Board of Education in order to be eligible for continued certificate extensions.

(c) Years Four and beyond: Upon meeting the requirements for Years One through Three, as described above, the educator is eligible for a professional Tier 1 certificate and employment as an assistant principal or as a principal.

5. Elementary or Secondary Principal Certificate (Tier 2). In order to be eligible to advance to an elementary or secondary principal certificate (Tier 2), the educator must have successfully completed all requirements as an assistant principal for Years One, Two, and Three, as described above. Additionally, the educator must successfully complete the PIP, receive an overall rating of *Proficient* or *Exemplary* on the PADEPP evaluation instrument in the second year of employment as a principal, and receive a recommendation for certificate advancement from the employing school district. If the overall rating on the PADEPP evaluation instrument in the second year of employment as a principal is *Needs Improvement*, the principal will remain on Tier 1 certification until the SCDE receives verification from the employing school district that the principal has achieved an overall rating of *Proficient* or *Exemplary* on PADEPP.

D. Specialized Endorsement for School Transformational Leaders' Academy

According to R43-62(V.), South Carolina educator provides for optional endorsements that are intended to enhance the skills of educators. In order to enhance the specialized skills of principals leading turnaround schools, the transformational leaders' academy will prepare selected educators with a principal's in transformational strategies in order to lead their persistently low-achieving school in raising student achievement.

Requirements for endorsement:

1. Current Tier 1 or Tier 2 Elementary and/or Secondary School Principal and Supervisor

2. Successful completion of the academy

Endorsement Grade Span: PreK–12

E. District Superintendent

1. Master's degree

2. Valid South Carolina Professional Certificate at the elementary, middle, or secondary level

3. Minimum qualifying score(s) on the area examination(s) required by the State Board of Education

4. Verification of a total of three years' experience as a PreK–12 or postsecondary teacher and two years as a school or school district administrator, postsecondary administrator, or school business administrator

5. Completion of an advanced program approved by the State Board of Education for the training of school superintendents

F. District Superintendent (Alternative Route for Career Changers)

1. Master's degree

2. Verification of at least ten years of successful experience in a senior position(s) of leadership, such as chief executive officer in a business, corporation or agency, military officer, or other position with responsibilities similar to those of a district superintendent

3. Recommendation for certification by a local school board in a South Carolina public school district interested in employing the individual as a superintendent

4. Submission of a plan of study by the local school board that the individual must complete within three years to include, at a minimum, the areas of curriculum and instruction, school finance, and school law. The candidate must also submit a passing score on area examination(s) required by the State Board of Education for district superintendents within the first year of employment as a superintendent.

5. Issuance of an initial certificate for one year. This certificate may be extended annually for two additional years at the request of the local school board based on verification of successful performance reviews.

6. Issuance of a professional certificate upon completion of the specified program of study, and minimum qualifying scores on the required certification examination(s), and the recommendation by the local school board after three years of successful service as superintendent.

G. Vocational/Technology/Career Center Director

1. Valid South Carolina secondary principal or supervisor certificate and certification in one of the following areas:

Agriculture
Family and Consumer Sciences
Health Occupations
Industrial Technology
Business and Marketing Technology
Career Technology Education

OR

2. Valid South Carolina secondary principal or supervisor certificate and three years of experience as a director or assistant director in a Vocational/Technology/Career Center

OR

3. Master's degree from a State Board of Education approved teacher education program in vocational education, including fifteen semester hours in administration and certification in one of the following areas:

Agriculture
Family and Consumer Sciences
Health Occupations
Industrial Technology
Business and Marketing Technology
Career and Technology Education

The fifteen semester hours in administration required above are to be selected from the areas listed below:

General School Administration
School Personnel Administration
Techniques of Supervision
School Law
School Finance
Human Growth and Development
Curriculum Development

AND

4. Minimum qualifying score(s) on the area examination(s) required by the State Board of Education

5. Verification of five years' experience as a preK–12 or postsecondary teacher, school or school district administrator, postsecondary administrator, or business administrator

II. OTHER INSTRUCTIONAL SUPPORT AREAS

A. ELEMENTARY AND SECONDARY GUIDANCE

1. Master's degree

2. Completion of an advanced program approved by the State Board of Education for the preparation of school counselors

3. Minimum qualifying score(s) on the area examination(s) required by the State Board of Education

B. SCHOOL PSYCHOLOGIST

1. SCHOOL PSYCHOLOGIST I

(a) Master's degree

(b) Completion of an advanced program approved by the State Board of Education for the preparation of school psychologists

(c) Minimum qualifying score(s) on the area examination(s) required by the State Board of Education

2. SCHOOL PSYCHOLOGIST II

(a) Specialist degree

(b) Completion of an advanced program approved by the State Board of Education for the preparation of school psychologists

(c) Minimum qualifying score(s) on the area examination(s) required by the State Board of Education

3. SCHOOL PSYCHOLOGIST III

(a) Doctorate degree

(b) Completion of an advanced program approved by the State Board of Education for the preparation of school psychologists

(c) Minimum qualifying score(s) on the area examination(s) required by the State Board of Education

C. SPEECH LANGUAGE THERAPIST

1. Master's degree

2. Completion of an advanced program approved by the State Board of Education for the preparation of speech language therapists

3. Minimum qualifying score(s) on the area examination(s) required by the State Board of Education

D. MEDIA SPECIALIST

1. Master's degree

2. Completion of an advanced program approved by the State Board of Education for the preparation of media specialists or school library media specialists

3. Minimum qualifying score(s) on the area examination(s) required by the State Board of Education.

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

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 principalor 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.

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

III. Grades Six through Eight

A. Professional Personnel Qualifications and Duties

1. Principals

(a) Each school with an enrollment of 250 students or more must employ a full-time properly certified principal. Schools with fewer than 250 students in enrollment must be staffed with at least a half-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.

(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

In addition to employing a full-time principal, each school with an enrollment of 500 or more students must be staffed with one full-time properly certified assistant principal or curriculum coordinator. An additional properly certified assistant principal or curriculum coordinator must be employed for a school with an enrollment of1,000 or more.

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.

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:

Areas	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

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 principal/assistant director and a properly certified assistant principal or the equivalent for each additional 500 students.

3. Teachers, Guidance Counselors, and Library Media Specialists

Each teacher, guidance counselor, and library media specialist must be properly certified by the State Board of Education. Additionally, teachers of core academic subjects must meet the “highly qualified” teacher requirements specified in the No Child Left Behind Act of 2001, 20 U.S.C. § 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 43-205.1**

ASSISTING, DEVELOPING, AND EVALUATING PROFESSIONAL TEACHING (ADEPT) **Effective Date:** **06/28/13**

Constitutional and Statutory Provisions:

Section(s):
59-26-10, et seq. Training, Certification and Evaluation of Public Educators.
Code of Laws of South Carolina, 1976.

State Board Regulation:

Assisting, Developing, and Evaluating Professional Teaching (ADEPT)

I. State Standards for Professional Teaching

Teacher preparation programs and school districts must address, but are not limited to, the performance standards for Assisting, Developing, and Evaluating Professional Teaching (ADEPT), as specified in the State Board of Education's ADEPT implementation guidelines.

II. Teacher Candidates

A. All teacher education programs must adhere to State Board of Education regulations governing the preparation and evaluation of teacher candidates.

B. Each teacher education program must develop and implement a plan for preparing, evaluating, and assisting prospective teachers relative to the ADEPT performance standards in accordance with the State Board of Education's ADEPT implementation guidelines. ADEPT plans must be approved by the State Board of Education prior to implementation.

C. By July 1 of each year, teacher education programs must submit assurances to the South Carolina Department of Education (SCDE) that they are complying with the State Board of Education's ADEPT implementation guidelines. Proposed amendments to previously approved ADEPT plans must be submitted along with the assurances and must be approved by the State Board of Education prior to implementation.

D. Teacher education programs must submit information on their teacher candidates, as requested annually by the SCDE.

E. The SCDE will provide teacher education programs with ongoing technical assistance such as training, consultation, and advisement, upon request.

III. Induction-Contract Teachers

A. Teachers who possess a valid South Carolina pre-professional teaching certificate, as defined by the State Board of Education, may be employed under an induction contract for up to, but not to exceed, three years. The employment and dismissal provisions of Article 3, Chapter 19, and Article 5, Chapter 25, of Title 59 of the 1976 Code of Laws do not apply to teachers employed under induction contracts.

B. Each local school district must develop and implement a plan to provide induction-contract teachers with comprehensive guidance and assistance throughout each induction year. District induction plans must comply with the State Board of Education's guidelines for assisting induction-contract teachers and must be approved by the State Board of Education prior to implementation.

C. On or before the date that the district extends offers of teaching employment for the following school year, teachers employed under induction contracts are to be notified in writing concerning their employment status. Teachers who complete an induction-contract year may, at the discretion of the school district, be employed under another induction-contract or an annual contract, or they may be released from employment. Teachers who are released may seek employment in another school district at the induction-contract level. The maximum induction period for a teacher is three years, regardless of the district in which the teacher is employed. A teacher who is completing a third year of induction is eligible for employment at the annual-contract level.

D. School districts must submit information on all teachers employed under induction contracts, as requested annually by the SCDE. Available flow-through funds to school districts will be provided on a first-year induction teacher basis.

E. By May 1 of each year, school districts must submit assurances to the SCDE that they are complying with the State Board of Education's ADEPT implementation guidelines for assisting induction-contract teachers. A copy of the district's proposed induction timeline must accompany the assurances. Proposed amendments to the district's previously approved induction plan must be submitted along with the assurances and must be approved by the State Board of Education prior to implementation.

F. By June 20 of each year, school districts must submit end-of-year information on teachers employed under induction contracts and on the employment contract decisions made for the following year, as requested by the SCDE.

G. The SCDE will provide school districts with ongoing technical assistance such as training, consultation, and advisement, upon request.

IV. Annual-Contract Teachers

A. Teachers who have satisfied their induction requirements may be employed under an annual contract. Full procedural rights under the employment and dismissal provisions of Article 3, Chapter 19, and Article 5, Chapter 25, of Title 59 of the 1976 Code of Laws do not apply to teachers employed under annual contracts. However, annual-contract teachers do have the right to an informal hearing before the district superintendent, under the provisions of S.C. Code Ann. Section 59-26-40 (Supp. 2012).

B. Teachers employed under an annual contract must be evaluated or assisted with procedures developed or adopted by the local school district in accordance with the State Board of Education's ADEPT implementation guidelines. These procedures must include the development, implementation, and evaluation of an individualized professional growth plan for each teacher.

C. Teachers must not be employed under an annual contract for more than four years.

D. During the first annual-contract year, the annual-contract teacher must, at the discretion of the school district, either undergo a formal performance evaluation or be provided with diagnostic assistance. The term "formal performance evaluation" is defined as a summative evaluation of teaching performance relative to the state standards and evaluation processes, as specified in the State Board of Education's

ADEPT implementation guidelines. All formal evaluation processes must meet the general technical criteria of validity, reliability, maximum freedom from bias, and documentation. The term "diagnostic assistance" is defined as an optional process for providing individualized support to teachers who have demonstrated potential but who are not yet ready to successfully complete a formal performance evaluation.

1. An annual-contract teacher who has met the formal evaluation criteria set by the State Board of Education, the requirements for annual-contract teachers set by the local board of trustees, and the requirements established by the State Board of Education for the professional teaching certificate is eligible for employment at the continuing-contract level. At its discretion, the district may either employ the teacher under a continuing contract or terminate the teacher's employment. If employment is terminated, the teacher may seek employment in another school district. At the discretion of the next hiring district, the teacher may be employed at the annual or continuing-contract level.

2. An annual-contract teacher who has met the formal evaluation criteria set by the State Board of Education and the requirements set by the local board of trustees but who has not yet satisfied all requirements established by the State Board of Education for the professional teaching certificate is eligible for employment under a subsequent annual contract, with evaluation being either formal or informal (i.e., goals-based), at the discretion of the local school district. At its discretion, the district may either employ the teacher under an annual contract or terminate the teacher's employment. If employment is terminated, the teacher may seek employment in another school district at the annual-contract level.

3. An annual-contract teacher who for the first time fails to meet the formal evaluation criteria set by the State Board of Education or who fails to meet the requirements set by the local board of trustees is eligible for employment under a subsequent annual contract. At its discretion, the district may either employ the teacher under an annual contract or terminate the teacher's employment. If employment is terminated, the teacher may seek employment in another school district at the annual-contract level.

An annual-contract teacher who has demonstrated potential but who has not yet met the formal evaluation criteria set by the State Board of Education and/or the requirements set by the local board of trustees is eligible for a diagnostic-assistance year at the annual-contract level. This diagnostic-assistance year must be provided, if needed, at the discretion of the employing school district, either during the teacher's first annual-contract year or during the annual-contract year following the teacher's first unsuccessful formal evaluation. A teacher is eligible to receive only one diagnostic-assistance year. At the end of the diagnostic assistance year, the district may either employ the teacher under an annual contract or terminate the teacher's employment. If employment is terminated, the teacher may seek employment in another school district at the annual-contract level. A diagnostic-assistance year must be followed by formal (summative) evaluation at the annual-contract level during the teacher's next year of teaching employment.

4. An annual-contract teacher who for the second time fails to meet the formal evaluation criteria set by the State Board of Education will have his or her teaching certificate automatically suspended by the State Board of Education, as prescribed in Section 59-5-60 of the South Carolina Code of Laws, 1976, and in State Board of Education Regulation 43-58. Subsequent to this action, the teacher will be ineligible to be employed as a classroom teacher in a public school in this state for a minimum of two years. Before reentry into the profession, the teacher must complete a state-approved remediation plan based on the area(s) that were identified as deficiencies during the formal evaluation process. Remediation plans must be developed and implemented in accordance with the State Board of Education's ADEPT implementation guidelines.

Following the minimum two-year suspension period and the completion of the remediation plan, as verified by the SCDE, the teacher's certificate suspension will be lifted, and the teacher will be eligible for employment at the annual-contract level. Upon his or her reentry into the profession, the teacher must be formally evaluated. If, at the completion of the evaluation process, the teacher meets the formal evaluation criteria set by the State Board of Education, he or she may continue toward the next contract level. If, at the completion of the evaluation process, the teacher does not meet the formal evaluation criteria set by the State Board of Education, he or she is no longer eligible to be employed as a public school teacher in this state.

E. Each school district must develop a plan to evaluate and provide diagnostic assistance to teachers at the annual-contract level, in accordance with the State Board of Education's ADEPT implementation guidelines. District plans also must include procedures for developing, implementing, and evaluating individualized professional growth plans for annual-contract teachers.

F. School districts must establish criteria or requirements that teachers must meet at the annual-contract level. At a minimum, districts must require annual-contract teachers to meet the ADEPT formal evaluation criteria and all other requirements for the professional teaching certificate, as specified by the State Board of Education, in order to advance to the continuing-contract level.

G. By May 1 of each year, school districts must submit assurances to the SCDE that they are complying with the State Board of Education's ADEPT implementation guidelines for evaluating and assisting teachers at the annual-contract level. A copy of the district's proposed formal evaluation and diagnostic assistance timelines must accompany the assurances. Proposed amendments to the district's previously approved ADEPT plan for annual-contract teachers must be submitted along with the assurances and must be approved by the State Board of Education prior to implementation.

H. By June 20 of each year, school districts must submit end-of-year information on teachers employed under annual contracts and on the employment contract decisions made for the following year, as requested by the SCDE.

I. The SCDE will provide school districts with ongoing technical assistance such as training, consultation, and advisement, upon request.

V. Continuing-Contract Teachers

A. Teachers who have met the formal evaluation criteria set by the State Board of Education, the requirements for annual-contract teachers set by the local board of trustees, and the requirements established by the State Board of Education for the professional teaching certificate are eligible for employment at the continuing-contract level. Teachers employed under continuing contracts have full procedural rights relating to employment and dismissal as provided for in Article 3, Chapter 19, and Article 5, Chapter 25, of Title 59 of the 1976 Code of Laws.

B. Teachers employed under continuing contracts must be evaluated on a continuous basis. The evaluation may be formal or informal (i.e., goals-based), at the discretion of the district. Districts must develop policies for recommending continuing-contract teachers for formal evaluation. Continuing-contract teachers who are being recommended for formal evaluation the following school year must be notified in writing on or before the date the school district issues the written offer of employment or reemployment. The written notification must include the reason(s) that a formal evaluation is recommended, as well as a description of the formal evaluation process. Continuing-contract teachers who are new to the district must be advised at the time of their hiring if they are to receive a formal evaluation.

C. Each school district must develop a plan, in accordance with State Board of Education's ADEPT implementation guidelines, to continuously evaluate teachers who are employed under continuing contracts. At a minimum, district ADEPT plans for continuing-contract teachers must address formal and informal evaluations and individualized professional growth plans.

D. By May 1 of each year, school districts must submit assurances to the SCDE that they are complying with the State Board of Education's ADEPT implementation guidelines for continuously evaluating teachers at the continuing-contract level. A copy of the district's proposed formal and informal evaluation timelines must accompany the assurances. Proposed amendments to the district's previously approved ADEPT plan for continuing-contract teachers must be submitted along with the assurances and must be approved by the State Board of Education prior to implementation.

E. By June 20 of each year, school districts must submit end-of-year information on teachers employed under continuing contracts and on the employment decisions made for the following year, as requested by the SCDE.

F. The SCDE will provide school districts with ongoing technical assistance such as training, consultation, and advisement, upon request.

VI. Teachers Who Do Not Have Sufficient Opportunity to Complete the ADEPT Process

A. A teacher who is employed under an induction, annual, or continuing contract and who is absent for more than 20 percent of the days in the district's SBE-approved annual evaluation cycle may, at the recommendation of the district superintendent, have his or her ADEPT results reported to the SCDE as "incomplete."

B. Teachers whose ADEPT results are reported to the SCDE as "incomplete" are eligible to repeat their contract level during the next year of employment.

VII. Teachers Employed from Out of State

A. Teachers employed from out of state who receive a South Carolina initial teaching certificate based on reciprocity are eligible for employment under an induction contract.

B. Teachers employed from out of state who receive a South Carolina professional teaching certificate based on reciprocity are eligible for employment under an annual contract. At the annual-contract level, teachers may receive either a diagnostic-assistance year or a formal evaluation. Teachers who undergo formal evaluation and who, at the conclusion of the preliminary evaluation period, meet the formal evaluation criteria set by the State Board of Education may, at the discretion of the school district, have the final portion of the formal evaluation process waived. Teachers must successfully complete the formal evaluation at the annual-contract level before they are eligible to receive a continuing contract.

C. Teachers who are employed from out of state or from a nonpublic-school setting and who are certified by the National Board for Professional Teaching Standards (NBPTS) are exempted from initial certification requirements and are eligible for continuing contract status (S.C. Code Ann. Section 59-26-85 (Supp. 2012)).

VIII. Career and Technology Education Teachers, Candidates Pursuing Alternative Routes to Teacher Certification, and Teachers Employed on a Part-Time Basis

A. Teachers certified under the Career and Technology Education certification process must follow the same sequence as traditionally prepared teachers in terms of contract levels (i.e., induction, annual, and continuing) and ADEPT evaluation and assistance processes.

B. Candidates pursuing alternative routes to teacher certification must follow the same sequence as traditionally prepared teachers in terms of contract levels (i.e., induction, annual, and continuing) and ADEPT evaluation and assistance processes.

C. Teachers who are employed part-time and who receive a teaching contract (i.e., induction, annual, or continuing) must participate in the ADEPT evaluation and assistance processes.

IX. Teachers Employed under a Letter of Agreement

A. Teachers who are eligible for an induction or an annual contract but who are hired on a date that would cause their period of employment to be less than 152 days during the school year may be employed under a letter of agreement.

B. Teachers employed under a letter of agreement do not fall under ADEPT. However, districts must ensure that these teachers receive appropriate assistance and supervision throughout the school year.

C. The employment and dismissal provisions of Article 3, Chapter 19, and Article 5, Chapter 25, of Title 59 of the 1976 Code of Laws do not apply to teachers employed under a letter of agreement.

X. Teachers Who Hold an International Teaching Certificate

A. Teachers from outside the United States who hold an international teaching certificate must follow the same sequences as traditionally prepared teachers in terms of the beginning contract levels (i.e., induction and annual) and ADEPT evaluation and assistance processes.

B. Teachers from outside the United States who hold an international teaching certificate may remain at the annual-contract level but may not be employed under a continuing contract.

XI. Teachers Employed in Charter Schools

A. Except as otherwise provided in the Charter Schools Act (S.C. Code Ann. Section 59-40-50(A) (Supp. 2012)), charter schools are exempt from all provisions of law and regulations applicable to a public school, a school board, or a district. However, a charter school may elect to comply with one or more of these provisions of law or regulations, such as the provisions of the ADEPT statute and regulation.

B. Charter schools that elect not to implement the ADEPT system may assist and/or evaluate their teachers according to the policies of their respective charter school committees. Certified teachers in these schools will accrue experience credit in a manner consistent with the provisions of State Board of Education Regulation 43-57 (S.C. Code Ann. Regs. 43-57 (2011)). Teachers in non-ADEPT charter schools who hold an initial teaching certificate are eligible to advance to a renewable limited professional certificate, as specified in State Board of Education Regulation 43-53 (S.C. Code Ann. Regs. (Supp. 2012)).

C. Charter schools that elect to implement the ADEPT system must comply with all provisions of the amended ADEPT statute (S.C. Code Ann. Sections 59-26-30 and 59-26-40, to be codified at Supp. 2012), this regulation, and the State Board of Education's ADEPT implementation guidelines. In fulfilling these

requirements, the contract between the charter school and its sponsor must include an ADEPT provision. All certified teachers in the charter school must be assisted and evaluated in a manner consistent with the sponsor's State Board of Education-approved ADEPT plan for induction, formal evaluation, and goals-based evaluation. The ADEPT provision must address the charter school's responsibilities for ensuring the fidelity of the implementation of the ADEPT system. The provision also must address the sponsor's responsibilities in terms of staff training and program implementation. At a minimum, the sponsor must agree to disseminate all ADEPT-related information from the SCDE to the charter school and to report charter school teacher data to the SCDE. The provision must be included in the sponsor's ADEPT plan and approved by the State Board prior to implementation.

XII. Teachers Who Hold a Limited Professional Certificate

An educator who holds a valid South Carolina limited professional certificate is eligible for employment in a "regulated" South Carolina public school at the annual-contract level. At the annual-contract level, teachers may receive either a diagnostic-assistance year or a formal evaluation. Teachers who undergo formal evaluation and who, at the conclusion of the preliminary evaluation period, meet the formal evaluation criteria set by the State Board of Education may, at the discretion of the school district, have the final portion of the formal evaluation process waived. Teachers must successfully complete the formal evaluation at the annual-contract level before they are eligible to move from a limited professional certificate to a full professional certificate and to be employed under a continuing contract.

XIII. Reporting Requirements

Failure of a teacher education program or local school district to submit all required assurances or requested information pursuant to this regulation may result in the State Board of Education's withholding ADEPT funds.

Title of Regulation:	**Regulation No.:**	**R 43-206**
PROFESSIONAL PERSONNEL RESIGNATION	**Effective Date:**	**1976**

Constitutional and Statutory Provisions:

Section(s):

59-5-60(5).	General powers of [State] Board.
59-25-150.	Revocation or suspension of certificate.
59-25-160.	Revocation or suspension of certificate; "just cause" defined.
59-25-530.	Unprofessional conduct; breach of contract.

Code of Laws of South Carolina, 1976.

State Board Regulation:

Professional Personnel Resignation.

Any teacher who fails to comply with the provisions of his contract without the written consent of the school board shall be deemed guilty of unprofessional conduct. A breach of contract resulting from the execution of an employment contract with another board within the State without the consent of the board first employing the teacher makes void any subsequent contract with any other school district in South Carolina for the same employment period. Upon the formal complaint of the school board, substantiated by conclusive evidence, the State Board shall give notice to the said teacher by registered mail to appear before the State Board of Education to show cause why such teacher's certificate should not be revoked or suspended, the notice to contain the information that the teacher is entitled to counsel if he so desires and to bring counsel with him to the meeting. If the teacher fails to appear before the State Board, or if the teacher does appear and the said Board rules that such teacher did not have sufficient cause for terminating the contract, the said Board shall suspend or revoke the teacher's certificate, for a period not to exceed one calendar year. State education agencies in other states with reciprocal certification agreements shall be notified of the revocation of the certificate.

The term "teacher" as herein used shall include all school personnel required to be certified by the State Board of Education.

Title of Regulation:	**Regulation No.:**	**R 43-207**
HEALTH EXAMINATION	**Effective Date:**	**02/84**

Constitutional and Statutory Provisions:

Section(s):

9-1-1540.	Disability retirement.
9-1-1570.	Reexamination of beneficiaries retired on account of disability; consequences of refusal to submit to reexamination.
42-15-80.	Physical examinations; facts learned by doctors are not privileged; refusal to submit to examination; autopsy.
44-29-150.	Staff of schools and child care centers to be evaluated for tuberculosis before initial hiring.
44-29-160.	Health certificates for employees in schools and other health care facilities.
44-29-200.	Attendance of teachers or pupils with contagious or infectious diseases may be prohibited.
59-5-60.	General powers of [State] Board.
59-67-410	Control by State Board of Education of school bus transportation.

Code of Laws of South Carolina, 1976.

State Board Regulation:

Health Examination.

All personnel shall be screened for tuberculosis as required by Section 44-29-150 and Section 44-29-160 of the Code of Laws of South Carolina, 1976, as amended April 24, 1979. Guidelines for screening of school employees for tuberculosis are available in each county health department.

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)	General powers of [State] Board.
59-19-270 (1990)	Trustees may employ medical, technical and clerical personnel.
20 U.S.C. §6301 *et seq. (2002)*	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.

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

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

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

Instructional Program Curriculum

Title of Regulation:	**Regulation No.:**	**R43-220**
GIFTED AND TALENTED	**Effective Date:**	**06/28/13**

Constitutional and Statutory Provisions:

Section(s):

59-5-60	General powers of [State] Board.
59-29-170	Programs for talented students.

Code of Laws of South Carolina, 1976.

State Board Regulation:

Gifted and Talented.

Purpose: The State Board of Education recognizes the need to provide gifted and talented education services to identified students in grades one through twelve. These regulations provide the framework for provision of these services. All regulations must be followed in order to qualify for state funding.

In order to comply with the South Carolina Education Improvement Act of 1984, school districts must provide programming for all gifted and talented students at the elementary and secondary levels. These programming services shall develop the unique talents of students.

I. DEFINITIONS

A. Population

1. Gifted and talented students are those who are identified in grades one through twelve as demonstrating high performance ability or potential in academic and/or artistic areas and therefore require educational programming beyond that normally provided by the general school programming in order to achieve their potential.

2. Gifted and talented abilities for these regulations include

(a) Academic and Intellectual Ability: Students who have the academic and/or intellectual potential to function at a high level in one or more academic areas.

(b) Visual and Performing Arts: Students who have the artistic potential to function at a high performance level in one or more of the fine arts (dance, music, theatre, and visual arts).

B. Terms

1. Academic areas: any or all of the academic disciplines and performance skills that cross the disciplines to include research, technology, and reasoning

2. Academic discipline/disciplines: English language arts, mathematics, science, social studies, and foreign language

3. Artistic areas: any or all of the artistic disciplines and performance skills that cross the disciplines to include research, technology, creativity, and aesthetics

4. Assessment: evaluation and re-evaluation of student aptitudes, attributes, and behaviors according to specified dimensions

5. Confluent: blending and moving forward together

6. Demonstrating (academic): making evident or establishing by reasoning; proving

7. Demonstrating (artistic): making evident or establishing by reasoning, performing, and producing

8. Differentiation: the deliberate adaption and modification of the curriculum, instructional processes, and assessments to respond to the individual needs of gifted and talented learners

9. High level: functional or performance level set by the identification dimensions in these regulations

10. Multi: more than one

11. Multiage classroom: regular classroom where gifted and talented students are served through grade placement above chronological grade placement

12. Placement: evaluation of student profiles for service indications

13. Referral: consideration of one or more students based upon the screening and identification process established in these regulations

14. Regular classroom cluster/itinerant teacher: an intra-classroom model in which students in grades 1–2 receive services from the trained classroom teacher or an itinerant teacher

15. Resource room/pull out: self-contained gifted and talented class that meets away from the regular classroom to provide the services established in these regulations

16. Screening: consideration of all students on consistent measures as established in these regulations

17. Special class: self-contained gifted and talented class organized around one or more disciplines

18. Special school: full-time academic/artistic gifted and talented magnet school: full-time academic/artistic gifted and talented school within a school

19. State identification criteria: the originating state must have a statewide (not local) definition of gifted and talented academic and/or gifted and talented artistic, and the student must satisfy those statewide requirements

II. ACADEMICS

A. Programming

1. Districts will plan for and provide a comprehensive, aligned, and coordinated continuum of services that address the advanced learning needs of gifted and talented students. To document planning,

districts will submit a local gifted and talented programming plan every five years and delineate progress on this plan annually. The South Carolina Department of Education (SCDE) will review the plan annually and provide written feedback to the districts. The SCDE shall establish a format and template for the plan. The following academic programming requirements will be addressed in a district plan:

(a) differentiated curriculum, instruction, and assessment that maximize the potential of the identified students;

(b) support services that facilitate student learning and personalized education (e.g., mentorships, online courses, independent study, assistive technologies, guidance, academic support, staff development, academic competition);

(c) programming models that facilitate the delivery of differentiated curriculum and instruction;

(d) a teacher-pupil ratio that fosters positive results;

(e) appropriate and sufficient time in instruction to assure that the goals and objectives of the programming are met; and

(f) systematic assessment of student progress and programming effectiveness relative to goals.

2. To provide curriculum, instruction, and assessment that maximize the potential of the identified students, educational programming for academically gifted and talented students must reflect the following characteristics:

(a) content, process, and product standards that exceed the state-adopted standards for all students and that provide challenges at appropriate levels for strengths of individual students;

(b) goals and indicators that require students to demonstrate depth and complexity of knowledge, creative and critical thinking, and problem-solving skills;

(c) instructional strategies that promote inquiry and accommodate the unique needs of gifted and talented learners;

(d) a confluent approach that incorporates acceleration and enrichment;

(e) opportunities for the critical consumption, use, and creation of information using available technologies ; and

(f) evaluation of student performance and programming effectiveness.

3. Districts should reference the most current edition of the *South Carolina Gifted and Talented Best Practices Manual* for programming models and curriculum requirements.

4. The models and teacher-pupil ratios that are approved for programming service at respective grade levels are

Grades	Approved Programming Model Choices
1-2	Regular Classroom/Itinerant Teacher (1:10) Multiage Classroom (NA)

	Resource Room/Pull-out (1:15)
3-5	Special School (1:25) Special Class (1:25) Resource Room/Pull-out (1:20)
6-8	Special School (1:25) Special Class (1:25) Resource Room/Pull-out (1:20)
9-12	Special School (1:25) Special Class (1:25)

5. An appropriate teacher-pupil ratio fosters positive results. The teacher-pupil ratios are listed beside the models in the chart above.

6. Extension Models, while encouraged to supplement service, may not be substituted for one of the Approved Programming Model Choices. They include but are not limited to

Grades	Extension Model
1-2	After School/Summer Services Individual Educational Plan Grade/Subject Acceleration Independent Study Special Training/Services for Parents Critical Thinking Seminars
3-5	Regular Classroom Cluster/Itinerant Model After School/Summer Services Independent Study Virtual School Courses Charter School Experiences International Baccalaureate Classes
6-12	Mentorship/Internship Regular Classroom Cluster/Itinerant Model After School/Summer Services Independent Study Seminars Exploratory Courses Virtual School Courses Charter School Experiences International Baccalaureate Classes

7. A school or district may elect to serve students in any of the above Approved Programming Models through a consortium agreement with other school districts. Other innovative models developed by the school district must receive written approval annually from the SCDE.

8. The programming must provide appropriate and sufficient time to assure that the goals and objectives of the programming are met. The following time requirements must be met by resource

room/pull-out (R/P) and regular special classroom/itinerant (SC) teacher programming models at respective grade levels to assure funding:

Grades	Programming Model	Minimum Minutes Per Year (Per Week*)
1–3	R/P	4500 (125)
	SC	8100 (225)
4–8	R/P	7200 (200)
	SC	8100 (225)
9–12	SC	8100 (225)

* = Assumes programming services of 36 weeks per school year.

The special school model requires full-time (academic) service.

9. The preparation of differentiated curriculum for gifted and talented students requires planning time for teachers at each level. Teachers shall be provided two hundred and fifty minutes per week or the appropriate grade-level equivalent for planning.

10. Annual professional development on differentiated curriculum, instructional strategies, social-emotional support, assessments, or other gifted and talented student-focused topics shall be provided by the district for all teachers working with gifted and talented students.

B. Identification of Population to be Served

1. The purposes of identification are (1) to find students who display characteristics of the gifted and talented; (2) to assess the aptitudes, attributes, and behaviors of each student; and (3) to evaluate each student for the purposes of placement. Student aptitudes, attributes, and academic behaviors will be identified, assessed, and reviewed through a multistep, multimodal, and multidimensional identification system.

2. Gifted and talented students may be found within any racial, ethnic, or socioeconomic group; within any nationality; within both genders; and within populations of students with disabilities.

3. Identification is a multistep process, which consists of screening and referral, assessment of eligibility, and placement.

4. Districts should reference the most current edition of the *South Carolina Gifted and Talented Best Practices Manual* for the identification process.

5. The following students are deemed eligible for services with the approval of the District Evaluation Placement Team:

(a) students who meet the criteria in two out of three dimensions that follow in Section II.B.7,

(b) students who meet the 96th national age percentile composite score or higher (placement grades three through twelve) or the 98th national age percentile composite score or higher (placement grades one through two) on an individual or group aptitude test,

(c) students identified in one South Carolina school district are eligible for services in any South Carolina school district, and

(d) students who have met the *state identification criteria* in another state and who transfer into a South Carolina public school are eligible for Gifted and Talented services as deemed appropriate by the Evaluation Placement Team.

6. Screening/Referral Procedures

(a) Districts shall screen all students by reviewing census aptitude and achievement test scores. Referrals from administrators, parents, teachers, and students must be accepted. Initial screening does not in itself guarantee placement.

(b) Districts shall include the following procedures in the screening/referral process:

(1) provide all parents/guardians with effective, written notice of the gifted and talented education programming, screening/referral procedures, and eligibility requirements;

(2) implement processes for identifying the academically gifted and talented from all student populations;

(3) provide training/guidance regarding the characteristics of academic giftedness for teachers and other district staff involved in the identification process; and

(4) use screening criteria and procedures that are directly related to the purpose of the gifted and talented programming (i.e., identifying all students with demonstrated potential for high academic performance as well as those who have demonstrated high achievement).

(c) All students with the potential for eligibility after screening and all students with referrals must continue into the assessment for eligibility phase of the identification process. The SCDE will establish procedures for screening and referral criteria with options for districts. Districts must use one of these options or obtain SCDE approval of an alternative proposal.

7. Assessment for Eligibility

(a) Districts must ensure that all assessment instruments/measures are reviewed for bias and accurately assess the abilities/skills/potential intended to be measured; these abilities/skills/potentials are consistent with the definition of population set forth in this regulation; and, to the extent that subjective assessment criteria are used, those individuals conducting the assessment are trained to ensure proper evaluation.

(b) No private testing will be accepted for eligibility, but those results may be considered for referral purposes.

(c) The following criteria organized by dimensions shall be used in the screening/referral/assessment processes of identification:

(1) Dimension A: Reasoning Abilities
These students demonstrate high aptitude (93rd national age percentile or above) in one or more of these areas: verbal/linguistic, quantitative/mathematical, nonverbal, and/or a composite of the three.

a) Individual aptitude test (full-scale or component score)

b) Group aptitude test (composite, verbal, or nonverbal scores)

(2) Dimension B: High Achievement in Reading and/or Mathematical Areas
These students demonstrate high achievement (94th national percentile and above or meet criteria set forth by the SCDE) in reading and/or mathematical areas as measured by nationally normed or South Carolina statewide assessment instruments. (See the most current edition of the *South Carolina Gifted and Talented Best Practices Manual* for approved subtest areas.)

(3) Dimension C: Intellectual/Academic Performance
These students demonstrate a high degree of interest in and commitment to academic and/or intellectual pursuits or demonstrate intellectual characteristics such as curiosity/inquiry, reflection, persistence/tenacity in the face of challenge and creative productive thinking. Characteristics for this dimension are demonstrated through

a) Evidence of commitment in academic disciplines through grades for placement in grades six through twelve; the standard is 3.75 points on a 4.0 scale (See the glossary of terms for a listing of the academic disciplines.);

or

b) Assessments of performance on STAR Performance Task Assessment for placement in grades three through six. Instruments for these assessments will be maintained secure under S.C. Code Ann. Section 59-1-445 (1990), Section 59-1-445, Violations of mandatory test security; penalties; investigations. The performance standard for the primary level is sixteen on either the verbal or nonverbal assessments for placement into grade three and eighteen on either the verbal or nonverbal assessment for placement into grade four. The performance standard for the intermediate level is sixteen on the verbal or twenty-two on the nonverbal for placement into grade five and eighteen on the verbal or twenty-five on the nonverbal for placement into grade six. The qualifying standards for new forms of STAR Performance Task Assessment will be equivalent to those of the base year.

(4) Districts will follow steps established by the SCDE to guarantee no single criterion eliminates students from gifted and talented programming participation.

8. Placement

(a) The evaluation step in the identification process of gifted and talented students shall be the responsibility of an evaluation/placement team within the school or district. The team shall be composed of at least a teacher, an administrator, and a guidance counselor or a psychologist (if employed by the district). In the event all three categories cannot be represented, more than one member may be chosen from one of the three categories. The evaluation/placement team for an individual student may also include a guidance counselor and/or a community-related person whose training and expertise qualifies him or her to appraise the special competencies of students.

(b) The evaluation/placement team shall have the responsibility to interpret and evaluate student data in such a way that will insure appropriate placement. The evaluation/placement team may require additional assessment before determining student placement. Placement may involve a trial period for at least one semester but not more than one year. Criteria for trial placement shall be established in guidelines established by the SCDE. Students whose progress within the gifted and talented programming at the end of trial placement is not deemed adequate by the evaluation/placement team may be withdrawn from the programming.

(c) The evaluation/placement team will be responsible for developing appropriate written procedures for removing a student from the gifted and talented programming. The criteria for these procedures according to the programming model shall be established by the SCDE . Removal from the programming must be preceded by appropriate counseling with the student and conferences with the student's parents and teachers. Records of any assessment and evaluative measures and other student information must be maintained in a confidential manner.

(d) Students identified and served according to prior eligibility criteria will continue to be eligible for placement and funding provided their programming service meets the requirements herein. Any student entering the programming once these regulation amendments are effective shall be considered for placement based on the eligibility criteria herein.

C. Staff

1. Teacher Qualifications

(a) Teachers must hold valid teaching certificates appropriate to the grade level(s) or subject area(s) included in the programming.

(b) Each teacher of a state-funded gifted and talented course or class shall have completed a gifted and talented endorsement program approved by the SCDE. There are three levels of educator credentialing for gifted and talented: beginning endorsement, intermediate endorsement, and certification. The minimal credential level required will be established by the SCDE.

(1) Exception 1: Newly assigned teachers will have one year to meet gifted and talented endorsement requirements.

(2) Exception 2: Teachers who have a master's degree or higher in gifted education from an accredited Institution of Higher Learning may have this requirement waived upon approval of credentials by the SCDE.

2. Professional Development

Appropriate, data-driven and research-supported ongoing staff development activities in gifted and talented education shall be provided and documented annually as required in the annual reporting required by the SCDE.

D. Reporting

1. Districts will report to the SCDE information, which includes, but is not limited to, student eligibility, screening, and referrals. Districts will annually collect and maintain, district statistical data on (1) the number, by race, of students referred for evaluation for eligibility for gifted and talented education services; (2) the number, by race, of students determined eligible for services; (3) the number, by race, of students actually served during the school year; and (4) the number, by school, by grade, by race, by model, of students actually served during the school year through the required statewide database as designated by the SCDE.

2. Districts shall review annually the performance of gifted and talented students on the state-approved assessment, AP exams, IB exams, SAT, ACT, and similar college entrance tests. Districts shall summarize the performance of gifted and talented students on these assessments and report trend data to the SCDE annually. These data will be disaggregated demographically and reported annually to the General Assembly.

3. Official enrollment reports to be used for funding purposes shall be submitted at the end of the 135-day enrollment period and shall be adjusted by the 45-day enrollment period or the year receiving funding. The enrollment reports shall be submitted on forms to be furnished by the SCDE.

E. Funding

1. Allocation of Funds

The SCDE will annually calculate each district's allocation based on the number of gifted and talented students projected to be served in each district as it relates to the total of all such students in the state. Unobligated funds, which become available during the fiscal year (July 1-June 30) will be redistributed to serve additional eligible students.

2. Distribution of Funds

School districts will be authorized to expend allocated funds on students meeting the eligibility criteria of prior regulations and students meeting the eligibility criteria and being served in approved programming. Distribution of funds will be made periodically with a final adjustment occurring at the end of the 135-day attendance reporting period for regular academic programming.

3. Base Allocation for School Districts with Small Enrollments

School districts identifying and serving, according to the State Board of Education Regulations, forty students or less shall receive a minimum funding of $15,000 for academic programming.

F. Expenditures and Accounting Procedures

1. State funds provided for gifted and talented programming must impact directly on students served in accordance with provisions of the State Board of Education Regulations. Accounting procedures shall conform to those outlined in the Financial Accounting Handbook issued by the SCDE. The entire allocation must be used directly for gifted and talented related expenditures.

2. A supplemental schedule shall be required in the school district's annual audit under the single audit concept.

III. ARTISTIC

A. Programming

1. Districts shall develop a written plan to include the following artistic requirements:

(a) differentiated curriculum, instruction, and assessment that maximize the potential of the identified students;

(b) support services that facilitate student learning and personalized education (e.g., assistive technology, guidance, artistic support, staff development, artistic competition, independent study, and online courses);

(c) programming models that facilitate the delivery of differentiated curriculum and instruction;

(d) a teacher-pupil ratio that fosters positive results;

(e) appropriate and sufficient time in instruction to assure that the goals and objectives of the programming are met; and

(f) systematic assessment of student progress and programming effectiveness relative to goals.

2. To provide curriculum, instruction, and assessment that maximize the potential of the identified students, educational programming for the artistic gifted and talented students must reflect the following characteristics:

(a) content, process, and product standards that exceed the state-adopted arts standards for all students and that provide challenges at an appropriate level for the strengths of the individual students;

(b) goals and indicators that require students to demonstrate depth and complexity of knowledge, creative and critical thinking skills, and problem-solving skills;

(c) instructional strategies that accommodate the unique needs of gifted and talented learners;

(d) opportunities for global communication and research using available technologies; and

(e) evaluation of student performance and programming effectiveness as related to the goals of the programming submitted in the local gifted and talented five-year plan.

3. Programming Models

(a) Visual and performing arts programming may be offered during the regular school year or during the summer for grades one through twelve. Visual and performing arts programming shall focus on creative expression in one or more of the following areas: dance, theatre, music, and/or visual arts. A diversified arts programming encompassing the disciplines of dance, theatre, music, and visual arts may be offered in grades one through six. (A diversified programming is one in which students take a variety of disciplines, typically in a summer programming.) The programming models are in-school programming, after-school programming, summer programming, Saturday programming, and consortium programs. Combinations of the approved programming models are also acceptable.

(b) A school district may elect to serve students in any of the models through consortium agreement with other school districts.

4. Length of Time in Models

Academic School Year
(In-school, after-school, and Saturday Programming)

Grades	Minimum Minutes Per Year
1-3	4500
4-8	7200
9-12	8100

Summer Programming (30 days in length)
Saturday Programming (minimum 30 Saturdays)

Grades	Minimum Hours Per Day
1-3	2 1/2 hours

4-8	4 hours
9-12	5 hours

5. Teacher-Pupil Ratios: an appropriate teacher-pupil ratio fosters positive results. Districts should reference the most current edition of the *South Carolina Gifted and Talented Best Practices Manual* for further information.

B. Identification of Population to be Served

1. The purposes of identification are (1) to find students who display talent beyond that of their peers in one or more artistic areas (dance, music, theatre, and visual arts); (2) to assess the aptitudes, attributes, potential, interests, and artistic behaviors of each student; and (3) to evaluate each student for the purposes of referral.

2. Gifted and talented students may be found within any racial, ethnic, or socioeconomic group; within any nationality; within both genders; and within populations with physical disabilities, learning disabilities, or behavioral problems.

C. Identification/Selection is a three-step process, which consists of referral/recommendation, demonstration/audition/portfolio, and placement.

1. Referral Procedures

(a) Students may be referred by a teacher, administrator, parent, self, or a peer using a SCDE-approved instrument appropriate to the visual and performing arts area, to include creativity and expressive qualities. The referral should be used to identify students who have an aptitude for the arts and may benefit from intense exploration and in-depth study in one or more of the arts. The initial referral does not itself guarantee placement.

(b) Districts shall include the following procedures in the referral process:

(1) provide all parents/guardians with effective, written notice of the gifted and talented education programming, referral procedures, and eligibility requirements;

(2) implement processes for identifying artistically gifted and talented from all student populations;

(3) provide training/guidance regarding characteristics of the artistically gifted and talented for teachers and other district staff involved in the identification process;

(4) use referral criteria and procedures that are directly related to the purpose of the artistically gifted and talented programming; and

(5) reference the most current edition of the *South Carolina Gifted and Talented Best Practices Manual* for the referral process.

(c) Assessment for Eligibility

Districts shall establish a review team comprised of at least three individuals to include an arts teacher, an administrator, and a community person with experience in the arts. In the event all three categories cannot be represented, more than one member may be chosen from one of the three categories.

The team shall ensure that all assessment instruments/measures are reviewed for bias and accurately assess the abilities/skills/potentials intended to be measured and, to the extent that subjective assessment criteria are used, that those individuals conducting the assessment are trained to ensure proper evaluation.

2. Recommendation Form

(a) A recommendation form, which may be combined with the referral form, consisting of a checklist to assist with identifying the gifted and talented artistic student will be completed by the dance teacher, the physical education teacher, the classroom teacher, the theatre teacher (or the classroom teacher in the elementary school or middle school if the middle school does not have a theatre teacher), the music teacher, or the visual arts teacher.

(b) A teacher should base responses to the checklist on student behaviors that were observed throughout the school year.

(c) Districts should refer to the most current edition of the *South Carolina Gifted and Talented Best Practices Manual* for recommendation forms and checklists.

3. Demonstration/Audition/Portfolio

(a) The demonstration/audition/portfolio should enable the evaluation-placement team to determine a student's artistic potential to function at a high level in one or more of the arts.

(b) The demonstration/audition/portfolio must also include either a student interview or questionnaire to assist the evaluation-placement team in determining suitability for placement. At the discretion of the district, guidelines may be established for electronic or other forms of demonstration/auditions/portfolio.

(c) Students will be rank ordered using results from the demonstration/audition/portfolio and the student interview or questionnaire.

(d) Parents of referred students may decide not to proceed with the demonstration/audition/portfolio.

4. Placement

(a) The placement of gifted and talented students should be the responsibility of the evaluation-placement team comprised of one member of the arts faculty or district arts staff, an administrator, and an additional member from the community who has expertise in the arts area for which the student has been referred. In the event all three categories cannot be represented, more than on member may be chosen from one of the three categories.

(b The evaluation-placement team shall interpret and evaluate student data in such a way that will insure appropriate placement. The team may require additional assessment before determining student placement. Placement may involve a trial period for at least one semester but not more than one year. Students whose progress within the programming is not deemed adequate by the team may be withdrawn from the programming.

(c) The team will be responsible for developing appropriate written procedures for removing a student from the gifted and talented programming. Removal from the programming must be preceded by appropriate counseling with the student and conferences with the student's parents and teachers. Records

of any assessment and evaluative measures and other student information must be maintained in a confidential manner.

D. Staff

1. Teacher Qualifications for Visual and Performing Arts Programming: Teachers must hold a valid teaching certificate appropriate to the grade level(s) or subject area(s) included in the programming. Professionals in the visual and performing arts may teach in the gifted and talented programming if serving in the programming under the supervision of the appropriate district personnel.

2. Professional Development: Appropriate, ongoing staff development activities related to serving gifted and talented students shall be provided by the district annually.

E. Reporting

1. Districts will report to the SCDE information that includes, but is not limited to, student eligibility and referrals. Districts will annually collect and maintain district statistical data on (1) the number, by race, of students referred for evaluation; (2) the number, by race, of students determined eligible for services; and (3) the number, by race, by school, by grade, by arts area, of students actually served during the school year.

2. Official enrollment reports shall be submitted annually on appropriate SCDE forms.

3. Districts will submit a local gifted and talented programming plan every five years and delineate progress on these plans annually. The SCDE will review the plans annually and provide written feedback to the districts. The SCDE will provide a format and template for the plans.

F. Funding

Distribution of Funds: School districts will be authorized to expend allocated funds on students meeting eligibility criteria and being served in approved programming. Programming initiated prior to June 30 will be funded from that fiscal year's allocation.

G. Expenditures and Accounting Procedures

1. State funds provided for gifted and talented programming must impact directly on students served in accordance with provisions of the State Board of Education Regulations. Accounting procedures shall conform to those outlined in the Financial Accounting Handbook issued by the SCDE. The entire allocation must be used directly for gifted and talented related expenditures.

2. A supplemental schedule shall be required in the school district's annual audit under the single audit concept.

Title of Regulation: **Regulation No.:** **R 43-229**

DEFINED PROGRAM FOR THE PALMETTO UNIFIED SCHOOL DISTRICT (PUSD) **EFFECTIVE DATE: 06/27/14**

Constitutional and Statutory Provisions:

Section(s):
24-25-10 Palmetto Unified School District No. 1.
Code of Laws of South Carolina, 1976.

State Board Regulation:

43-229. Defined Program for the Palmetto Unified School District (PUSD)

Palmetto Unified School District No. 1 (PUSD) was established in 1981 by the South Carolina General Assembly, pursuant to S.C. Code Ann. § 24-25-10, to provide educational services to inmates through a statewide school district. PUSD as a sanctioned school district is also mandated to comply with the regulations of the State Board of Education (SBE) unless otherwise noted in this regulation.

I. District Organization

The PUSD shall provide a defined educational program that complies with standards prescribed for the Board of Trustees, district operations, secondary grades, and adult education, unless otherwise noted in this regulation.

A. Due to the uniqueness of the school population served by the PUSD (i.e., the large number of students over the public school age of 21 and age disparity within each institution), the operation of a dual program of secondary and adult education for the majority of the district's schools is necessary. The following classifications will be recognized as the organizational patterns for school operation within the district:

Secondary (Grades 9–12)
Adult Education (Level 1, Level 2, High School Equivalency Programs)

B. Students of public school age (17–21) are assigned under pupil classification system as set forth in the Education Finance Act (EFA) as either secondary students (grades 9–12), students enrolled in a high school equivalency program, students with disabilities, or career and technology education (CATE) students. Students who become twenty-one years old after September 1 of the school year will remain under the secondary grade pupil classification for the entire school year. Students over public school age will be assigned to the adult education program.

C. Accredited schools shall operate a minimum of 1,170 instructional hours for all students. Exercises for issuing diplomas to graduates shall be scheduled at the discretion of the PUSD. High school diploma credits will be awarded per Regulation 43-234, Defined Program, Grades 9–12 and Graduation Requirements.

II. District Governance

A. Board of Trustees

1. The school district Board of Trustees must ensure quality schooling by providing rigorous, relevant instructional programs for all students.

2. The PUSD shall be under the control and management of its Board of Trustees. With the consent of the agency director, the Board of Trustees shall operate as the executory agent for the schools under its jurisdiction and shall perform administrative functions as stated in S.C. Code Ann. § 24-25-70, Powers and Duties of School Boards.

B. Board Policies

Written school board policies, cooperatively developed by employees, administrative staff, and the Board of Trustees, are essential for successful operation of the district's school system. School board policies establishing the guidelines and responsibilities shall outline the relationship of board members, the superintendent, and staff; provide understanding and clarity of purpose; and facilitate administration. Copies of the school board policies shall be filed on the district's web page.

C. School Budgets

Notwithstanding any other provision of the law, the Board of Trustees in this state shall annually make available to the general public its budget for that year.

D. District Strategic Plan and School Renewal Plans

The PUSD will submit a five-year strategic plan to the South Carolina Department of Education (SCDE) with annual updates due by April 30 each year. The district strategic plan, school renewal plans, and annual updates must be reviewed and approved by the local Board of Trustees. District and school planning should be in compliance with Regulation 43-261.

III. School and District Reporting Requirements

The need for uniformity in collecting and reporting information makes it necessary for the district to maintain a record system for accurate reporting of information to the SCDE, the United States Department of Education (ED), and the General Assembly. Compatibility of data at the district level is required in the following areas:

A. Finance

The PUSD shall maintain accurate accounting records of all financial transactions in accordance with the SCDE's standard fiscal procedures as outlined by the State Budget and Control Board. Funds will be expended within the parameters set forth in the SCDE's Funding Manual.

B. Personnel

The PUSD shall maintain an accurate record of all personnel and submit required staff information utilizing a prescribed format to the appropriate office(s) at the SCDE.

C. Facilities and Equipment

The PUSD shall maintain an accurate inventory record of all equipment and real property owned by the district.

D. Students

The PUSD shall maintain accurate and confidential student records. The superintendent or designee shall verify the accuracy of enrollment, attendance, and membership by category which shall be submitted to appropriate office(s) at the SCDE.

1. Student Records

a. The PUSD will maintain accurate student data according to the pupil accounting system prescribed by the SCDE.

b. The district superintendent or designee will verify the accuracy of the student enrollment, attendance, membership by category, and submit this information to the SCDE.

2. Course Records for Students

The district superintendent or designee will verify the accuracy of course records for students.

3. Student Enrollment

a. Students will not be concurrently enrolled in the Adult Basic Education (ABE) funding database and the EFA funding database.

b. Cases of extended or chronic illnesses that are certified by a physician and absences due to emergency conditions may be approved by the principal as excusable.

c. Any student who receives fewer than 120 clock hours of instruction during a school year will not be eligible to receive a full unit of credit unless the Board of Trustees approves excessive absences in accordance with Regulation 43-274, and the student makes up the work missed to satisfy the 120-hour requirement, unless that credit is earned in a proficiency-based course, as permitted under Regulation 43-234.

4. Transfer of Students

a. Accurate accounting records shall be developed and maintained for student transfers and withdrawals according to Regulation 43-273. Comprehensive transcripts shall be submitted directly to the receiving school. A permanent record of the transferred student shall be retained in the school from which the student is transferred. All transfers and withdrawals shall be in accordance with Regulation 43-273, Transfers and Withdrawals.

b. Units earned by a student in an accredited high school of this state or in a school of another state, which is accredited under the regulations of the Board of Education of that state, will be accepted under the same value which would apply to students in the school to which they transferred.

IV. School Personnel Based on EFA Requirements

A. School Personnel Workload

1. PUSD will be divided into regions. Each region will have no more than three (3) schools. Each region will be staffed by a full-time properly certified principal.

2. Each region will be staffed by a properly certified guidance counselor.

3. Each region will be staffed by a properly certified media specialist.

4. All students with disabilities under the Individuals with Disabilities Education Act (IDEA) will receive special education and related services consistent with their individualized education program (IEP), in accordance with the IEP. Caseload and class size must adhere to the relevant state regulations governing special education.

B. Minimum District Staff

The South Carolina Department of Corrections (SCDC) shall employ a superintendent of the PUSD who shall be employed full time.

C. Additional District Staff

Operation of the school program involves functions of management and administration as well as teaching, counseling, supervising, and related activities. The enrollment and scope of the educational program will determine the size of the district staff as determined by the superintendent. Any additional personnel who may need to be employed and who have responsibilities for supervising instructional programs and pupil services shall be properly certified.

D. All certified staff will be paid according to the statewide minimum salary schedule, adjusted for 235-day school year.

E. Program of Professional Development and Evaluation

1. The PUSD shall provide professional development for all educational personnel on an annual and long-range basis.

2. Each school shall implement a district-approved professional development program in addition to regularly scheduled faculty meetings. These activities shall be correlated with the district's professional development and strategic plans as well as the school renewal plan.

V. Programs of Study

To assure a continuous learning experience, students may enter a course at any time. Students enrolled in a Carnegie unit course may receive one unit of credit upon successful completion of a course that requires a minimum of 120 hours of instruction. One-half credit may be awarded for a course that requires a minimum of 60 hours of instruction, and one-fourth credit may be awarded for a course requiring 30 hours of instruction. A student enrolled in a course offered by the SCDE's virtual education program or another Distance Learning program may receive one unit of credit upon successful completion of a course as required by the SCDE. In addition, the PUSD may offer proficiency-based courses pursuant to the requirements of Regulation 43-234.

A. Minimum Course Offerings

1. The number of course offerings will be determined by the PUSD superintendent according to the size of student enrollment and course needs of students, The courses offered may include, but are not limited to, the areas of English language arts, mathematics, social studies, science, the arts, and CATE.

2. Each school shall provide adequate personnel, facilities, equipment, and supplies for its instructional program as determined by the superintendent.

3. The instructional day must be at least 6 hours, excluding lunch, or the equivalent weekly in accordance with § 59-1-425. In order to receive EFA funding, students must attend a minimum of 200 minutes daily or its equivalent for an annual accumulation of 36,000 minutes according to R.43-172.

4. Due to the individualized instructional program and the ever changing school population within the district, special consideration shall be given to allow credit and non-credit students to attend classes concurrently. Students at different unit credit levels shall also be allowed to attend classes concurrently in the same subject area.

B. High School Credit Courses

1. No student may earn more than one unit of credit for 120 hours of instruction.

2. Regulation 43-262 regarding assessment shall apply to students enrolled in high school courses.

C. High School Equivalency Programs

1. A candidate for a state high school equivalency certificate who is seventeen to twenty-one years of age and incarcerated within the South Carolina Department of Corrections must submit proper documentation completed by either a PUSD school principal, adult education director, or the district superintendent indicating the candidate is no longer enrolled in a program generating EFA funding. The documentation must verify the candidate's date of birth and the date of his or her last attendance at the PUSD EFA program. Verification letters are to be submitted with the application for testing.

2. EFA students who pass a high school equivalency exam may be enrolled in a CATE vocational class or be withdrawn from school. Those who are under the age of twenty-one and fail the high school equivalency exam will remain in the EFA database. Students who re-enroll must meet the minimum requirements as set forth in the Pupil Accounting Manual per Regulation 43-172.

D. Classroom Instruction

Classroom instruction will be based on the current SBE-adopted and approved academic standards for a given content area. Content areas shall include, but not be limited to, English language arts, mathematics, science, social studies, the arts, and CATE. CATE programming shall be offered at each school. Additional courses may be offered depending upon student enrollment, need, and availability of a certified teacher as designated by the superintendent or designee and as required by SBE Regulation 43-234 to include financial literacy; environmental studies; foreign language; alcohol, tobacco, and other drugs; and visual and performing arts. Other courses in the areas of physical education, health education, other elective courses, and Advanced Placement offerings should be provided as appropriate.

E. Impact of Crime Classes

Impact of Crime classes may be offered in all schools that have teaching assistants as a transitional skill, as designated by the superintendent/designee.

F. Special Education

1. A specialized program of instruction utilizing the resource, itinerant, or self-contained model shall be made available to students with disabilities. Special education and related services must be provided to students with disabilities as set forth in their individualized education programs (IEPs); and to the maximum extent possible, they must be educated with their nondisabled peers in the least restrictive environment, consistent with the Individuals with Disabilities Education Act (2004) and SBE Regulation 43-243. Students with disabilities must have available to them a free appropriate public education, consistent with SBE Regulation 43-243 and 34 C.F.R. § 300.102(a)(2).

2. Student/teacher ratios will comply with SBE Regulation 43-205.

G. Instructional Materials

EFA students may be issued state-adopted instructional materials. Students will pay for lost or damaged materials. Replacement materials will not be issued until the debt is paid.

H. Media Center

The district shall utilize the institutional libraries. A committee, as designated by the superintendent/designee, and the media specialist shall be responsible for reviewing and selecting reading materials that are appropriate for the needs of students, including print and electronic or digital versions of materials.

I. Advisory Councils

The superintendent or designee may establish advisory councils, including but not limited to a Student Advisory Council, Teacher Advisory Council, School Improvement Council, and a Career and Technology Advisory Council. Advisory councils shall meet no less than annually. No advisory council shall have any of the powers and duties reserved by law or regulation of the Board of Trustees.

J. Accident Prevention

Each school will comply with safety regulations as prescribed in state law and approved in the individual institution's emergency plan (Section 59-63-910, S.C. Code of Laws, 1976, as amended).

K. Emergency Closings

All school closings, other than for security reasons, must be approved by the district superintendent or designee and reported to the SCDE.

L. Displaying of United States and South Carolina Flags (R.43-188)

Each school will display the American and State flags appropriately.

VI. Adult Education

The adult education program is designed primarily for, but not limited to, adults over twenty-one years of age. Those students who are under twenty-one years of age that have withdrawn from a PUSD EFA school to prepare for a high school equivalency program may participate in the adult education program. The district shall provide educational programs, including the following:

Academic Education Level I (1–8), Level II (9–12), High School Diploma Program, and the SCDE virtual education program or other Distance Learning programs.

A. Academic Education

1. Level 1: Basic education shall include organized and systematic instruction in the skills of language arts and mathematics.

2. Level II: High school completion shall provide a more defined and structured program which will allow the student to work concurrently toward preparing for the high school equivalency diploma and/or toward receiving high school unit credits.

3. High School Diploma Program: High school credit may be granted for a course completed in an approved adult education program provided (1) the teacher is properly certified to teach the course, and (2) the student receives a minimum of 60 clock hours of instruction. A school may award one unit of credit for a course that has been approved by the SCDE in a proficiency-based system. A proficiency-based course may also be offered for one-fourth and one-half unit if the system specifies these units (R.43-234). High school diploma credits will be awarded per R.43-259, Graduation Requirements.

4. High School Equivalency Programs

a. Students who are not currently enrolled as part of the EFA funding formula will be eligible to take a high school equivalency program exam upon the recommendation of the principal or school leader. Attainment of a high school equivalency diploma will be determined by achieving a passing score as determined by the SCDE and approved by the SBE.

b. A candidate for a state high school equivalency certificate who is seventeen to twenty-one years of age and incarcerated within the South Carolina Department of Corrections must submit proper documentation completed by either a PUSD school principal, adult education director, or the district superintendent indicating the candidate is no longer enrolled in a program generating EFA funding. The documentation must verify the candidate's date of birth and the date of his or her last attendance at the PUSD EFA program. Verification letters are to be submitted with the application for testing.

B. Adult Basic Education (ABE) Personnel

1. Each adult education teacher must be properly certified and meet appropriate federal statutory requirements.

2. Each adult education high school subject area teacher must be properly certified and meet appropriate federal statutory requirements to teach the subject area in which he or she is assigned to teach in order to award a Carnegie unit.

C. Special Education Services

Special education and related services must be provided to students with disabilities as set forth in their individualized education programs (IEPs); and to the maximum extent possible, they must be educated with their nondisabled peers in the least restrictive environment, consistent with the Individuals with Disabilities Education Act (2004) (IDEA) and SBE Regulation 43-243. Students with disabilities must have available to them a free appropriate public education, consistent with SBE Regulation 43-243 and 34 C.F.R. § 300.102(a)(2), until they graduate with a South Carolina high school diploma or reach the maximum age for coverage under the IDEA. .

D. ABE Professional Development

ABE staff will participate in adult education professional development as required by the SCDE.

The following SBE Regulations do not apply to PUSD:
R.43-220—Gifted and Talented
R.43-231—Defined Program Grades K–5
R.43-232—Defined Program 6–8
R.43-240—Summer School Programs
R.43-241—Medical Homebound Instruction
R.43-242—Driver Training
R.43-244—Interscholastic Activities
R.43-246—Instruction at a Place Other Than School
R.43-265—Parental/Family Literacy
R.43-268—Academic Assistance Programs Grades 4–12

Title of Regulation: **Regulation No.:** **R 43-231**

DEFINED PROGRAM 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, et seq.	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)

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.

* 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.:** **R 43-232**

DEFINED PROGRAM 6–8 **Effective Date:** 06/27/97

Constitutional and Statutory Provisions:

Sections:

59-5-60(1)(3) & (6)	General powers of [State] Board.
59-29-10, et seq.	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 AND GRADUATION REQUIREMENTS **Effective Date:** **06/28/13**

Constitutional and Statutory Provisions:

Section(s):

59-5-60	General powers of [State] Board.
59-18-110	Objectives
59-29-10, et seq.	Short title
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
59-53-1810	Federal act accepted; State Board of Education designated as State Board of Vocational Training

Code of Laws of South Carolina, 1976.

20 U.S.C. 1232(g)	Family Education Rights and Privacy Act
20 U.S.C. 6301, et seq.	Federal No Child Left Behind (NCLB)

U.S. Code of Laws

State Board Regulation:

Defined Program, Grades 9-12 and Graduation Requirements.

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

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

I. Requirements for Earning a South Carolina High School Diploma

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

Unit Requirements

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

	24.0 total

B. The student must pass a classroom examination on the provisions and principles of the United States Constitution, the Declaration of Independence, the Federalist papers, and American 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 in which an end-of-course examination is administered.

D. The student must be enrolled for a minimum of one semester immediately preceding his or her graduation, except in case of a bona fide change of residence. Units earned in a summer school 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 credit for courses that have been approved by the South Carolina Department of Education (SCDE) 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. Each school district that seeks to implement a proficiency-based system must submit a plan to the SCDE that provides procedures for establishing and developing a proficiency-based system including the method for determining proficiency. The SCDE must approve the district-submitted plan prior to the district's use of the proficiency-based system. Districts are accountable for making sure that the academic standards and the individual learning needs of the students are addressed.

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 district-wide or school-site programs-that meet all the regulatory requirements for courses offered for students in grades nine through twelve. A district-wide 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 SCDE'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 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
Pre-calculus, Calculus
Discrete Mathematics*, Probability and Statistics

Science:
Physical Science
Earth Science*
Biology 1, Biology 2*, Applied Biology 1, 2*
Chemistry 1, Chemistry 2*, Chemistry for the Technologies
Physics, Physics for the Technologies 1, 2*

Social Studies:
U.S. History and Constitution
U.S. Government
Economics
World History and World Geography

B. Career Clusters

School districts must use the sixteen clusters for reporting purposes but may modify these clusters (for example, Arts and Humanities in place of Arts, Audio-Video Technology, and Communications). 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. Due to federal requirements, all students must take a science course for which an assessment is given.

2. For state accountability purposes, every student must take an end-of-course examination in biology.

3. State Board regulations that contain instructional program requirements are accessible on the SCDE 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 SCDE for the purpose of federal and state accountability requirements.

C. Student Records

1. Each school must have an appropriate means of reporting academic achievement to parents.

2. Each school district must maintain accurate student data according to the pupil accounting system prescribed by the SCDE .

3. Each school district must file a record of all dropouts that specifies for every student the name of the school in which he or she was enrolled and gives the following information on the student: his 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 SCDE's Office of Finance.

5. Each school must comply with the Family Educational Rights and Privacy Act regarding student records (20 U.S.C. Section 1232(g)).

D. Course Records for Students

1. Each district superintendent must verify the accuracy of course records for students.

2. The name and code number of every course that each student takes must be entered into the student data collection system active master scheduler at the time the student takes the course. 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 SCDE . Early dismissal days must be reported to and approved by the director of the Office of Federal and State Accountability .

Title of Regulation:	**Regulation No.:**	**R 43-236**
CAREER OR TECHNOLOGY CENTERS/ COMPREHENSIVE HIGH SCHOOLS	**Effective Date:**	**2/28/2003**

Constitutional and Statutory Provisions:
South Carolina Code Ann. Section(s):

59-5-60(1990)	General powers of [State] Board.
59-5-65 (1990 & Supp. 2002)	Minimum standards for student conduct, attendance and scholastic achievement; enforcement.
59-53-1810. (1990)	Federal act accepted; State Board of Education designated as State Board of Vocational Training. Carl D. Perkins Vocational-Technical Education Act of 1998

Descriptor Code: IDA

State Board Regulation:

Career or Technology Centers/Comprehensive High Schools

Career or technology centers and/or comprehensive high schools shall, based on local needs, offer a variety of courses that will constitute a career major. These career majors are contained in the clusters defined and communicated to school districts by the Office of Career and Technology Education in conjunction with federal and state funding for career and technology courses and programs.

School Districts will offer in high schools and/or career or technology centers a full complement of courses within a minimum of two career clusters to enable students to complete at least four Carnegie units in an approved sequence of Career and Technology Education coursework leading to a career goal.

Title of Regulation:	**Regulation No.:**	**R 43-237.1**
ADULT EDUCATION PROGRAM	**Effective Date:**	**06/27/14**

Constitutional and Statutory Provisions:

Sections:
59-43-10, et seq. Adult Education Generally.
Code of Laws of South Carolina, 1976.

State Board Regulation:

43-237.1. Adult Education Program.

A. Adult Education Program

The program of adult education is provided for adults who want to acquire a basic education, to prepare for a high school equivalency test, to develop literacy skills, to obtain the knowledge and skills necessary for employment and self-sufficiency, or to complete the requirements for a state high school diploma. Enrollment in the program of adult education for a state high school diploma shall be limited to adults who are residents in South Carolina.

B. Basic Education Program

The curriculum of an adult basic education program shall include organized and systematic instruction in reading, writing, and speaking the English language, numeracy, problem solving, English-language acquisition, and other literacy skills.

Each adult education program shall provide instruction at the various levels as defined in the National Reporting System for Adult Education (NRS).

Cooperation with other agencies and programs is needed in order for public education to provide for the adult population's variety of needs. A school district with the written approval of the Office of Adult Education may contract with another school district in South Carolina for the operation of the adult program. Diploma programs must have written approval from the Office of Adult Education.

C. Adult Education Facilities

(1) Buildings shall be adequate in size and arrangement.

(2) Buildings shall be kept clean and comfortable.

(3) Each room shall be designed and equipped to serve specific purposes. Adequate lighting, ventilation, and heating shall be provided in all utilized areas.

(4) All operating adult school facilities shall comply with the safety regulations prescribed by the State Fire Marshal and with the sanitation and health regulations prescribed by the State Board of Health.

D. Health Certificates

All personnel shall be screened for tuberculosis as required by (S.C. Code Ann. Sections 44-29-150, 160 (1976)). Guidelines for screening of school employees for tuberculosis are available in all county health departments.

E. In-Service Education

Each adult education director shall develop and implement an organized in-service education program for professional personnel. Staff members should be involved in the planning and evaluation of these activities, which should focus on the problems, needs, purposes, and goals of the adult education program. A copy of the in-service education plan shall be made available to the adult education supervisor upon request.

F. Length of School Term

Each approved adult education high school diploma course shall include a minimum of sixty (60) hours of instruction for each unit of credit (exclusive of registration, exams, issuing materials, etc.), unless the course is offered via the virtual school program or via an approved proficiency-based system.

G. Supervision of Instruction

Supervision and improvement of the adult education instructional program is the direct responsibility of the adult education director.

H. Allocations to School Districts

State funds shall be allocated to school districts on a formula basis as determined by the adult student enrollment and student performance as of June 30 each year.

1. General Program Support

Using actual allocations, school districts shall develop a budget that includes the following allowable expenses: directors' salaries, teacher salaries, instructional materials and supplies, "other costs," employee benefits, and indirect costs. These expenditures shall be approved by the Office of Adult Education. Disbursements for teacher salaries, instructional materials, equipment and supplies, and other costs shall be paid at a rate determined by the local board of education.

2. Employee Benefits

Federal and state funds may be used for payment of employee benefits for those employees whose salaries are paid with federal and state funds.

I. Allocations to Other Entities

Allocations of federal funds to other entities that are deemed eligible under the Workforce Investment Act will be made on the same formula basis as school districts. The end-of-the-year report compiled by the Office of Adult Education shall be used as the basis for determining the amount to be allocated.

J. Allocations to Other Agencies

Allocations of federal funds to other agencies that are deemed eligible under the Workforce Investment Act will be made on the same formula basis as school districts. The end-of-the-year report compiled by the Office of Adult Education shall be used as the basis for determining the amount to be allocated.

K. Base Amount

After the costs of the State Office of Adult Education operations, local directors' salaries, leadership funds, other agencies' funds, special initiatives, and entities' allocations are subtracted from the state and federal grants, the remainder shall be distributed through a formula that considers the number of participants and the current student performance formula for adult education programs. This formula will produce the program allocation amount for the up-coming school year.

L. Non-fundable Classes

No class or course for adults that is recreational or social shall be eligible for funding; therefore, enrollment in such classes shall not be counted for funding purposes, and no state or federal adult education funds may be used to support such classes. This standard applies to physical education and physical fitness classes.

M. Enrollment Count

Adult students who have been instructed a minimum of twelve (12) hours in adult education classes may be counted for enrollment only once during a fiscal year in the same program. Approved programs of study are those outlined in the federally approved SC Assessment Policy (Adult Basic Education, Adult Secondary Education, English as a Second Language, or Workplace Literacy) and taught by certified adult education instructors or by qualified volunteers .

N. Quarterly Expenditure Claims

Adult Education Expenditure Reports shall be submitted to the Office of Finance on a quarterly basis.

O. Expenditure Reports

Program expenditure reports are reviewed quarterly by the staff of the Office of Adult Education to ascertain if expenditures are consistent with allocations.

P. Local Funds

Local funds for the adult education program are expended at the discretion of the local school officials.

Q. Project Proposals

Project proposals define the plans and methods by which the program will operate and include a needs assessment of the local community served by the program. No reimbursements are made prior to the final approval of a proposal.

R. Indirect Costs

If a school district chooses to claim indirect costs, the restricted cost rate is applicable to adult education federal funds.

S. Travel Reimbursement

When travel expenses are reimbursed through the Office of Adult Education, current state employee travel regulations apply.

T. Membership

The fees for memberships in professional organizations are disallowed as expenditures from state or federal adult education funds.

U. Local Program Income

If the adult education program charges fees for tuition or materials, those funds can only be spent on additional, approved adult education activities. The funds may not go into the district's general fund or be used for any activity other than adult education.

Title of Regulation:	**Regulation No.:**	**R 43-238**
HEALTH EDUCATION REQUIREMENT	**Effective Date:**	**07/92**

Constitutional and Statutory Provisions:

Sections:

59-29-10.	Required subjects.
59-32-10, et seq.	Comprehensive Health Education Program.

Code of Laws of South Carolina, 1976.

State Board Regulation:

Health Education Requirements.

The Comprehensive Health Education (CHE) Act of 1988 (59-32-5) requires that public school health instruction be planned, age-appropriate, and sequential. The CHE Act further requires that, at least one time during the four years of grades 9-12, each student shall receive a program of instruction in comprehensive health education to include the following subjects:

community health
consumer health
environmental health
growth and development
nutritional health
personal health
prevention and control of diseases and disorders
safety and accident prevention
substance use and abuse
dental health
mental and emotional health
reproductive health) a minimum of 750 minutes of
pregnancy prevention) instruction is required for
sexually transmitted diseases [FN*]) these three together.
family life (option in grades 9-12)

[FN*] Instruction in sexually transmitted diseases (STDs) includes AIDS education and must be taught within the reproductive health, family life, or pregnancy prevention education components or it must be presented as a separate component (59-32-30(E)).

A school program shall provide instruction in Comprehensive Health Education from one or more of the following:

1. Each student shall receive instruction in a comprehensive health education course for 36 weeks or a semester from the list of approved high school health courses.

2. Each student shall receive instruction in each of the comprehensive health subjects through a series of mini courses, e.g., three-week short courses selected or developed by the school or district.

3. A school or district shall select or develop modular units of instruction for each of the comprehensive health education subjects and integrate them into existing required courses.

4. If options 1, 2, or 3 are not selected, a school shall develop a written plan that demonstrates that all students shall receive instruction in the required comprehensive health subjects within existing courses before graduation. This plan must be submitted to the Division of Curriculum for written approval at least six weeks prior to implementation.

Title of Regulation:	**Regulation No.:**	**R 43-240**
SUMMER SCHOOL PROGRAMS	**Effective Date:**	**06/28/2002**

Constitutional and Statutory Provisions:

S.C. Code Ann. Section 59-5-50 (1990)	General powers of [State] Board
S.C. Code Ann. Section 59-39-100 (2001)	Issuance of uniform diplomas by accredited high school; units required

Descriptor Code: IDCA

State Board Regulation:

Summer School Programs

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.

Title of Regulation: **Regulation No.: R 43-241**

MEDICAL HOMEBOUND INSTRUCTIONS **Effective Date: 6/27/03**

Constitutional and Statutory Provisions:

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

59-21-540(11) (1990)	Special educational services for which state aid allowed
59-33-20(c) (1990).	Definitions
59-33-30 (1990)	Establishment by State Board of Education of program of specialized education for handicapped children; rules and regulations

Descriptor Code: IDDC

State Board Regulation:

Medical Homebound Instruction

I. Students who cannot attend public school because of illness, accident, or pregnancy, even with the aid of transportation, are eligible for medical homebound or hospitalized instruction.

(A) A physician must certify that the student is unable to attend school but may profit from instruction given in the home or hospital.

(B) Any student participating in a program of medical homebound instruction or hospitalized instruction must be approved by the district superintendent or his or her designee on standardized forms provided by the State Department of Education.

(C) A South Carolina school district may count in membership a pupil who is compelled to reside outside the State to receive medical services provided the teacher is certificated by the Department of Education in the state where services are rendered.

(D) All approved forms must be maintained by the district for documentation.

II. A student is eligible for medical homebound instruction (1) on the day following his or her last day of school attendance or (2) on the first day of the regular nine-month academic year of the school in which he or she is enrolled and would otherwise be in attendance. The student remains eligible (1) until the day before he or she returns to school or (2) until the last day of the regular academic year in the school year he or she would normally be enrolled, whichever occurs first.

III. The State Department of Education shall fund a maximum of five periods per week of medical homebound instruction pursuant to the Education Finance Act (EFA).

(A) A day of instruction must be based on the student's individual need but may be no less than fifty minutes to qualify for state funding.

(B) There is no limit to the amount of instruction that may be provided with funds other than state funds.

(C) If more instruction is needed, the school district must provide the additional funds.

IV. Should an approved student not be provided the medical homebound instruction that he or she is entitled to receive, the student is eligible to have the medical homebound instruction made up by the district.

(A) This make up may occur during the student's remaining eligibility for medical homebound instruction or may occur after the student returns to school provided the make-up periods are not during the regular school day.

(B) State funding for medical homebound instruction is available until the last day of the regular school year. If the school district delays the start of services for any reason, the student is still entitled to the instructional services, and the school district must make up the missed instructional periods even if the regular school year has ended and services are provided without the benefit of state funding.

V. All teachers providing medical homebound instruction to students domiciled in South Carolina must hold a valid South Carolina teacher's certificate.

(A) The teacher shall teach the medical homebound student or students in a room especially set aside for the period of instruction.

(B) Medical homebound teachers are required to keep a weekly record of teaching services provided.

Title of Regulation: **Regulation No.: R 43-242**

DRIVER TRAINING **Effective Date: 06/26/98**

Constitutional and Statutory Provisions:

Sections:

56-23-20.	Certain courses exempt.
56-23-85.	Driver instructor permits required.
59-39-320.	Rules and regulations of State Board of Education.

Code of Laws of South Carolina, 1976.

Descriptor Code: IDDE

State Board Regulation:

Driver Training

A school program shall include the complete program of driver education, classroom and behind-the-wheel phases, and it shall be provided each semester on an elective basis for eligible students. Schools organized on grades 9-12 or 10-12 basis shall provide this program.

Summer programs of driver education are permissible and recommended but may not be substituted for the regular school year program.

1. The course shall be organized on a semester basis and shall include as a minimum 30 classroom hours of instruction in driver education, 6 hours of actual behind-the-wheel driving, and 6 hours of actual observation. Twelve hours of simulation instruction may replace 3 hours of behind-the-wheel driving.

2. Behind-the-wheel driving refers to actual experiences in road instruction with the student as the driver with the teacher present.

   Behind-the-wheel instruction shall include the following:

   a. Actual experience in driving a properly marked automobile. It is required that a dual-control automobile be used.

b. A minimum of 6 hours of behind-the-wheel practice driving with a certified driving instructor. Twelve hours of simulation instruction may replace 3 hours of behind-the-wheel driving.

3. The instructional materials shall be selected from the list of state adopted instructional materials list for driver education.

4. Driver education must be offered at a grade level that complies with Section 8 of the Highway Safety Act (R-521, Act No. 362 of 1965). It is recommended that the course be offered at the grade level where most of the students have or are approaching legal driving age which is the ninth grade. However, the course may be offered in any grade 9-12. The course shall be limited to students whose physical and mental condition gives reasonable promise of being able to pass the requirements of the State Highway Department for a driver's license.

5. The teacher must (a) hold a valid South Carolina teacher's certificate, (b) be certified to teach driver education, (c) have completed successfully a basic and advanced driver and traffic education instructor's course, (d) have a good personal driving record, (e) hold a valid South Carolina driver's license, and (f) hold a valid behind-the-wheel instructor permit.

6. All school districts operating driver education programs must have liability insurance as required by State Law. The Board recommends that medical expense insurance be obtained for drivers and passengers in an amount to be determined by the school district or county.

Title of Regulation:	**Regulation No.:**	**R43-243**
SPECIAL EDUCATION, EDUCATION OF STUDENTS WITH DISABILITIES	**Effective Date:**	**07/26/13**

Constitutional and Statutory Provisions:

Section(s):

59-21-510, et seq.	Education of Physically and Mentally Handicapped Children.
59-33-10, et seq.	Special Education for the Handicapped.

Code of Laws of South Carolina, 1976.

20 U.S.C. 1400 et seq.	Individuals with Disabilities Education Improvement Act of 2004

U.S. Code of Laws

State Board Regulation:

Special Education, Education of Students with Disabilities.

The purpose of this regulation is to align state rules, regulations, and policies relating to the education of children with disabilities to the purposes and requirements of the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) and its implementing regulation.

The federal IDEA regulation is incorporated into R.43-243, Special Education, Education of Students with Disabilities, by reference. This regulation is an outline of all provisions contained in Part B of the IDEA regulation. Most provisions of proposed R.43-243 are identical to the IDEA regulation.

I. General

A. Purposes and Applicability

1. The purposes of this part are--

a) To ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;

b) To ensure that the rights of children with disabilities and their parents are protected;

c) To assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities; and

d) To assess and ensure the effectiveness of efforts to educate children with disabilities.

2. Applicability of this part to State and local agencies.

a) States. This part applies to each State that receives payments under Part B of the Act, as defined in Sec. 300.4.

b) Public agencies within the State. The provisions of this part--

(1) Apply to all political subdivisions of the State that are involved in the education of children with disabilities, including:

(i) The State educational agency (SEA).

(ii) Local educational agencies (LEAs), educational service agencies (ESAs), and public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA.

(iii) Other State agencies and schools (such as Departments of Mental Health and Welfare and State schools for children with deafness or children with blindness).

(iv) State and local juvenile and adult correctional facilities; and

(2) Are binding on each public agency in the State that provides special education and related services to children with disabilities, regardless of whether that agency is receiving funds under Part B of the Act.

c) Private schools and facilities. Each public agency in the State is responsible for ensuring that the rights and protections under Part B of the Act are given to children with disabilities--

(1) Referred to or placed in private schools and facilities by that public agency; or

(2) Placed in private schools by their parents under the provisions of Sec. 300.148.

B. Definitions Used in This Part

1. Act. Act means the Individuals with Disabilities Education Act, as amended.

2. Assistive technology device. Assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such device.

3. Assistive technology service. Assistive technology service means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes--

a) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;

b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;

c) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

e) Training or technical assistance for a child with a disability or, if appropriate, that child's family; and

f) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of that child.

4. Charter school. Charter school has the meaning given the term in section 5210(1) of the Elementary and Secondary Education Act of 1965, as amended, 20 U.S.C. 6301 et seq. (ESEA).

5. Child with a disability.

a) General.

(1) Child with a disability means a child evaluated in accordance with Secs. 300.304 through 300.311 as having intellectual disability, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as "emotional disturbance"), an orthopedic impairment, autism, traumatic brain injury, and other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

(2)(i) Subject to paragraph (a)(2)(ii) of this section, if it is determined, through an appropriate evaluation under Secs. 300.304 through 300.311, that a child has one of the disabilities identified in paragraph (a)(1) of this section, but only needs a related service and not special education, the child is not a child with a disability under this part.

(ii) If, consistent with Sec. 300.39(a)(2), the related service required by the child is considered special education rather than a related service under State standards, the child would be determined to be a child with a disability under paragraph (a)(1) of this section.

b) A child with developmental delay is a child age 3-9 who has been identified before the age of 7 as experiencing significant developmental delays in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development: and who, by reason thereof, needs special education and related services.

The term significant developmental delay refers to a delay in a child's development in adaptive behavior, cognition, communication, motor development or social development to the extent that, if not provided with special intervention, it may adversely affect his/her educational performance in age-appropriate activities. The term does not apply to children who are experiencing a slight or temporary lag in one or more areas of development, or a delay which is primarily due to environmental, cultural, or economic disadvantage, lack of experience in age appropriate activities, lack of appropriate instruction in reading, lack of appropriate instruction in math, limited English proficiency or the child does not otherwise meet the eligibility criteria as a child with a disability.

c) Definitions of disability terms. The terms used in this definition of a child with a disability are defined as follows:

(1) Autism is a developmental disability, generally evident before age three, which adversely affects a student's educational performance and significantly affects developmental rates and sequences, verbal and non-verbal communication and social interaction and participation. Other characteristics often associated with autism are unusual responses to sensory experiences, engagement in repetitive activities and stereotypical movements and resistance to environmental change or change in daily routines. Students with autism vary widely in their abilities and behavior. The diagnosis of Autism does not apply if a student's educational performance is adversely affected primarily because the student has an emotional disorder. Autism may exist concurrently with other areas of disability.

Autism, also referenced as autism spectrum disorder, for the purpose of eligibility, may include Autistic Disorder, Pervasive Developmental Disorder Not Otherwise Specified (PDD-NOS), or Asperger's Syndrome provided the student's educational performance is adversely affected and the student meets the eligibility and placement requirements.

(2) Deaf-blindness means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.

(3) Deaf means a hearing loss that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects a student's academic or functional performance.

Hard of Hearing means a hearing loss, whether permanent or fluctuating, that adversely affects a student's academic or functional performance with or without amplification, but that is not included under the definition of deaf in this section.

(4)(i) Emotional disturbance means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:

(A) An inability to learn that cannot be explained by intellectual, sensory, or health factors.

(B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.

(C) Inappropriate types of behavior or feelings under normal circumstances.

(D) A general pervasive mood of unhappiness or depression.

(E) A tendency to develop physical symptoms or fears associated with personal or school problems.

(ii) The term includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have a serious emotional disturbance.

(5) Hearing impairment means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness in this section.

(6) Intellectual disability means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance.

(7) Multiple disabilities means concomitant impairments (such as intellectual disability-blindness or intellectual disability-orthopedic impairment), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf-blindness.

(8) Orthopedic impairment means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).

(9) Other health impairment means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that:

(i) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and

(ii) Adversely affects a child's educational performance.

(10) Specific learning disability--

(i) General. Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

(ii) Disorders not included. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

(11) Speech or language impairment means a communication disorder, such as stuttering, impaired articulation, language impairment, or a voice impairment, that adversely affects a child's educational performance.

(12) Traumatic brain injury means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

(13) Visual impairment including blindness means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.

6. Consent. Consent means that--

a) The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;

b) The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and

c)(1) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at anytime.

(2) If a parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

(3) If the parent revokes consent in writing for their child's receipt of special education services after the child is initially provided special education and related services, the public agency is not required to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent.

7. Core academic subjects. Core academic subjects means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

8. Day; business day; school day.

a) Day means calendar day unless otherwise indicated as business day or school day.

b) Business day means Monday through Friday, except for Federal and State holidays (unless holidays are specifically included in the designation of business day, as in Sec. 300.148(d)(1)(ii)).

c)(1) School day means any day, including a partial day that children are in attendance at school for instructional purposes.

(2) School day has the same meaning for all children in school, including children with and without disabilities.

9. Educational service agency. Educational service agency means--

a) A regional public multiservice agency--

(1) Authorized by State law to develop, manage, and provide services or programs to LEAs;

(2) Recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools of the State;

b) Includes any other public institution or agency having administrative control and direction over a public elementary school or secondary school; and

c) Includes entities that meet the definition of intermediate educational unit in section 602(23) of the Act as in effect prior to June 4, 1997.

10. Elementary school. Elementary school means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.

11. Equipment. Equipment means--

a) Machinery, utilities, and built-in equipment, and any necessary enclosures or structures to house the machinery, utilities, or equipment; and

b) All other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published and audio-visual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials.

12. Evaluation. Evaluation means procedures used in accordance with Secs. 300.304 through 300.311 to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs.

13. Excess costs. Excess costs means those costs that are in excess of the average annual per-student expenditure in an LEA during the preceding school year for an elementary school or secondary school student, as may be appropriate, and that must be computed after deducting--

a) Amounts received--

(1) Under Part B of the Act;

(2) Under Part A of title I of the ESEA; and

(3) Under Parts A and B of title III of the ESEA and;

b) Any State or local funds expended for programs that would qualify for assistance under any of the parts described in paragraph (a) of this section, but excluding any amounts for capital outlay or debt service.

14. Free appropriate public education. Free appropriate public education or FAPE means special education and related services that--

a) Are provided at public expense, under public supervision and direction, and without charge;

b) Meet the standards of the SEA, including the requirements of this part;

c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and

d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of Secs. 300.320 through 300.324.

15. Highly qualified special education teachers.

a) Requirements for special education teachers teaching core academic subjects. For any public elementary or secondary school special education teacher teaching core academic subjects, the term highly qualified has the meaning given the term in section 9101 of the ESEA and 34 CFR 200.56, except that the requirements for highly qualified also--

(1) Include the requirements described in paragraph (b) of this section; and

(2) Include the option for teachers to meet the requirements of section 9101 of the ESEA by meeting the requirements of paragraphs (c) and (d) of this section.

b) Requirements for special education teachers in general.

(1) When used with respect to any public elementary school or secondary school special education teacher teaching in a State, highly qualified requires that--

(i) The teacher has obtained full State certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, except that when used with respect to any teacher teaching in a public charter school, highly qualified means that the teacher meets the certification or licensing requirements, if any, set forth in the State's public charter school law;

(ii) The teacher has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

(iii) The teacher holds at least a bachelor's degree.

(2) A teacher will be considered to meet the standard in paragraph (b)(1)(i) of this section if that teacher is participating in an alternative route to special education certification program under which--

(i) The teacher--

(A) Receives high-quality professional development that is sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction, before and while teaching;

(B) Participates in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or a teacher mentoring program;

(C) Assumes functions as a teacher only for a specified period of time not to exceed three years; and

(D) Demonstrates satisfactory progress toward full certification as prescribed by the State; and

(ii) The State ensures, through its certification and licensure process, that the provisions in paragraph (b)(2)(i) of this section are met.

(3) Any public elementary school or secondary school special education teacher teaching in a State, who is not teaching a core academic subject, is highly qualified if the teacher meets the requirements in paragraph (b)(1) or the requirements in (b)(1)(iii) and (b)(2) of this section.

c) Requirements for special education teachers teaching to alternate achievement standards. When used with respect to a special education teacher who teaches core academic subjects exclusively to children who are assessed against alternate achievement standards established under 34 CFR 200.1(d), highly qualified means the teacher, whether new or not new to the profession, may either--

(1) Meet the applicable requirements of section 9101 of the ESEA and 34 CFR 200.56 for any elementary, middle, or secondary school teacher who is new or not new to the profession; or

(2) Meet the requirements of paragraph (B) or (C) of section 9101(23) of the ESEA as applied o an elementary school teacher, or, in the case of instruction above the elementary level, meet the requirements of paragraph (B) or (C) of section 9101(23) of the ESEA as applied to an elementary school teacher and have subject matter knowledge appropriate to the level of instruction being provided and needed to effectively teach to those standards, as determined by the State.

d) Requirements for special education teachers teaching multiple subjects. Subject to paragraph (e) of this section, when used with respect to a special education teacher who teaches two or more core academic subjects exclusively to children with disabilities, highly qualified means that the teacher may either--

(1) Meet the applicable requirements of section 9101 of the ESEA and 34 CFR 200.56(b) or (c);

(2) In the case of a teacher who is not new to the profession, demonstrate competence in all the core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher who is not new to the profession under 34 CFR 200.56(c) which may include a single, high objective uniform State standard of evaluation (HOUSSE) covering multiple subjects; or

(3) In the case of a new special education teacher who teaches multiple subjects and who is highly qualified in mathematics, language arts, or science, demonstrate, not later than two years after the date of employment, competence in the other core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher under 34 CFR 200.56(c), which may include a single HOUSSE covering multiple subjects.

e) Separate HOUSSE standards for special education teachers. Provided that any adaptations of the State's HOUSSE would not establish a lower standard for the content knowledge requirements for special education teachers and meets all the requirements for a HOUSSE for regular education teachers--

(1) The State has developed a separate HOUSSE for special education teachers; and

(2) The standards described in paragraph (e)(1) of this section may include single HOUSSE evaluations that cover multiple subjects.

f) Rule of construction. Notwithstanding any other individual right of action that a parent or student may maintain under this part, nothing in this part shall be construed to create a right of action on behalf of an individual student or class of students for the failure of a particular SEA or LEA employee to be highly qualified, or to prevent a parent from filing a complaint under Secs. 300.151 through 300.153 about staff qualifications with the SEA as provided for under this part.

g) Applicability of definition to ESEA; and clarification of new Special education teacher.

(1) A teacher who is highly qualified under this section is considered highly qualified for purposes of the ESEA.

(2) For purposes of Sec. 300.18(d)(3), a fully certified regular education teacher who subsequently becomes fully certified or licensed as a special education teacher is a new special education teacher when first hired as a special education teacher.

(3) The requirements of this section do apply to teachers hired by private elementary and secondary schools when the child with a disability is placed in the private school by a public entity and public funds are used to support this placement.

h) Private school teachers not covered. The requirements in this section do not apply to teachers hired by private elementary schools and secondary schools including private school teachers hired or contracted by LEAs to provide equitable services to parentally-placed private school children with disabilities under Sec. 300.138.

16. Homeless children. Homeless children has the meaning given the term homeless children and youths in section 725 (42 U.S.C. 11434a) of the McKinney-Vento Homeless Assistance Act, as amended, 42 U.S.C. 11431 et seq.

17. Include. Include means that the items named are not all of the possible items that are covered, whether like or unlike the ones named.

18. Indian and Indian tribe.

a) Indian means an individual who is a member of an Indian tribe.

b) Indian tribe means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 et seq.).

c) Nothing in this definition is intended to indicate that the Secretary of the Interior is required to provide services or funding to a State Indian tribe that is not listed in the Federal Register list of Indian entities recognized as eligible to receive services from the United States, published pursuant to Section 104 of the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a-1.

19. Individualized education program. Individualized education program or IEP means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with Secs. 300.320 through 300.324.

20. Individualized education program team. Individualized education program team or IEP Team means a group of individuals described in Sec. 300.321 that is responsible for developing, reviewing, or revising an IEP for a child with a disability.

21. Individualized family service plan. Individualized family service plan or IFSP has the meaning given the term in section 636 of the Act.

22. Institution of higher education. Institution of higher education--

a) Has the meaning given the term in section 101 of the Higher Education Act of 1965, as amended, 20 U.S.C. 1021 et seq. (HEA); and

b) Also includes any community college receiving funds from the Secretary of the Interior under the Tribally Controlled Community College or University Assistance Act of 1978, 25 U.S.C. 1801, et seq.

23. Limited English proficient. Limited English proficient has the meaning given the term in section 9101(25) of the ESEA.

24. Local educational agency.

a) General. Local educational agency or LEA means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools.

b) Educational service agencies and other public institutions or agencies. The term includes--

(1) An educational service agency, as defined in Sec. 300.12; and

(2) Any other public institution or agency having administrative control and direction of a public elementary school or secondary school, including a public nonprofit charter school that is established as an LEA under State law.

c) BIA funded schools. The term includes an elementary school or secondary school funded by the Bureau of Indian Affairs, and not subject to the jurisdiction of any SEA other than the Bureau of Indian Affairs, but only to the extent that the inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the LEA receiving assistance under the Act with the smallest student population.

25. Native language.

a) Native language, when used with respect to an individual who is limited English proficient, means the following:

(1) The language normally used by that individual, or, in the case of a child, the language normally used by the parents of the child, except as provided in paragraph (a)(2) of this section.

(2) In all direct contact with a child (including evaluation of the child), the language normally used by the child in the home or learning environment.

b) For an individual with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the individual (such as sign language, Braille, or oral communication).

26. Parent.

a) Parent means--

(1) A biological or adoptive parent of a child;

(2) A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;

(3) A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);

(4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or

(5) A surrogate parent who has been appointed in accordance with Sec. 300.519 or section 639(a)(5) of the Act.

b)(1) Except as provided in paragraph (b)(2) of this section, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under paragraph (a) of this section to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

(2) If a judicial decree or order identifies a specific person or persons under paragraphs (a)(1) through (4) of this section to act as the "parent" of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the "parent" for purposes of this section.

27. Parent training and information center. Parent training and information center means a center assisted under sections 671 or 672 of the Act.

28. Personally identifiable. Personally identifiable means information that contains--

a) The name of the child, the child's parent, or other family member;

b) The address of the child;

c) A personal identifier, such as the child's social security number or student number; or

d) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.

29. Public agency. Public agency includes the SEA, LEAs, ESAs, nonprofit public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA, and any other political subdivisions of the State that are responsible for providing education to children with disabilities.

30. Related services.

a) General. Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.

b) Exception; services that apply to children with surgically implanted devices, including cochlear implants.

(1) Related services do not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device.

(2) Nothing in paragraph (b)(1) of this section--

(i) Limits the right of a child with a surgically implanted device (e.g., cochlear implant) to receive related services (as listed in paragraph (a) of this section) that are determined by the IEP Team to be necessary for the child to receive FAPE.

(ii) Limits the responsibility of a public agency to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school; or

(iii) Prevents the routine checking of an external component of a surgically implanted device to make sure it is functioning properly, as required in Sec. 300.113(b).

c) Individual related services terms defined. The terms used in this definition are defined as follows:

(1) Audiology includes--

(i) Identification of children with hearing loss;

(ii) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;

(iii) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;

(iv) Creation and administration of programs for prevention of hearing loss;

(v) Counseling and guidance of children, parents, and teachers regarding hearing loss; and

(vi) Determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

(2) Counseling services means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

(3) Early identification and assessment of disabilities in children means the implementation of a formal plan for identifying a disability as early as possible in a child's life.

(4) Interpreting services includes--

(i) The following, when used with respect to children who are deaf or hard of hearing: oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services, such as communication access real-time translation (CART), C-Print, and TypeWell; and

(ii) Special interpreting services for children who are deaf-blind.

(5) Medical services means services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services.

(6) Occupational therapy--

(i) Means services provided by a qualified occupational therapist; and

(ii) Includes--

(A) Improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation;

(B) Improving ability to perform tasks for independent functioning if functions are impaired or lost; and

(C) Preventing, through early intervention, initial or further impairment or loss of function.

(7) Orientation and mobility services--

(i) Means services provided to blind or visually impaired children by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community; and

(ii) Includes teaching children the following, as appropriate:

(A) Spatial and environmental concepts and use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (e.g., using sound at a traffic light to cross the street);

(B) To use the long cane or a service animal to supplement visual travel skills or as a tool for safely negotiating the environment for children with no available travel vision;

(C) To understand and use remaining vision and distance low vision aids; and

(D) Other concepts, techniques, and tools.

(8)(i) Parent counseling and training means assisting parents in understanding the special needs of their child;

(ii) Providing parents with information about child development; and

(iii) Helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP.

(9) Physical therapy means services provided by a qualified physical therapist.

(10) Psychological services includes--

(i) Administering psychological and educational tests, and other assessment procedures;

(ii) Interpreting assessment results;

(iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;

(iv) Consulting with other staff members in planning school programs to meet the special educational needs of children as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;

(v) Planning and managing a program of psychological services, including psychological counseling for children and parents; and

(vi) Assisting in developing positive behavioral intervention strategies.

(11) Recreation includes--

(i) Assessment of leisure function;

(ii) Therapeutic recreation services;

(iii) Recreation programs in schools and community agencies; and

(iv) Leisure education.

(12) Rehabilitation counseling services means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services provided to a student with a disability by

vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended, 29 U.S.C. 701 et seq.

(13) School health services and school nurse services means health services that are designed to enable a child with a disability to receive FAPE as described in the child's IEP. School nurse services are services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person.

(14) Social work services in schools includes--

(i) Preparing a social or developmental history on a child with a disability;

(ii) Group and individual counseling with the child and family;

(iii) Working in partnership with parents and others on those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school;

(iv) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and

(v) Assisting in developing positive behavioral intervention strategies.

(15) Speech-language pathology services includes--

(i) Identification of children with speech or language impairments;

(ii) Diagnosis and appraisal of specific speech or language impairments;

(iii) Referral for medical or other professional attention necessary for the habilitation of speech or language impairments;

(iv) Provision of speech and language services for the habilitation or prevention of communicative impairments; and

(v) Counseling and guidance of parents, children, and teachers regarding speech and language impairments.

(16) Transportation includes--

(i) Travel to and from school and between schools;

(ii) Travel in and around school buildings; and

(iii) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.

31. Scientifically based research. Scientifically based research has the meaning given the term in section 9101(37) of the ESEA.

32. Secondary school. Secondary school means a nonprofit institutional day or residential school, including a public secondary charter school that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12.

33. Services plan. Services plan means a written statement that describes the special education and related services the LEA will provide to a parentally-placed child with a disability enrolled in a private school who has been designated to receive services, including the location of the services and any transportation necessary, consistent with Sec. 300.132, and is developed and implemented in accordance with Secs. 300.137 through 300.139.

34. Secretary. Secretary means the Secretary of Education.

35. Special education.

a) General.

(1) Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including--

(i) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

(ii) Instruction in physical education.

(2) Special education includes each of the following, if the services otherwise meet the requirements of paragraph (a)(1) of this section--

(i) Speech-language pathology services;

(ii) Travel training; and

(iii) Vocational education.

b) Individual special education terms defined. The terms in this definition are defined as follows:

(1) At no cost means that all specially-designed instruction is provided without charge, but does not preclude incidental fees that are normally charged to nondisabled students or their parents as a part of the regular education program.

(2) Physical education means--

(i) The development of--

(A) Physical and motor fitness;

(B) Fundamental motor skills and patterns; and

(C) Skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports); and

(ii) Includes special physical education, adapted physical education, movement education, and motor development.

(3) Specially designed instruction means adapting, as appropriate to the needs of an eligible child under this part, the content, methodology, or delivery of instruction--

(i) To address the unique needs of the child that result from the child's disability; and

(ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.

(4) Travel training means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to--

(i) Develop an awareness of the environment in which they live; and

(ii) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).

(5) Vocational education means organized educational programs that are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career not requiring a baccalaureate or advanced degree.

36. State. *State* means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

37. State educational agency. *State educational agency* or SEA means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary schools and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

38. Supplementary aids and services. *Supplementary aids and services* means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with Secs. 300.114 through 300.116.

39. Transition services.

a) Transition services means a coordinated set of activities for a child with a disability that--

(1) Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

(2) Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and includes--

(i) Instruction;

(ii) Related services;

(iii) Community experiences;

(iv) The development of employment and other post-school adult living objectives; and

(v) If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

b) Transition services for children with disabilities may be special education, if provided as specially designed instruction, or a related service, if required to assist a child with a disability to benefit from special education.

40. Universal design. Universal design has the meaning given the term in section 3 of the Assistive Technology Act of 1998, as amended, 29 U.S.C. 3002.

41. Ward of the State.

a) General. Subject to paragraph (b) of this section, ward of the State means a child who, as determined by the State where the child resides, is--

(1) A foster child;

(2) A ward of the State; or

(3) In the custody of a public child welfare agency.

b) Exception. Ward of the State does not include a foster child who has a foster parent who meets the definition of a parent in Sec. 300.30.

II. State Eligibility

A. General

Eligibility for assistance. A State is eligible for assistance under Part B of the Act for a fiscal year if the State submits a plan that provides assurances to the Secretary that the State has in effect policies and procedures to ensure that the State meets the conditions in Secs. 300.101 through 300.176.

B. FAPE Requirements

1. Free appropriate public education (FAPE).

a) General. A free appropriate public education must be available to all children residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in Sec. 300.530(d). In South Carolina, this means that if a student turns age 21 after September 1 of the school year, the LEA must permit the student to enroll and complete the school year if the student will graduate or exit with either a state-issued high school

diploma, certificate of attendance, district diploma, or district certificate. If a student turns age 21 on or prior to September 1, the LEA is not required to permit the student to enroll.

b) FAPE for children beginning at age 3.

(1) Each State must ensure that--

(i) The obligation to make FAPE available to each eligible child residing in the State begins no later than the child's third birthday; and

(ii) An IEP or an IFSP is in effect for the child by that date, in accordance with Sec. 300.323(b).

(2) If a child's third birthday occurs during the summer, the child's IEP Team shall determine the date when services under the IEP or IFSP will begin.

c) Children advancing from grade to grade.

(1) Each State must ensure that FAPE is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade.

(2) The determination that a child described in paragraph (a) of this section is eligible under this part, must be made on an individual basis by the group responsible within the child's LEA for making eligibility determinations.

2. Limitation--exception to FAPE for certain ages.

a) General. The obligation to make FAPE available to all children with disabilities does not apply with respect to the following:

(1)(i) Children between the ages of 18 and 21 who, in the last educational placement prior to their incarceration in an adult correctional facility--

(A) Were not actually identified as being a child with a disability under Sec. 300.8; and

(B) Did not have an IEP under Part B of the Act.

(ii) The exception in paragraph (a)(2)(i) of this section does not apply to children with disabilities, between the ages of 18 and 21, who--

(A) Had been identified as a child with a disability under Sec. 300.8 and had received services in accordance with an IEP, but who left school prior to their incarceration; or

(B) Did not have an IEP in their last educational setting, but who had actually been identified as a child with a disability under Sec. 300.8.

(2)(i) Children with disabilities who have graduated from high school with a regular high school diploma.

(ii) The exception in paragraph (a)(3)(i) of this section does not apply to children who have graduated from high school but have not been awarded a regular high school diploma.

(iii) Graduation from high school with a regular high school diploma constitutes a change in placement, requiring written prior notice in accordance with Sec. 300.503.

(iv) As used in paragraphs (a)(3)(i) through (a)(3)(iii) of this section, the term regular high school diploma does not include an alternative degree that is not fully aligned with the State's academic standards, such as a certificate or a general educational development credential (GED).

(3) Children with disabilities who are eligible under subpart H of this part, but who receive early intervention services under Part C of the Act.

b) Documents relating to exceptions. The State must assure that the information it has provided to the Secretary regarding the exceptions in paragraph (a) of this section, as required by Sec. 300.700 (for purposes of making grants to States under this part), is current and accurate.

C. Other FAPE Requirements

1. FAPE--methods and payments.

a) Each State may use whatever State, local, Federal, and private sources of support are available in the State to meet the requirements of this part. For example, if it is necessary to place a child with a disability in a residential facility, a State could use joint agreements between the agencies involved for sharing the cost of that placement.

b) Nothing in this part relieves an insurer or similar third party from an otherwise valid obligation to provide or to pay for services provided to a child with a disability.

c) Consistent with Sec. 300.323(c), each public agency must ensure that there is no delay in implementing a child's IEP, including any case in which the payment source for providing or paying for special education and related services to the child is being determined.

2. Residential and alternative residence placements.

a) If placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board, must be at no cost to the parents of the child.

b) If a child with a disability is placed by a public entity for therapeutic reasons in a public or private residential program, the responsibility for providing a FAPE to that child shall rest with the LEA wherein the residence is located. This includes children with disabilities who reside in alternative residences (such as foster homes, group homes, orphanages, residential treatment facilities, state-operated healthcare facilities and state-operated facilities for the treatment of mental illness or chemical dependence) that are located within the LEA.

This does not apply to children residing in hospitals, emergency shelters, special schools, child care institutions, or private healthcare settings that are funded through other provisions and acts.

3. Assistive technology.

a) Each public agency must ensure that assistive technology devices or assistive technology services, or both, as those terms are defined in Secs. 300.5 and 300.6, respectively, are made available to a child with a disability if required as a part of the child's--

(1) Special education under Sec. 300.36;

(2) Related services under Sec. 300.34; or

(3) Supplementary aids and services under Secs. 300.38 and 300.114(a)(2)(ii).

b) On a case-by-case basis, the use of school-purchased assistive technology devices in a child's home or in other settings is required if the child's IEP Team determines that the child needs access to those devices in order to receive FAPE.

4. Extended school year services.

a) General.

(1) Each public agency must ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a)(2) of this section.

(2) Extended school year services must be provided only if a child's IEP Team determines, on an individual basis, in accordance with Secs. 300.320 through 300.324, that the services are necessary for the provision of FAPE to the child.

(3) In implementing the requirements of this section, a public agency may not--

(i) Limit extended school year services to particular categories of disability; or

(ii) Unilaterally limit the type, amount, or duration of those services.

b) Definition. As used in this section, the term extended school year services means special education and related services that--

(1) Are provided to a child with a disability--

(i) Beyond the normal school year of the public agency;

(ii) In accordance with the child's IEP; and

(iii) At no cost to the parents of the child; and

(2) Meet the standards of the SEA.

5. Nonacademic services. The State must ensure the following:

a) Each public agency must take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP Team, to provide nonacademic and

extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities.

b) Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the public agency and assistance in making outside employment available.

6. Physical education. The State must ensure that public agencies in the State comply with the following:

a) General. Physical education services, specially designed if necessary, must be made available to every child with a disability receiving FAPE, unless the public agency enrolls children without disabilities and does not provide physical education to children without disabilities in the same grades.

b) Regular physical education. Each child with a disability must be afforded the opportunity to participate in the regular physical education program available to nondisabled children unless--

(1) The child is enrolled full time in a separate facility; or

(2) The child needs specially designed physical education, as prescribed in the child's IEP.

c) Special physical education. If specially designed physical education is prescribed in a child's IEP, the public agency responsible for the education of that child must provide the services directly or make arrangements for those services to be provided through other public or private programs.

d) Education in separate facilities. The public agency responsible for the education of a child with a disability who is enrolled in a separate facility must ensure that the child receives appropriate physical education services in compliance with this section.

7. Full educational opportunity goal (FEOG). The State must have in effect policies and procedures to demonstrate that the State has established a goal of providing full educational opportunity to all children with disabilities, aged birth to 21, and a detailed timetable for accomplishing that goal.

8. Program options. The State must ensure that each public agency takes steps to ensure that its children with disabilities have available to them the variety of educational programs and services available to nondisabled children in the area served by the agency, including art, music, industrial arts, consumer and homemaking education, and vocational education.

9. Child find.

a) General.

(1) The State and each public agency must have in effect policies and procedures to ensure that--

(i) All children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools,

regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated; and

(ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services.

b) Use of term developmental delay. The following provisions apply with respect to implementing the child find requirements of this section:

(1) A State that adopts a definition of developmental delay under Sec. 300.8(b) determines whether the term applies to children aged three through nine, or to a subset of that age range (e.g., ages three through five).

(2) A State may not require an LEA to adopt and use the term developmental delay for any children within its jurisdiction.

(3) If an LEA uses the term developmental delay for children described in Sec. 300.8(b), the LEA must conform to both the State's definition of that term and to the age range that has been adopted by the State.

c) Other children in child find. Child find also must include--

(1) Children who are suspected of being a child with a disability under Sec. 300.8 and in need of special education, even though they are advancing from grade to grade; and

(2) Highly mobile children, including migrant children.

d) Construction. Nothing in the Act requires that children be classified by their disability so long as each child who has a disability that is listed in Sec. 300.8 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under Part B of the Act.

10. Individualized education programs (IEP). The State and each public agency must ensure that an IEP, or an IFSP that meets the requirements of section 636(d) of the Act, is developed, reviewed, and revised for each child with a disability in accordance with Secs. 300.320 through 300.324, except as provided in Sec. 300.300(b)(3)(ii).

11. Routine checking of hearing aids and external components of surgically implanted medical devices.

a) Hearing aids. Each public agency must ensure that hearing aids worn in school by children with hearing impairments, including deafness, are functioning properly.

b) External components of surgically implanted medical devices.

(1) Subject to paragraph (b)(2) of this section, each public agency must ensure that the external components of surgically implanted medical devices are functioning properly.

(2) For a child with a surgically implanted medical device who is receiving special education and related services under this part, a public agency is not responsible for the post-surgical maintenance,

programming, or replacement of the medical device that has been surgically implanted (or of an external component of the surgically implanted medical device).

D. Least Restrictive Environment (LRE)

1. LRE requirements.

a) General.

(1) Except as provided in Sec. 300.324(d)(2) (regarding children with disabilities in adult prisons), the State must have in effect policies and procedures to ensure that public agencies in the State meet the LRE requirements of this section and Secs. 300.115 through 300.120.

(2) Each public agency must ensure that--

(i) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and

(ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

b) Additional requirement--State funding mechanism--

(1) General.

(i) A State funding mechanism must not result in placements that violate the requirements of paragraph (a) of this section; and

(ii) A State must not use a funding mechanism by which the State distributes funds on the basis of the type of setting in which a child is served that will result in the failure to provide a child with a disability FAPE according to the unique needs of the child, as described in the child's IEP.

(2) Assurance. If the State does not have policies and procedures to ensure compliance with paragraph (b)(1) of this section, the State must provide the Secretary an assurance that the State will revise the funding mechanism as soon as feasible to ensure that the mechanism does not result in placements that violate that paragraph.

2. Continuum of alternative placements.

a) Each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.

b) The continuum required in paragraph (a) of this section must--

(1) Include the alternative placements listed in the definition of special education under Sec. 300.38 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and

(2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

3. Placements. In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that--

a) The placement decision--

(1) Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and

(2) Is made in conformity with the LRE provisions of this subpart, including Secs. 300.114 through 300.118;

b) The child's placement--

(1) Is determined at least annually;

(2) Is based on the child's IEP; and

(3) Is as close as possible to the child's home;

c) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled;

d) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and

e) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.

4. Nonacademic settings. In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in Sec. 300.107, each public agency must ensure that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of that child. The public agency must ensure that each child with a disability has the supplementary aids and services determined by the child's IEP Team to be appropriate and necessary for the child to participate in nonacademic settings.

5. Children in public or private institutions. Except as provided in Sec. 300.149(d) (regarding agency responsibility for general supervision for some individuals in adult prisons), the SEA must ensure that Sec. 300.114 is effectively implemented, including, if necessary, making arrangements with public and private institutions (such as a memorandum of agreement or special implementation procedures).

6. Technical assistance and training activities. Each SEA must carry out activities to ensure that teachers and administrators in all public agencies--

a) Are fully informed about their responsibilities for implementing Sec. 300.114; and

b) Are provided with technical assistance and training necessary to assist them in this effort.

7. Monitoring activities.

a) The SEA must carry out activities to ensure that Sec. 300.114 is implemented by each public agency.

b) If there is evidence that a public agency makes placements that are inconsistent with Sec. 300.114, the SEA must--

(1) Review the public agency's justification for its actions; and

(2) Assist in planning and implementing any necessary corrective action.

E. Additional Eligibility Requirements

1. Procedural safeguards.

a) General. The State must have procedural safeguards in effect to ensure that each public agency in the State meets the requirements of Secs. 300.500 through 300.536.

b) Procedural safeguards identified. Children with disabilities and their parents must be afforded the procedural safeguards identified in paragraph (a) of this section.

2. Evaluation. Children with disabilities must be evaluated in accordance with Secs. 300.300 through 300.311 of subpart D of this part.

3. Confidentiality of personally identifiable information. The State must have policies and procedures in effect to ensure that public agencies in the State comply with Secs. 300.610 through 300.626 related to protecting the confidentiality of any personally identifiable information collected, used, or maintained under Part B of the Act.

4. Transition of children from the Part C program to preschool programs. The State must have in effect policies and procedures to ensure that--

a) Children participating in early intervention programs assisted under Part C of the Act, and who will participate in preschool programs assisted under Part B of the Act, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(9) of the Act;

b) By the third birthday of a child described in paragraph (a) of this section, an IEP or, if consistent with Sec. 300.323(b) and section 636(d) of the Act, an IFSP, has been developed and is being implemented for the child consistent with Sec. 300.101(b); and

c) Each affected LEA will participate in transition planning conferences arranged by the designated lead agency under section 635(a)(10) of the Act.

F. Children in Private Schools

1. State responsibility regarding children in private schools. The State must have in effect policies and procedures that ensure that LEAs, and, if applicable, the SEA, meet the private school requirements in Secs. 300.130 through 300.148.

G. Children With Disabilities Enrolled by Their Parents in Private Schools

1. Definition of parentally-placed private school children with disabilities. Parentally-placed private school children with disabilities means children with disabilities enrolled by their parents in private, including religious, schools or facilities that meet the definition of elementary school in Sec. 300.13 or secondary school in Sec. 300.36, other than children with disabilities covered under Secs. 300.145 through 300.147.

2. Child find for parentally-placed private school children with disabilities.

a) General. Each LEA must locate, identify, and evaluate all children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, in accordance with paragraphs (b) through (e) of this section, and Secs. 300.111 and 300.201.

b) Child find design. The child find process must be designed to ensure--

(1) The equitable participation of parentally-placed private school children; and

(2) An accurate count of those children.

c) Activities. In carrying out the requirements of this section, the LEA, or, if applicable, the SEA, must undertake activities similar to the activities undertaken for the agency's public school children.

d) Cost. The cost of carrying out the child find requirements in this section, including individual evaluations, may not be considered in determining if an LEA has met its obligation under Sec. 300.133.

e) Completion period. The child find process must be completed in a time period comparable to that for students attending public schools in the LEA consistent with Sec. 300.301.

f) Out-of-State children. Each LEA in which private, including religious, elementary schools and secondary schools are located must, in carrying out the child find requirements in this section, include parentally-placed private school children who reside in a State other than the State in which the private schools that they attend are located.

3. Provision of services for parentally-placed private school children with disabilities--basic requirement.

a) General. To the extent consistent with the number and location of children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, provision is made for the participation of those children in the program assisted or carried out under Part B of the Act by providing them with special education and related services, including direct services determined in accordance with Sec. 300.137, unless the Secretary has arranged for services to those children under the by-pass provisions in Secs. 300.190 through 300.198.

b) Services plan for parentally-placed private school children with disabilities. In accordance with paragraph (a) of this section and Secs. 300.137 through 300.139, a services plan must be developed and

implemented for each private school child with a disability who has been designated by the LEA in which the private school is located to receive special education and related services under this part.

c) Record keeping. Each LEA must maintain in its records, and provide to the SEA, the following information related to parentally-placed private school children covered under Secs. 300.130 through 300.144:

(1) The number of children evaluated;

(2) The number of children determined to be children with disabilities; and

(3) The number of children served.

4. Expenditures.

a) Formula. To meet the requirement of Sec. 300.132(a), each LEA must spend the following on providing special education and related services (including direct services) to parentally-placed private school children with disabilities:

(1) For children between the ages of 3 and 21, an amount that is the same proportion of the LEA's total subgrant under section 611(f) of the Act as the number of private school children with disabilities between the ages of 3 and 21 who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, is to the total number of children with disabilities in its jurisdiction between the ages of 3 and 21.

(2)(i) For children aged three through five, an amount that is the same proportion of the LEA's total subgrant under section 619(g) of the Act as the number of parentally-placed private school children with disabilities aged three through five who are enrolled by their parents in a private, including religious, elementary school located in the school district served by the LEA, is to the total number of children with disabilities in its jurisdiction aged three through five.

(ii) As described in paragraph (a)(2)(i) of this section, children aged three through five are considered to be parentally-placed private school children with disabilities enrolled by their parents in private, including religious, elementary schools, if they are enrolled in a private school that meets the definition of elementary school in Sec. 300.13.

(3) If an LEA has not expended for equitable services all of the funds described in paragraphs (a)(1) and (a)(2) of this section by the end of the fiscal year for which Congress appropriated the funds, the LEA must obligate the remaining funds for special education and related services (including direct services) to parentally-placed private school children with disabilities during a carry-over period of one additional year.

b) Calculating proportionate amount. In calculating the proportionate amount of Federal funds to be provided for parentally-placed private school children with disabilities, the LEA, after timely and meaningful consultation with representatives of private schools under Sec. 300.134, must conduct a thorough and complete child find process to determine the number of parentally-placed children with disabilities attending private schools located in the LEA.

c) Annual count of the number of parentally-placed private school children with disabilities.

(1) Each LEA must--

(i) After timely and meaningful consultation with representatives of parentally-placed private school children with disabilities (consistent with Sec. 300.134), determine the number of parentally-placed private school children with disabilities attending private schools located in the LEA; and

(ii) Ensure that the count is conducted any date between October 1 and December 1, inclusive, of each year.

(2) The count must be used to determine the amount that the LEA must spend on providing special education and related services to parentally-placed private school children with disabilities in the next subsequent fiscal year.

d) Supplement, not supplant. State and local funds may supplement and in no case supplant the proportionate amount of Federal funds required to be expended for parentally-placed private school children with disabilities under this part.

5. Consultation. To ensure timely and meaningful consultation, an LEA must consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for the children regarding the following:

a) Child find. The child find process, including--

(1) How parentally-placed private school children suspected of having a disability can participate equitably; and

(2) How parents, teachers, and private school officials will be informed of the process.

b) Proportionate share of funds. The determination of the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities under Sec. 300.133(b), including the determination of how the proportionate share of those funds was calculated.

c) Consultation process. The consultation process among the LEA, private school officials, and representatives of parents of parentally-placed private school children with disabilities, including how the process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services.

d) Provision of special education and related services. How, where, and by whom special education and related services will be provided for parentally-placed private school children with disabilities, including a discussion of--

(1) The types of services, including direct services and alternate service delivery mechanisms; and

(2) How special education and related services will be apportioned if funds are insufficient to serve all parentally-placed private school children; and

(3) How and when those decisions will be made;

e) Written explanation by LEA regarding services. How, if the LEA disagrees with the views of the private school officials on the provision of services or the types of services (whether provided directly or through a contract), the LEA will provide to the private school officials a written explanation of the reasons why the LEA chose not to provide services directly or through a contract.

6. Written affirmation.

a) When timely and meaningful consultation, as required by Sec. 300.134, has occurred, the LEA must obtain a written affirmation signed by the representatives of participating private schools.

b) If the representatives do not provide the affirmation within a reasonable period of time, the LEA must forward the documentation of the consultation process to the SEA.

7. Compliance.

a) General. A private school official has the right to submit a complaint to the SEA that the LEA--

(1) Did not engage in consultation that was meaningful and timely; or

(2) Did not give due consideration to the views of the private school official.

b) Procedure.

(1) If the private school official wishes to submit a complaint, the official must provide to the SEA the basis of the noncompliance by the LEA with the applicable private school provisions in this part; and

(2) The LEA must forward the appropriate documentation to the SEA.

(3)(i) If the private school official is dissatisfied with the decision of the SEA, the official may submit a complaint to the Secretary by providing the information on noncompliance described in paragraph (b)(1) of this section; and

(ii) The SEA must forward the appropriate documentation to the Secretary.

8. Equitable services determined.

a) No individual right to special education and related services. No parentally-placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.

b) Decisions.

(1) Decisions about the services that will be provided to parentally-placed private school children with disabilities under Secs. 300.130 through 300.144 must be made in accordance with paragraph (c) of this section and Sec. 300.134(c).

(2) The LEA must make the final decisions with respect to the services to be provided to eligible parentally-placed private school children with disabilities.

c) Services plan for each child served under Secs. 300.130 through 300.144. If a child with a disability is enrolled in a religious or other private school by the child's parents and will receive special education or related services from an LEA, the LEA must--

(1) Initiate and conduct meetings to develop, review, and revise a services plan for the child, in accordance with Sec. 300.138(b); and

(2) Ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the LEA shall use other methods to ensure participation by the religious or other private school, including individual or conference telephone calls.

9. Equitable services provided.

a) General.

(1) The services provided to parentally-placed private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools, except that private elementary school and secondary school teachers who are providing equitable services to parentally-placed private school children with disabilities do not have to meet the highly qualified special education teacher requirements of Sec. 300.18.

(2) Parentally-placed private school children with disabilities may receive a different amount of services than children with disabilities in public schools.

b) Services provided in accordance with a services plan.

(1) Each parentally-placed private school child with a disability who has been designated to receive services under Sec. 300.132 must have a services plan that describes the specific special education and related services that the LEA will provide to the child in light of the services that the LEA has determined, through the process described in Secs. 300.134 and 300.137, it will make available to parentally-placed private school children with disabilities.

(2) The services plan must, to the extent appropriate--

(i) Meet the requirements of Sec. 300.320, or for a child ages three through five, meet the requirements of Sec. 300.323(b) with respect to the services provided; and

(ii) Be developed, reviewed, and revised consistent with Secs. 300.321 through 300.324.

c) Provision of equitable services.

(1) The provision of services pursuant to this section and Secs. 300.139 through 300.143 must be provided:

(i) By employees of a public agency; or

(ii) Through contract by the public agency with an individual, association, agency, organization, or other entity.

(2) Special education and related services provided to parentally-placed private school children with disabilities, including materials and equipment, must be secular, neutral, and nonideological.

10. Location of services and transportation.

a) Services on private school premises. Services to parentally-placed private school children with disabilities may be provided on the premises of private, including religious, schools, to the extent consistent with law.

b) Transportation:

(1) General.

(i) If necessary for the child to benefit from or participate in the services provided under this part, a parentally-placed private school child with a disability must be provided transportation--

(A) From the child's school or the child's home to a site other than the private school; and

(B) From the service site to the private school, or to the child's home, depending on the timing of the services.

(ii) LEAs are not required to provide transportation from the child's home to the private school.

(2) Cost of transportation. The cost of the transportation described in paragraph (b)(1)(i) of this section may be included in calculating whether the LEA has met the requirement of Sec. 300.133.

11. Due process complaints and State complaints.

a) Due process not applicable, except for child find.

(1) Except as provided in paragraph (b) of this section, the procedures in Secs. 300.504 through 300.519 do not apply to complaints that an LEA has failed to meet the requirements of Secs. 300.132 through 300.139, including the provision of services indicated on the child's services plan.

b) Child find complaints--to be filed with the LEA in which the private school is located.

(1) The procedures in Secs. 300.504 through 300.519 apply to complaints that an LEA has failed to meet the child find requirements in Sec. 300.131, including the requirements in Secs. 300.300 through 300.311.

(2) Any due process complaint regarding the child find requirements (as described in paragraph (b)(1) of this section) must be filed with the LEA in which the private school is located and a copy must be forwarded to the SEA.

c) State complaints.

(1) Any complaint that the SEA or LEA has failed to meet the requirements in Secs. 300.132 through 300.135 and 300.137 through 300.144 must be filed in accordance with the procedures described in Secs. 300.151 through 300.153.

(2) A complaint filed by a private school official under Sec. 300.136(a) must be filed with the SEA in accordance with the procedures in Sec. 300.136(b).

12. Requirement that funds not benefit a private school.

a) An LEA may not use funds provided under section 611 or 619 of the Act to finance the existing level of instruction in a private school or to otherwise benefit the private school.

b) The LEA must use funds provided under Part B of the Act to meet the special education and related services needs of parentally-placed private school children with disabilities, but not for meeting--

(1) The needs of a private school; or

(2) The general needs of the students enrolled in the private school.

13. Use of personnel.

a) Use of public school personnel. An LEA may use funds available under sections 611 and 619 of the Act to make public school personnel available in other than public facilities--

(1) To the extent necessary to provide services under Secs. 300.130 through 300.144 for parentally-placed private school children with disabilities; and

(2) If those services are not normally provided by the private school.

b) Use of private school personnel. An LEA may use funds available under sections 611 and 619 of the Act to pay for the services of an employee of a private school to provide services under Secs. 300.130 through 300.144 if--

(1) The employee performs the services outside of his or her regular hours of duty; and

(2) The employee performs the services under public supervision and control.

14. Separate classes prohibited. An LEA may not use funds available under section 611 or 619 of the Act for classes that are organized separately on the basis of school enrollment or religion of the children if:

a) The classes are at the same site; and

b) The classes include children enrolled in public schools and children enrolled in private schools.

15. Property, equipment, and supplies.

a) A public agency must control and administer the funds used to provide special education and related services under Secs. 300.137 through 300.139, and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in the Act.

b) The public agency may place equipment and supplies in a private school for the period of time needed for the Part B program.

c) The public agency must ensure that the equipment and supplies placed in a private school--

(1) Are used only for Part B purposes; and

(2) Can be removed from the private school without remodeling the private school facility.

d) The public agency must remove equipment and supplies from a private school if--

(1) The equipment and supplies are no longer needed for Part B purposes; or

(2) Removal is necessary to avoid unauthorized use of the equipment and supplies for other than Part B purposes.

e) No funds under Part B of the Act may be used for repairs, minor remodeling, or construction of private school facilities.

H. Children With Disabilities in Private Schools Placed or Referred by Public Agencies

1. Applicability of Secs. 300.146 through 300.147. Sections 300.146 through 300.147 apply only to children with disabilities who are or have been placed in or referred to a private school or facility by a public agency as a means of providing special education and related services.

2. Responsibility of SEA. Each SEA must ensure that a child with a disability who is placed in or referred to a private school or facility by a public agency--

a) Is provided special education and related services--

(1) In conformance with an IEP that meets the requirements of Secs. 300.320 through 300.325; and

(2) At no cost to the parents;

b) Is provided an education that meets the standards that apply to education provided by the SEA and LEAs including the requirements of this part; and

c) Has all of the rights of a child with a disability who is served by a public agency.

3. Implementation by SEA. In implementing Sec. 300.146, the SEA must:

a) Monitor compliance through procedures such as written reports, on-site visits, and parent questionnaires;

b) Disseminate copies of applicable standards to each private school and facility to which a public agency has referred or placed a child with a disability; and

c) Provide an opportunity for those private schools and facilities to participate in the development and revision of State standards that apply to them.

I. Children With Disabilities Enrolled by Their Parents in Private Schools When FAPE Is at Issue

1. Placement of children by parents when FAPE is at issue.

a) General. This part does not require an LEA to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made FAPE available to the child and the parents elected to place the child in a private school or facility. However, the public agency must include that child in the population whose needs are addressed consistent with Secs. 300.131 through 300.144.

b) Disagreements about FAPE. Disagreements between the parents and a public agency regarding the availability of a program appropriate for the child, and the question of financial reimbursement, are subject to the due process procedures in Secs. 300.504 through 300.520.

c) Reimbursement for private school placement. If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private preschool, elementary school, or secondary school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made FAPE available to the child in a timely manner prior to that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the State standards that apply to education provided by the SEA and LEAs.

d) Limitation on reimbursement. The cost of reimbursement described in paragraph (c) of this section may be reduced or denied--

(1) If--

(i) At the most recent IEP Team meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by the public agency to provide FAPE to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or

(ii) At least ten (10) business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in paragraph (d)(1)(i) of this section;

(2) If, prior to the parents' removal of the child from the public school, the public agency informed the parents, through the notice requirements described in Sec. 300.503(a)(1), of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for the evaluation; or

(3) Upon a judicial finding of unreasonableness with respect to actions taken by the parents.

e) Exception. Notwithstanding the notice requirement in paragraph (d)(1) of this section, the cost of reimbursement--

(1) Must not be reduced or denied for failure to provide the notice if--

(i) The school prevented the parents from providing the notice;

(ii) The parents had not received notice, pursuant to Sec. 300.504, of the notice requirement in paragraph (d)(1) of this section; or

(iii) Compliance with paragraph (d)(1) of this section would likely result in physical harm to the child; and

(2) May, in the discretion of the court or a hearing officer, not be reduced or denied for failure to provide this notice if--

(i) The parents are not literate or cannot write in English; or

(ii) Compliance with paragraph (d)(1) of this section would likely result in serious emotional harm to the child.

J. SEA Responsibility for General Supervision and Implementation of Procedural Safeguards

1. SEA responsibility for general supervision.

a) The SEA is responsible for ensuring--

(1) That the requirements of this part are carried out; and

(2) That each educational program for children with disabilities administered within the State, including each program administered by any other State or local agency (but not including elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior)--

(i) Is under the general supervision of the persons responsible for educational programs for children with disabilities in the SEA; and

(ii) Meets the educational standards of the SEA (including the requirements of this part).

(3) In carrying out this part with respect to homeless children, the requirements of subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.) are met.

b) The State must have in effect policies and procedures to ensure that it complies with the monitoring and enforcement requirements in Secs. 300.600 through 300.602 and Secs. 300.606 through 300.608.

c) Part B of the Act does not limit the responsibility of agencies other than educational agencies for providing or paying some or all of the costs of FAPE to children with disabilities in the State.

d) Notwithstanding paragraph (a) of this section, the South Carolina General Assembly may assign to any public agency in the State the responsibility of ensuring that the requirements of Part B of the Act are met with respect to students with disabilities who are convicted as adults under State law and incarcerated in adult prisons.

2. SEA implementation of procedural safeguards. The SEA (and any agency assigned responsibility pursuant to Sec. 300.149(d)) must have in effect procedures to inform each public agency of its responsibility for ensuring effective implementation of procedural safeguards for the children with disabilities served by that public agency.

K. State Complaint Procedures

1. Adoption of State complaint procedures.

a) General. Each SEA must adopt written procedures for--

(1) Resolving any complaint, including a complaint filed by an organization or individual from another State, that meets the requirements of Sec. 300.153 by providing for the filing of a complaint with the SEA; and

(2) Widely disseminating to parents and other interested individuals, including parent training and information centers, protection and advocacy agencies, independent living centers, and other appropriate entities, the State procedures under Secs. 300.151 through 300.153.

b) Remedies for denial of appropriate services. In resolving a complaint in which the SEA has found a failure to provide appropriate services, the SEA, pursuant to its general supervisory authority under Part B of the Act, must address--

(1) The failure to provide appropriate services, including corrective action appropriate to address the needs of the child (such as compensatory services or monetary reimbursement); and

(2) Appropriate future provision of services for all children with disabilities.

2. Minimum State complaint procedures.

a) Time limit; minimum procedures. Each SEA must include in its complaint procedures a time limit of 60 days after a complaint is filed under Sec. 300.153 to--

(1) Carry out an independent on-site investigation, if the SEA determines that an investigation is necessary;

(2) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;

(3) Provide the public agency with the opportunity to respond to the complaint, including, at a minimum--

(i) At the discretion of the public agency, a proposal to resolve the complaint; and

(ii) An opportunity for a parent who has filed a complaint and the public agency to voluntarily engage in mediation consistent with Sec. 300.506;

(4) Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B of the Act or of this part; and

(5) Issue a written decision to the complainant that addresses each allegation in the complaint and contains--

(i) Findings of fact and conclusions; and

(ii) The reasons for the SEA's final decision.

b) Time extension; final decision; implementation. The SEA's procedures described in paragraph (a) of this section also must--

(1) Permit an extension of the time limit under paragraph (a) of this section only if--

(i) Exceptional circumstances exist with respect to a particular complaint; or

(ii) The parent and the public agency involved agree to extend the time to engage in mediation pursuant to paragraph (a)(3)(ii) of this section, or to engage in other alternative means of dispute resolution, if available in the State; and

(2) Include procedures for effective implementation of the SEA's final decision, if needed, including--

(i) Technical assistance activities;

(ii) Negotiations; and

(iii) Corrective actions to achieve compliance.

c) Complaints filed under this section and due process hearings under Sec. 300.507 and Secs. 300.530 through 300.532.

(1) If a written complaint is received that is also the subject of a due process hearing under Sec. 300.507 or Secs. 300.530 through 300.532, or contains multiple issues of which one or more are part of that hearing, the State must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not a part of the due process action must be resolved using the time limit and procedures described in paragraphs (a) and (b) of this section.

(2) If an issue raised in a complaint filed under this section has Previously been decided in a due process hearing involving the same parties:

(i) The due process hearing decision is binding on that issue; and

(ii) The SEA must inform the complainant to that effect.

(3) A complaint alleging a public agency's failure to implement a due process hearing decision must be resolved by the SEA.

3. Filing a complaint.

a) An organization or individual may file a signed written complaint under the procedures described in Secs. 300.151 through 300.152.

b) The complaint must include--

(1) A statement that a public agency has violated a requirement of Part B of the Act or of this part;

(2) The facts on which the statement is based;

(3) The signature and contact information for the complainant; and

(4) If alleging violations with respect to a specific child--

(i) The name and address of the residence of the child;

(ii) The name of the school the child is attending;

(iii) In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child, and the name of the school the child is attending;

(iv) A description of the nature of the problem of the child, including facts relating to the problem; and

(v) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

c) The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with Sec. 300.151.

d) The party filing the complaint must forward a copy of the complaint to the LEA or public agency serving the child at the same time the party files the complaint with the SEA.

L. Methods of Ensuring Services

1. Methods of ensuring services.

a) Establishing responsibility for services. The Chief Executive Officer of a State or designee of that officer must ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each noneducational public agency described in paragraph (b) of this section and the SEA, in order to ensure that all services described in paragraph (b)(1) of this section that are needed to ensure FAPE are provided, including the provision of these services during the pendency of any dispute under paragraph (a)(3) of this section. The agreement or mechanism must include the following:

(1) An identification of, or a method for defining, the financial responsibility of each agency for providing services described in paragraph (b)(1) of this section to ensure FAPE to children with disabilities. The financial responsibility of each noneducational public agency described in paragraph (b) of this section, including the State Medicaid agency and other public insurers of children with disabilities,

must precede the financial responsibility of the LEA (or the State agency responsible for developing the child's IEP).

(2) The conditions, terms, and procedures under which an LEA must be reimbursed by other agencies.

(3) Procedures for resolving interagency disputes (including procedures under which LEAs may initiate proceedings) under the agreement or other mechanism to secure reimbursement from other agencies or otherwise implement the provisions of the agreement or mechanism.

(4) Policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of services described in paragraph (b)(1) of this section.

b) Obligation of noneducational public agencies.

(1)(i) If any public agency other than an educational agency is otherwise obligated under Federal or State law, or assigned responsibility under State policy or pursuant to paragraph (a) of this section, to provide or pay for any services that are also considered special education or related services (such as, but not limited to, services described in Sec. 300.5 relating to assistive technology devices, Sec. 300.6 relating to assistive technology services, Sec. 300.34 relating to related services, Sec. 300.41 relating to supplementary aids and services, and Sec. 300.42 relating to transition services) that are necessary for ensuring FAPE to children with disabilities within the State, the public agency must fulfill that obligation or responsibility, either directly or through contract or other arrangement pursuant to paragraph (a) of this section or an agreement pursuant to paragraph (c) of this section.

(ii) A noneducational public agency described in paragraph (b)(1)(i) of this section may not disqualify an eligible service for Medicaid reimbursement because that service is provided in a school context.

(2) If a public agency other than an educational agency fails to provide or pay for the special education and related services described in paragraph (b)(1) of this section, the LEA (or State agency responsible for developing the child's IEP) must provide or pay for these services to the child in a timely manner. The LEA or State agency is authorized to claim reimbursement for the services from the noneducational public agency that failed to provide or pay for these services and that agency must reimburse the LEA or State agency in accordance with the terms of the interagency agreement or other mechanism described in paragraph (a) of this section.

c) Special rule. The requirements of paragraph (a) of this section may be met through--

(1) State statute or regulation;

(2) Signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services; or

(3) Other appropriate written methods as determined by the Chief Executive Officer of the State or designee of that officer and approved by the Secretary.

d) Children with disabilities who are covered by public benefits or insurance.

(1) A public agency may use the Medicaid or other public benefits or insurance programs in which a child participates to provide or pay for services required under this part, as permitted under the public benefits or insurance program, except as provided in paragraph (d)(2) of this section.

(2) With regard to services required to provide FAPE to an eligible child under this part, the public agency--

(i) May not require parents to sign up for or enroll in public benefits or insurance programs in order for their child to receive FAPE under Part B of the Act;

(ii) May not require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim for services provided pursuant to this part, but pursuant to paragraph (g)(2) of this section, may pay the cost that the parents otherwise would be required to pay;

(iii) May not use a child's benefits under a public benefits or insurance program if that use would--

(A) Decrease available lifetime coverage or any other insured benefit;

(B) Result in the family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the child outside of the time the child is in school;

(C) Increase premiums or lead to the discontinuation of benefits or insurance; or

(D) Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures; and

(A) Meets the requirements of sec. 99.30 of this title and sec. 300.622, which consent must specify the personally identifiable information that may be disclosed (e.g., records or information about the services that may be provided to a particular child), the purpose of the disclosure (e.g., billing for services under part 300), and the agency to which the disclosure may be made (e.g., the State's public benefits or insurance program (e.g., Medicaid)); and

(B) Specifies that the parent understands and agrees that the public agency may access the parent's or child's public benefits or insurance to pay for services under part 300.

(v) Prior to accessing a child's or parent's public benefits or insurance for the first time, and annually thereafter, must provide written notification, consistent with Sec. 300.503(c), to the child's parents, that includes—

(A) A statement of the parental consent provisions in Sec.300.154(d)(2)(iv)(A)-(B);

(B) A statement of the "no cost" provisions in Sec. 300.154(d)(2)(i)-(iii);

(C) A statement that the parents have the right under 34 CFR part 99 and part 300 to withdraw their consent to disclosure of their child's personally identifiable information to the agency responsible for the administration of the State's public benefits or insurance program (e.g., Medicaid) at any time; and

(D) A statement that the withdrawal of consent or refusal to provide consent under 34 CFR part 99 and part 300 to disclose personally identifiable information to the agency responsible for the administration of the State's public benefits or insurance program (e.g., Medicaid) does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.

e) Children with disabilities who are covered by private insurance.

(1) With regard to services required to provide FAPE to an eligible child under this part, a public agency may access the parents' private insurance proceeds only if the parents provide consent consistent with Sec. 300.9.

(2) Each time the public agency proposes to access the parents' private insurance proceeds, the agency must--

(i) Obtain parental consent in accordance with paragraph (e)(1) of this section; and

(ii) Inform the parents that their refusal to permit the public agency to access their private insurance does not relieve the public agency of its responsibility to ensure that all required services are provided at no cost to the parents.

f) Use of Part B funds.

(1) If a public agency is unable to obtain parental consent to use the parents' private insurance, or public benefits or insurance when the parents would incur a cost for a specified service required under this part, to ensure FAPE the public agency may use its Part B funds to pay for the service.

(2) To avoid financial cost to parents who otherwise would consent to use private insurance, or public benefits or insurance if the parents would incur a cost, the public agency may use its Part B funds to pay the cost that the parents otherwise would have to pay to use the parents' benefits or insurance (e.g., the deductible or co-pay amounts).

g) Proceeds from public benefits or insurance or private insurance.

(1) Proceeds from public benefits or insurance or private insurance will not be treated as program income for purposes of 34 CFR 80.25.

(2) If a public agency spends reimbursements from Federal funds (e.g., Medicaid) for services under this part, those funds will not be considered "State or local" funds for purposes of the maintenance of effort provisions in Secs. 300.163 and 300.203.

h) Construction. Nothing in this part should be construed to alter the requirements imposed on a State Medicaid agency, or any other agency administering a public benefits or insurance program by Federal statute, regulations or policy under title XIX, or title XXI of the Social Security Act, 42 U.S.C. 1396 through 1396v and 42 U.S.C. 1397aa through 1397jj, or any other public benefits or insurance program.

M. Additional Eligibility Requirements

1. Hearings relating to LEA eligibility. The SEA must not make any final determination that an LEA is not eligible for assistance under Part B of the Act without first giving the LEA reasonable notice and an opportunity for a hearing under 34 CFR 76.401(d).

2. Personnel qualifications.

a) General. The SEA must establish and maintain qualifications to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities.

b) Related services personnel and paraprofessionals. The qualifications under paragraph (a) of this section must include qualifications for related services personnel and paraprofessionals that--

(1) Are consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services; and

(2) Ensure that related services personnel who deliver services in their discipline or profession--

(i) Meet the requirements of paragraph (b)(1) of this section; and

(ii) Have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

(iii) Allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulation, or written policy, in meeting the requirements of this part to be used to assist in the provision of special education and related services under this part to children with disabilities.

c) Qualifications for special education teachers. The qualifications described in paragraph (a) of this section must ensure that each person employed as a public school special education teacher in the State who teaches in an elementary school, middle school, or secondary school is highly qualified as a special education teacher by the deadline established in section 1119(a)(2) of the ESEA.

d) Policy. In implementing this section, a State must adopt a policy that includes a requirement that LEAs in the State take measurable steps to recruit, hire, train, and retain highly qualified personnel to provide special education and related services under this part to children with disabilities.

e) Rule of construction. Notwithstanding any other individual right of action that a parent or student may maintain under this part, nothing in this part shall be construed to create a right of action on behalf of an individual student or a class of students for the failure of a particular SEA or LEA employee to be highly qualified, or to prevent a parent from filing a complaint about staff qualifications with the SEA as provided for under this part.

3. Performance goals and indicators. The State must--

a) Have in effect established goals for the performance of children with disabilities in the State that--

(1) Promote the purposes of this part, as stated in Sec. 300.1;

(2) Are the same as the State's objectives for progress by children in its definition of adequate yearly progress, including the State's objectives for progress by children with disabilities, under section 1111(b)(2)(C) of the ESEA, 20 U.S.C. 6311;

(3) Address graduation rates and dropout rates, as well as such other factors as the State may determine; and

(4) Are consistent, to the extent appropriate, with any other goals and academic standards for children established by the State;

b) Have in effect established performance indicators the State will use to assess progress toward achieving the goals described in paragraph (a) of this section, including measurable annual objectives for progress by children with disabilities under section 1111(b)(2)(C)(v)(II)(cc) of the ESEA, 20 U.S.C. 6311; and

c) Annually report to the Secretary and the public on the progress of the State, and of children with disabilities in the State, toward meeting the goals established under paragraph (a) of this section, which may include elements of the reports required under section 1111(h) of the ESEA.

4. Participation in Assessments

a) The State and public agencies must ensure that all children with disabilities are included in all general State and district-wide assessment programs, including assessments described under section 1111 of the ESEA, 20 U.S.C. 6311, with appropriate accommodations and alternate assessments, if necessary, as indicated in their respective IEPs.

b) Accommodation guidelines.

(1) A State (or, in the case of a district-wide assessment, an LEA) must develop guidelines for the provision of appropriate accommodations.

(2) The State's (or, in the case of a district-wide assessment, the LEA's) guidelines must—

(i) Identify only those accommodations for each assessment that do not invalidate the score; and

(ii) Instruct IEP Teams to select, for each assessment, only those accommodations that do not invalidate the score.

c) Alternate assessments.

(1) A State (or, in the case of a district-wide assessment, an LEA) must develop and implement alternate assessments and guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments, even with accommodations, as indicated in their respective IEPs, as provided in paragraph (a) of this section.

(2) For assessing the academic progress of students with disabilities under Title I of the ESEA, the alternate assessments and guidelines in paragraph (c)(1) of this section must provide for alternate assessments that—

(i) Are aligned with the State's academic content standards and student academic achievement standards;

(ii) Are aligned with adopted alternate academic achievement standards permitted in 34 CFR 200.1(d),to measure the achievement of children with the most significant cognitive disabilities against those standards.

d) Explanation to IEP Teams. The State and the LEA must provide IEP Teams with a clear explanation of the differences between assessments based on grade-level academic achievement standards and those based on alternate academic achievement standards, including any effects of State or local policies on the student's education resulting from taking an alternate assessment based on alternate academic achievement standards (such as whether only satisfactory performance on a regular assessment would qualify a student for a regular high school diploma).

e) Inform parents. The State and the LEA must ensure that parents of students selected to be assessed based on alternate academic achievement standards are informed that their child's achievement will be measured based on alternate academic achievement.

f) Reports. the SEA (or, in the case of a district-wide assessment, an LEA) must make available to the public, and report to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:

(1) The number of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations (that did not result in an invalid score) in order to participate in those assessments.

(2) The number of children with disabilities, if any, participating in alternate assessments based on grade level academic achievement standards.

(3) The number of children with disabilities, if any, participating in alternate assessments based on alternate academic achievement standards.

(4) Compared with the achievement of all children, including children with disabilities, the performance results of children with disabilities on regular assessments, alternate assessments based on grade-level academic achievement standards, and alternate assessments based on alternate academic achievement standards if—

(i) The number of children participating in those assessments is sufficient to yield statistically reliable information; and

(ii) Reporting that information will not reveal personally identifiable information about an individual student on those assessments.

g) Universal design. The SEA and the LEA must, to the extent possible, use universal design principles in developing and administering any assessments under this section.

5. Supplementation of State, local, and other Federal funds.

a) Expenditures. Funds paid to a State under this part must be expended in accordance with all the provisions of this part.

b) Prohibition against commingling.

(1) Funds paid to a State under this part must not be commingled with State funds.

(2) The requirement in paragraph (b)(1) of this section is satisfied by the use of a separate accounting system that includes an audit trail of the expenditure of funds paid to a State under this part. Separate bank accounts are not required.

c) State-level nonsupplanting.

(1) Except as provided in Sec. 300.202, funds paid to a State under Part B of the Act must be used to supplement the level of Federal, State, and local funds (including funds that are not under the direct control of the SEA or LEAs) expended for special education and related services provided to children with disabilities under Part B of the Act, and in no case to supplant those Federal, State, and local funds.

(2) If the State provides clear and convincing evidence that all children with disabilities have available to them FAPE, the Secretary may waive, in whole or in part, the requirements of paragraph (c)(1) of this section if the Secretary concurs with the evidence provided by the State under Sec. 300.164.

6. Maintenance of State financial support.

a) General. A State must not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year.

b) Reduction of funds for failure to maintain support. The Secretary reduces the allocation of funds under section 611 of the Act for any fiscal year following the fiscal year in which the State fails to comply with the requirement of paragraph (a) of this section by the same amount by which the State fails to meet the requirement.

c) Waivers for exceptional or uncontrollable circumstances. The Secretary may waive the requirement of paragraph (a) of this section for a State, for one fiscal year at a time, if the Secretary determines that--

(1) Granting a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State; or

(2) The State meets the standard in Sec. 300.164 for a waiver of the requirement to supplement, and not to supplant, funds received under Part B of the Act.

d) Subsequent years. If, for any fiscal year, a State fails to meet the requirement of paragraph (a) of this section, including any year for which the State is granted a waiver under paragraph (c) of this section, the financial support required of the State in future years under paragraph (a) of this section shall be the amount that would have been required in the absence of that failure and not the reduced level of the State's support.

7. Waiver of requirement regarding supplementing and not supplanting with Part B funds.

a) Except as provided under Secs. 300.202 through 300.205, funds paid to a State under Part B of the Act must be used to supplement and increase the level of Federal, State, and local funds (including funds that are not under the direct control of SEAs or LEAs) expended for special education and related services provided to children with disabilities under Part B of the Act and in no case to supplant those Federal, State, and local funds. A State may use funds it retains under Sec. 300.704(a) and (b) without regard to the prohibition on supplanting other funds.

b) If a State provides clear and convincing evidence that all eligible children with disabilities throughout the State have FAPE available to them, the Secretary may waive for a period of one year in whole or in part the requirement under Sec. 300.162 (regarding State-level nonsupplanting) if the Secretary concurs with the evidence provided by the State.

c) If a State wishes to request a waiver under this section, it must submit to the Secretary a written request that includes--

(1) An assurance that FAPE is currently available, and will remain available throughout the period that a waiver would be in effect, to all eligible children with disabilities throughout the State, regardless of the public agency that is responsible for providing FAPE to them. The assurance must be signed by an official who has the authority to provide that assurance as it applies to all eligible children with disabilities in the State;

(2) All evidence that the State wishes the Secretary to consider in determining whether all eligible children with disabilities have FAPE available to them, setting forth in detail--

(i) The basis on which the State has concluded that FAPE is available to all eligible children in the State; and

(ii) The procedures that the State will implement to ensure that FAPE remains available to all eligible children in the State, which must include--

(A) The State's procedures under Sec. 300.111 for ensuring that all eligible children are identified, located and evaluated;

(B) The State's procedures for monitoring public agencies to ensure that they comply with all requirements of this part;

(C) The State's complaint procedures under Secs. 300.151 through 300.153; and

(D) The State's hearing procedures under Secs. 300.511 through 300.516 and Secs. 300.530 through 300.536;

(3) A summary of all State and Federal monitoring reports, and State complaint decisions (see Secs. 300.151 through 300.153) and hearing decisions (see Secs. 300.511 through 300.516 and Secs. 300.530 through 300.536), issued within three years prior to the date of the State's request for a waiver under this section, that includes any finding that FAPE has not been available to one or more eligible children, and evidence that FAPE is now available to all children addressed in those reports or decisions; and

(4) Evidence that the State, in determining that FAPE is currently available to all eligible children with disabilities in the State, has consulted with the State advisory panel under Sec. 300.167.

d) If the Secretary determines that the request and supporting evidence submitted by the State makes a prima facie showing that FAPE is, and will remain, available to all eligible children with disabilities in the State, the Secretary, after notice to the public throughout the State, conducts a public hearing at which all interested persons and organizations may present evidence regarding the following issues:

(1) Whether FAPE is currently available to all eligible children with disabilities in the State.

(2) Whether the State will be able to ensure that FAPE remains available to all eligible children with disabilities in the State if the Secretary provides the requested waiver.

e) Following the hearing, the Secretary, based on all submitted evidence, will provide a waiver, in whole or in part, for a period of one year if the Secretary finds that the State has provided clear and convincing evidence that FAPE is currently available to all eligible children with disabilities in the State, and the State will be able to ensure that FAPE remains available to all eligible children with disabilities in the State if the Secretary provides the requested waiver.

f) A State may receive a waiver of the requirement of section 612(a)(18)(A) of the Act and Sec. 300.164 if it satisfies the requirements of paragraphs (b) through (e) of this section.

g) The Secretary may grant subsequent waivers for a period of one year each, if the Secretary determines that the State has provided clear and convincing evidence that all eligible children with disabilities throughout the State have, and will continue to have throughout the one-year period of the waiver, FAPE available to them.

8. Public participation.

a) Prior to the adoption of any policies and procedures needed to comply with Part B of the Act (including any amendments to those policies and procedures), the State must ensure that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities.

b) Before submitting a State plan under this part, a State must comply with the public participation requirements in paragraph (a) of this section and those in 20 U.S.C. 1232d(b)(7). Sec. 300.166 Rule of construction. In complying with Secs. 300.162 and 300.163, a State may not use funds paid to it under this part to satisfy State-law mandated funding obligations to LEAs, including funding based on student attendance or enrollment, or inflation.

N. State Advisory Panel

1. State advisory panel. The State must establish and maintain an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State.

2. Membership.

a) General. The advisory panel must consist of members appointed by the Governor, or any other official authorized under State law to make such appointments, be representative of the State population and be composed of individuals involved in, or concerned with the education of children with disabilities, including--

(1) Parents of children with disabilities (ages birth through 26);

(2) Individuals with disabilities;

(3) Teachers;

(4) Representatives of institutions of higher education that prepare special education and related services personnel;

(5) State and local education officials, including officials who carry out activities under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act, (42 U.S.C. 11431 et seq.);

(6) Administrators of programs for children with disabilities;

(7) Representatives of other State agencies involved in the financing or delivery of related services to children with disabilities;

(8) Representatives of private schools and public charter schools;

(9) Not less than one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities;

(10) A representative from the State child welfare agency responsible for foster care; and

(11) Representatives from the State juvenile and adult corrections agencies.

b) Special rule. A majority of the members of the panel must be individuals with disabilities or parents of children with disabilities (ages birth through 26).

3. Duties. The advisory panel must--

a) Advise the SEA of unmet needs within the State in the education of children with disabilities;

b) Comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities;

c) Advise the SEA in developing evaluations and reporting on data to the Secretary under section 618 of the Act;

d) Advise the SEA in developing corrective action plans to address findings identified in Federal monitoring reports under Part B of the Act; and

e) Advise the SEA in developing and implementing policies relating to the coordination of services for children with disabilities.

O. Other Provisions Required for State Eligibility

1. Suspension and expulsion rates.

a) General. The SEA must examine data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities:

(1) Among LEAs in the State; or

(2) Compared to the rates for nondisabled children within those agencies.

b) Review and revision of policies. If the discrepancies described in paragraph (a) of this section are occurring, the SEA must review and, if appropriate, revise (or require the affected State agency or LEA to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards, to ensure that these policies, procedures, and practices comply with the Act.

2. Annual description of use of Part B funds.

a) In order to receive a grant in any fiscal year a State must annually describe--

(1) How amounts retained for State administration and State-level activities under Sec. 300.704 will be used to meet the requirements of this part; and

(2) How those amounts will be allocated among the activities described in Sec. 300.704 to meet State priorities based on input from LEAs.

b) If a State's plans for use of its funds under Sec. 300.704 for the forthcoming year do not change from the prior year, the State may submit a letter to that effect to meet the requirement in paragraph (a) of this section.

c) The provisions of this section do not apply to the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the freely associated States.

3. Access to instructional materials.

a) General. The State must--

(1) Adopt the National Instructional Materials Accessibility Standard (NIMAS), published as appendix C to part 300, for the purposes of providing instructional materials to blind persons or other persons with print disabilities, in a timely manner after publication of the NIMAS in the Federal Register on July 19, 2006 (71 FR 41084); and

(2) Establish a State definition of "timely manner" for purposes of paragraphs (b)(3) and (c)(2) of this section.

b) Rights and responsibilities of SEA.

(1) Nothing in this section shall be construed to require any SEA to coordinate with the NIMAC.

(2) If the SEA chooses not to coordinate with the NIMAC, the SEA must provide an assurance to the Secretary that it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner.

(3) Nothing in this section relieves the SEA of its responsibility to ensure that children with disabilities who need instructional materials in accessible formats, but are not included under the definition of blind or other persons with print disabilities in Sec. 300.172(e)(1)(i) or who need materials that cannot be produced from NIMAS files, receive those instructional materials in a timely manner.

(4) In order to meet its responsibility under paragraphs (b)(2), (b)(3), and (c) of this section to ensure that children with disabilities who need instructional materials in accessible formats are provided those materials in a timely manner, the SEA must ensure that all public agencies take all reasonable steps to provide instructional materials in accessible formats to children with disabilities who need those instructional materials at the same time as other children receive instructional materials.

c) Preparation and delivery of files. If the SEA chooses to coordinate with the NIMAC, as of December 3, 2006, the SEA must--

(1) As part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials, must enter into a written contract with the publisher of the print instructional materials to--

(i) Require the publisher to prepare and, on or before delivery of the print instructional materials, provide to NIMAC electronic files containing the contents of the print instructional materials using the NIMAS; or

(ii) Purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats.

(2) Provide instructional materials to blind persons or other persons with print disabilities in a timely manner.

d) Assistive technology. In carrying out this section, the SEA, to the maximum extent possible, must work collaboratively with the State agency responsible for assistive technology programs.

e) Definitions.

(1) In this section and Sec. 300.210--

(i) Blind persons or other persons with print disabilities means children served under this part who may qualify to receive books and other publications produced in specialized formats in accordance with the Act entitled “An Act to provide books for adult blind,” approved March 3, 1931, 2 U.S.C 135a;

(ii) National Instructional Materials Access Center or NIMAC means the center established pursuant to section 674(e) of the Act;

(iii) National Instructional Materials Accessibility Standard or NIMAS has the meaning given the term in section 674(e)(3)(B) of the Act; (iv) Specialized formats has the meaning given the term in section 674(e)(3)(D) of the Act.

(2) The definitions in paragraph (e)(1) of this section apply to each State and LEA, whether or not the State or LEA chooses to coordinate with the NIMAC.

4. Overidentification and disproportionality. The State must have in effect, consistent with the purposes of this part and with section 618(d) of the Act, policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in Sec. 300.8.

5. Prohibition on mandatory medication.

a) General. The SEA must prohibit State and LEA personnel from requiring parents to obtain a prescription for substances identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) for a child as a condition of attending school, receiving an evaluation under Secs. 300.300 through 300.311, or receiving services under this part.

b) Rule of construction. Nothing in paragraph (a) of this section shall be construed to create a Federal prohibition against teachers and other school personnel consulting or sharing classroom-based observations with parents or guardians regarding a student's academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education or related services under Sec. 300.111 (related to child find).

6. SEA as provider of FAPE or direct services. If the SEA provides FAPE to children with disabilities, or provides direct services to these children, the agency--

a) Must comply with any additional requirements of Secs. 300.201 and 300.202 and Secs. 300.206 through 300.226 as if the agency were an LEA; and

b) May use amounts that are otherwise available to the agency under Part B of the Act to serve those children without regard to Sec. 300.202(b) (relating to excess costs).

7. Exception for prior State plans.

a) General. If a State has on file with the Secretary policies and procedures approved by the Secretary that demonstrate that the State meets any requirement of Sec. 300.100, including any policies and procedures filed under Part B of the Act as in effect before, December 3, 2004, the Secretary considers the State to have met the requirement for purposes of receiving a grant under Part B of the Act.

b) Modifications made by a State.

(1) Subject to paragraph (b)(2) of this section, policies and procedures submitted by a State in accordance with this subpart remain in effect until the State submits to the Secretary the modifications that the State determines necessary.

(2) The provisions of this subpart apply to a modification to an application to the same extent and in the same manner that they apply to the original plan.

c) Modifications required by the Secretary. The Secretary may require a State to modify its policies and procedures, but only to the extent necessary to ensure the State's compliance with this part, if--

(1) After December 3, 2004, the provisions of the Act or the regulations in this part are amended;

(2) There is a new interpretation of this Act by a Federal court or a State's highest court; or

(3) There is an official finding of noncompliance with Federal law or regulations.

8. States' sovereign immunity and positive efforts to employ and advance qualified individuals with disabilities.

a) States' sovereign immunity.

(1) A State that accepts funds under this part waives its immunity this part waives its immunity under the 11th amendment of the Constitution of the United States from suit in Federal court for a violation of this part.

(2) In a suit against a State for a violation of this part, remedies (including remedies both at law and in equity) are available for such a violation in the suit against a public entity other than a State.

(3) Paragraphs a)(1) and a)(2) of this section apply with respect to violations that occur in whole or part after the date of enactment of the Education of the Handicapped Act Amendments of 1990.

b) Positive efforts to employ and advance qualified individuals with disabilities. Each recipient of assistance under Part B of the Act must make positive efforts to employ, and advance in employment, qualified individuals with disabilities in programs assisted under Part B of the Act.

c) Effective date. Paragraphs (a) and (b) of this section apply with respect to violations that occur in whole or part after the date of enactment of the Education of the Handicapped Act Amendments of 1990.

P. Department Procedures

1. Determination by the Secretary that a State is eligible to receive a grant. If the Secretary determines that a State is eligible to receive a grant under Part B of the Act, the Secretary notifies the State of that determination.

2. Notice and hearing before determining that a State is not eligible to receive a grant.

a) General.

(1) The Secretary does not make a final determination that a State is not eligible to receive a grant under Part B of the Act until providing the State--

(i) With reasonable notice; and

(ii) With an opportunity for a hearing.

(2) In implementing paragraph (a)(1)(i) of this section, the Secretary sends a written notice to the SEA by certified mail with return receipt requested.

b) Content of notice. In the written notice described in paragraph (a)(2) of this section, the Secretary--

(1) States the basis on which the Secretary proposes to make a final determination that the State is not eligible;

(2) May describe possible options for resolving the issues;

(3) Advises the SEA that it may request a hearing and that the request for a hearing must be made not later than 30 days after it receives the notice of the proposed final determination that the State is not eligible; and

(4) Provides the SEA with information about the hearing procedures that will be followed.

3. Hearing official or panel.

a) If the SEA requests a hearing, the Secretary designates one or more individuals, either from the Department or elsewhere, not responsible for or connected with the administration of this program, to conduct a hearing.

b) If more than one individual is designated, the Secretary designates one of those individuals as the Chief Hearing Official of the Hearing Panel. If one individual is designated, that individual is the Hearing Official.

4. Hearing procedures.

a) As used in Secs. 300.179 through 300.184 the term party or parties means the following:

(1) The SEA that requests a hearing regarding the proposed disapproval of the State's eligibility under this part.

(2) The Department official who administers the program of financial assistance under this part.

(3) A person, group or agency with an interest in and having relevant information about the case that has applied for and been granted leave to intervene by the Hearing Official or Hearing Panel.

b) Within 15 days after receiving a request for a hearing, the Secretary designates a Hearing Official or Hearing Panel and notifies the parties.

c) The Hearing Official or Hearing Panel may regulate the course of proceedings and the conduct of the parties during the proceedings. The Hearing Official or Hearing Panel takes all steps necessary to conduct a fair and impartial proceeding, to avoid delay, and to maintain order, including the following:

(1) The Hearing Official or Hearing Panel may hold conferences or other types of appropriate proceedings to clarify, simplify, or define the issues or to consider other matters that may aid in the disposition of the case.

(2) The Hearing Official or Hearing Panel may schedule a prehearing conference with the Hearing Official or Hearing Panel and the parties.

(3) Any party may request the Hearing Official or Hearing Panel to schedule a prehearing or other conference. The Hearing Official or Hearing Panel decides whether a conference is necessary and notifies all parties.

(4) At a prehearing or other conference, the Hearing Official or Hearing Panel and the parties may consider subjects such as--

(i) Narrowing and clarifying issues;

(ii) Assisting the parties in reaching agreements and stipulations;

(iii) Clarifying the positions of the parties;

(iv) Determining whether an evidentiary hearing or oral argument should be held; and

(v) Setting dates for--

(A) The exchange of written documents;

(B) The receipt of comments from the parties on the need for oral argument or evidentiary hearing;

(C) Further proceedings before the Hearing Official or Hearing Panel (including an evidentiary hearing or oral argument, if either is scheduled);

(D) Requesting the names of witnesses each party wishes to present at an evidentiary hearing and estimation of time for each presentation; or

(E) Completion of the review and the initial decision of the Hearing Official or Hearing Panel.

(5) A prehearing or other conference held under paragraph (b)(4) of this section may be conducted by telephone conference call.

(6) At a prehearing or other conference, the parties must be prepared to discuss the subjects listed in paragraph (b)(4) of this section.

(7) Following a prehearing or other conference the Hearing Official or Hearing Panel may issue a written statement describing the issues raised, the action taken, and the stipulations and agreements reached by the parties.

d) The Hearing Official or Hearing Panel may require parties to state their positions and to provide all or part of the evidence in writing.

e) The Hearing Official or Hearing Panel may require parties to present testimony through affidavits and to conduct cross-examination through interrogatories.

f) The Hearing Official or Hearing Panel may direct the parties to exchange relevant documents or information and lists of witnesses, and to send copies to the Hearing Official or Panel.

g) The Hearing Official or Hearing Panel may receive, rule on, exclude, or limit evidence at any stage of the proceedings.

h) The Hearing Official or Hearing Panel may rule on motions and other issues at any stage of the proceedings.

i) The Hearing Official or Hearing Panel may examine witnesses.

j) The Hearing Official or Hearing Panel may set reasonable time limits for submission of written documents.

k) The Hearing Official or Hearing Panel may refuse to consider documents or other submissions if they are not submitted in a timely manner unless good cause is shown.

l) The Hearing Official or Hearing Panel may interpret applicable statutes and regulations but may not waive them or rule on their validity.

m)(1) The parties must present their positions through briefs and the submission of other documents and may request an oral argument or evidentiary hearing. The Hearing Official or Hearing Panel shall determine whether an oral argument or an evidentiary hearing is needed to clarify the positions of the parties.

(2) The Hearing Official or Hearing Panel gives each party an opportunity to be represented by counsel.

n) If the Hearing Official or Hearing Panel determines that an evidentiary hearing would materially assist the resolution of the matter, the Hearing Official or Hearing Panel gives each party, in addition to the opportunity to be represented by counsel--

(1) An opportunity to present witnesses on the party's behalf; and

(2) An opportunity to cross-examine witnesses either orally or with written questions.

o) The Hearing Official or Hearing Panel accepts any evidence that it finds is relevant and material to the proceedings and is not unduly repetitious.

p)(1) The Hearing Official or Hearing Panel--

(i) Arranges for the preparation of a transcript of each hearing;

(ii) Retains the original transcript as part of the record of the hearing; and

(iii) Provides one copy of the transcript to each party.

(2) Additional copies of the transcript are available on request and with payment of the reproduction fee.

q) Each party must file with the Hearing Official or Hearing Panel all written motions, briefs, and other documents and must at the same time provide a copy to the other parties to the proceedings.

5. Initial decision; final decision.

a) The Hearing Official or Hearing Panel prepares an initial written decision that addresses each of the points in the notice sent by the Secretary to the SEA under Sec. 300.179 including any amendments to or further clarifications of the issues, under Sec. 300.181(c)(7).

b) The initial decision of a Hearing Panel is made by a majority of Panel members.

c) The Hearing Official or Hearing Panel mails, by certified mail with return receipt requested, a copy of the initial decision to each party (or to the party's counsel) and to the Secretary, with a notice stating that each party has an opportunity to submit written comments regarding the decision to the Secretary.

d) Each party may file comments and recommendations on the initial decision with the Hearing Official or Hearing Panel within 15 days of the date the party receives the Panel's decision.

e) The Hearing Official or Hearing Panel sends a copy of a party's initial comments and recommendations to the other parties by certified mail with return receipt requested. Each party may file responsive comments and recommendations with the Hearing Official or Hearing Panel within seven days of the date the party receives the initial comments and recommendations.

f) The Hearing Official or Hearing Panel forwards the parties' initial and responsive comments on the initial decision to the Secretary who reviews the initial decision and issues a final decision.

g) The initial decision of the Hearing Official or Hearing Panel becomes the final decision of the Secretary unless, within 25 days after the end of the time for receipt of written comments and recommendations, the Secretary informs the Hearing Official or Hearing Panel and the parties to a hearing in writing that the decision is being further reviewed for possible modification.

h) The Secretary rejects or modifies the initial decision of the Hearing Official or Hearing Panel if the Secretary finds that it is clearly erroneous.

i) The Secretary conducts the review based on the initial decision, the written record, the transcript of the Hearing Official's or Hearing Panel's proceedings, and written comments.

j) The Secretary may remand the matter to the Hearing Official or Hearing Panel for further proceedings.

k) Unless the Secretary remands the matter as provided in paragraph (j) of this section, the Secretary issues the final decision, with any necessary modifications, within 30 days after notifying the Hearing Official or Hearing Panel that the initial decision is being further reviewed.

6. Filing requirements.

a) Any written submission by a party under Secs. 300.179 through 300.184 must be filed by hand delivery, by mail, or by facsimile transmission. The Secretary discourages the use of facsimile transmission for documents longer than five pages.

b) The filing date under paragraph (a) of this section is the date the document is--

(1) Hand-delivered;

(2) Mailed; or

(3) Sent by facsimile transmission.

c) A party filing by facsimile transmission is responsible for confirming that a complete and legible copy of the document was received by the Department.

d) If a document is filed by facsimile transmission, the Secretary, the Hearing Official, or the Hearing Panel, as applicable, may require the filing of a follow-up hard copy by hand delivery or by mail within a reasonable period of time.

e) If agreed upon by the parties, service of a document may be made upon the other party by facsimile transmission.

7. Judicial review. If a State is dissatisfied with the Secretary's final decision with respect to the eligibility of the State under section 612 of the Act, the State may, not later than 60 days after notice of that decision, file with the United States Court of Appeals for the circuit in which that State is located a petition for review of that decision. A copy of the petition must be transmitted by the clerk of the court to the Secretary. The Secretary then files in the court the record of the proceedings upon which the Secretary's decision was based, as provided in 28 U.S.C. 2112.

8. Assistance under other Federal programs. Part B of the Act may not be construed to permit a State to reduce medical and other assistance available, or to alter eligibility, under titles V and XIX of the Social Security Act with respect to the provision of FAPE for children with disabilities in the State.

Q. By-pass for Children in Private Schools

1. By-pass--general.

a) If, on December 2, 1983, the date of enactment of the Education of the Handicapped Act Amendments of 1983, the SEA was prohibited by law from providing for the equitable participation in special programs of children with disabilities enrolled in private elementary schools and secondary schools as required by section 612(a)(10)(A) of the Act, or if the Secretary determines that the SEA, LEA, or other public agency has substantially failed or is unwilling to provide for such equitable participation then the Secretary shall, notwithstanding such provision of law, arrange for the provision of services to these children through arrangements which shall be subject to the requirements of section 612(a)(10)(A) of the Act.

b) The Secretary waives the requirement of section 612(a)(10)(A) of the Act and of Secs. 300.131 through 300.144 if the Secretary implements a by-pass.

2. Provisions for services under a by-pass.

a) Before implementing a by-pass, the Secretary consults with appropriate public and private school officials, including SEA officials, in the affected State, and as appropriate, LEA or other public agency officials to consider matters such as--

(1) Any prohibition imposed by State law that results in the need for a by-pass; and

(2) The scope and nature of the services required by private school children with disabilities in the State, and the number of children to be served under the by-pass.

b) After determining that a by-pass is required, the Secretary arranges for the provision of services to private school children with disabilities in the State, LEA or other public agency in a manner consistent with the requirements of section 612(a)(10)(A) of the Act and Secs. 300.131 through 300.144 by providing services through one or more agreements with appropriate parties.

c) For any fiscal year that a by-pass is implemented, the Secretary determines the maximum amount to be paid to the providers of services by multiplying--

(1) A per child amount determined by dividing the total amount received by the State under Part B of the Act for the fiscal year by the number of children with disabilities served in the prior year as reported to the Secretary under section 618 of the Act; by

(2) The number of private school children with disabilities (as defined in Secs. 300.8(a) and 300.130) in the State, LEA or other public agency, as determined by the Secretary on the basis of the most recent satisfactory data available, which may include an estimate of the number of those children with disabilities.

d) The Secretary deducts from the State's allocation under Part B of the Act the amount the Secretary determines is necessary to implement a by-pass and pays that amount to the provider of services. The Secretary may withhold this amount from the State's allocation pending final resolution of any investigation or complaint that could result in a determination that a by-pass must be implemented.

3. Notice of intent to implement a by-pass.

a) Before taking any final action to implement a by-pass, the Secretary provides the SEA and, as appropriate, LEA or other public agency with written notice.

b) In the written notice, the Secretary--

(1) States the reasons for the proposed by-pass in sufficient detail to allow the SEA and, as appropriate, LEA or other public agency to respond; and

(2) Advises the SEA and, as appropriate, LEA or other public agency that it has a specific period of time (at least 45 days) from receipt of the written notice to submit written objections to the proposed by-pass and that it may request in writing the opportunity for a hearing to show cause why a by-pass should not be implemented.

c) The Secretary sends the notice to the SEA and, as appropriate, LEA or other public agency by certified mail with return receipt requested.

4. Request to show cause. The SEA, LEA or other public agency in receipt of a notice under Sec. 300.192 that seeks an opportunity to show cause why a by-pass should not be implemented must submit a written request for a show cause hearing to the Secretary, within the specified time period in the written notice in Sec. 300.192(b)(2).

5. Show cause hearing.

a) If a show cause hearing is requested, the Secretary--

(1) Notifies the SEA and affected LEA or other public agency, and other appropriate public and private school officials of the time and place for the hearing;

(2) Designates a person to conduct the show cause hearing. The designee must not have had any responsibility for the matter brought for a hearing; and

(3) Notifies the SEA, LEA or other public agency, and representatives of private schools that they may be represented by legal counsel and submit oral or written evidence and arguments at the hearing.

b) At the show cause hearing, the designee considers matters such as--

(1) The necessity for implementing a by-pass;

(2) Possible factual errors in the written notice of intent to implement a by-pass; and

(3) The objections raised by public and private school representatives.

c) The designee may regulate the course of the proceedings and the conduct of parties during the pendency of the proceedings. The designee takes all steps necessary to conduct a fair and impartial proceeding, to avoid delay, and to maintain order.

d) The designee has no authority to require or conduct discovery.

e) The designee may interpret applicable statutes and regulations, but may not waive them or rule on their validity.

f) The designee arranges for the preparation, retention, and, if appropriate, dissemination of the record of the hearing.

g) Within 10 days after the hearing, the designee--

(1) Indicates that a decision will be issued on the basis of the existing record; or

(2) Requests further information from the SEA, LEA, other public agency, representatives of private schools or Department officials.

6. Decision.

a) The designee who conducts the show cause hearing--

(1) Within 120 days after the record of a show cause hearing is closed, issues a written decision that includes a statement of findings; and

(2) Submits a copy of the decision to the Secretary and sends a copy to each party by certified mail with return receipt requested.

b) Each party may submit comments and recommendations on the designee's decision to the Secretary within 30 days of the date the party receives the designee's decision.

c) The Secretary adopts, reverses, or modifies the designee's decision and notifies all parties to the show cause hearing of the Secretary's final action. That notice is sent by certified mail with return receipt requested.

7. Filing requirements.

a) Any written submission under Sec. 300.194 must be filed by hand-delivery, by mail, or by facsimile transmission. The Secretary discourages the use of facsimile transmission for documents longer than five pages.

b) The filing date under paragraph (a) of this section is the date the document is--

(1) Hand-delivered;

(2) Mailed; or

(3) Sent by facsimile transmission.

c) A party filing by facsimile transmission is responsible for confirming that a complete and legible copy of the document was received by the Department.

d) If a document is filed by facsimile transmission, the Secretary or the hearing officer, as applicable, may require the filing of a follow-up hard copy by hand-delivery or by mail within a reasonable period of time.

e) If agreed upon by the parties, service of a document may be made upon the other party by facsimile transmission.

f) A party must show a proof of mailing to establish the filing date under paragraph (b)(2) of this section as provided in 34 CFR 75.102(d).

8. Judicial review. If dissatisfied with the Secretary's final action, the SEA may, within 60 days after notice of that action, file a petition for review with the United States Court of Appeals for the circuit in which the State is located. The procedures for judicial review are described in section 612(f)(3) (B) through (D) of the Act.

9. Continuation of a by-pass. The Secretary continues a by-pass until the Secretary determines that the SEA, LEA or other public agency will meet the requirements for providing services to private school children.

R. State Administration

1. State administration.

a) Rulemaking. Each State that receives funds under Part B of the Act must:

(1) Ensure that any State rules, regulations, and policies relating to this part conform to the purposes of this part;

(2) Identify in writing to LEAs located in the State and the Secretary any such rule, regulation, or policy as a State-imposed requirement that is not required by Part B of the Act and Federal regulations; and

(3) Minimize the number of rules, regulations, and policies to which the LEAs and schools located in the State are subject under Part B of the Act.

b) Support and facilitation. State rules, regulations, and policies under Part B of the Act must support and facilitate LEA and school-level system improvement designed to enable children with disabilities to meet the challenging State student academic achievement standards.

III. Local Educational Agency Eligibility

A. Condition of assistance. An LEA is eligible for assistance under Part B of the Act for a fiscal year if the agency submits a plan that provides assurances to the SEA that the LEA meets each of the conditions in Secs. 300.201 through 300.213.

B. Consistency with State policies. The LEA, in providing for the education of children with disabilities within its jurisdiction, must have in effect policies, procedures, and programs that are consistent with the State policies and procedures established under Secs. 300.101 through 300.163, and Secs. 300.165 through 300.174.

C. Use of amounts.

1. General. Amounts provided to the LEA under Part B of the Act--

a) Must be expended in accordance with the applicable provisions of this part;

b) Must be used only to pay the excess costs of providing special education and related services to children with disabilities, consistent with paragraph (2) of this section; and

c) Must be used to supplement State, local, and other Federal funds and not to supplant those funds.

2. Excess cost requirement:

a) General.

(1) The excess cost requirement prevents an LEA from using funds provided under Part B of the Act to pay for all of the costs directly attributable to the education of a child with a disability, subject to paragraph (2)(a)(2) of this section.

(2) The excess cost requirement does not prevent an LEA from using Part B funds to pay for all of the costs directly attributable to the education of a child with a disability in any of the ages 3, 4, 5, 18, 19, 20, or 21, if no local or State funds are available for nondisabled children of these ages. However, the LEA must comply with the nonsupplanting and other requirements of this part in providing the education and services for these children.

b)(1) An LEA meets the excess cost requirement if it has spent at least a minimum average amount for the education of its children with disabilities before funds under Part B of the Act are used.

(2) The amount described in paragraph (2)(b)(1) of this section is determined in accordance with the definition of excess costs in Sec. 300.16. That amount may not include capital outlay or debt service.

c) If two or more LEAs jointly establish eligibility in accordance with Sec. 300.223, the minimum average amount is the average of the combined minimum average amounts determined in accordance with the definition of excess costs in Sec. 300.16 in those agencies for elementary or secondary school students, as the case may be.

D. Maintenance of effort.

1. General. Except as provided in Secs. 300.204 and 300.205, funds provided to an LEA under Part B of the Act must not be used to reduce the level of expenditures for the education of children with disabilities made by the LEA from local funds below the level of those expenditures for the preceding fiscal year.

2. Standard.

a) Except as provided in paragraph (2)(b) of this section, the SEA must determine that an LEA complies with paragraph (1) of this section for purposes of establishing the LEA's eligibility for an award for a fiscal year if the LEA budgets, for the education of children with disabilities, at least the same total or per capita amount from either of the following sources as the LEA spent for that purpose from the same source for the most recent prior year for which information is available:

(1) Local funds only.

(2) The combination of State and local funds.

b) An LEA that relies on paragraph (b)(1)(i) of this section for any fiscal year must ensure that the amount of local funds it budgets for the education of children with disabilities in that year is at least the same, either in total or per capita, as the amount it spent for that purpose in the most recent fiscal year for which information is available and the standard in paragraph (2)(a)(1) of this section was used to establish its compliance with this section.

c) The SEA may not consider any expenditures made from funds provided by the Federal Government for which the SEA is required to account to the Federal Government or for which the LEA is required to account to the Federal Government directly or through the SEA in determining an LEA's compliance with the requirement in paragraph (1) of this section.

E. Exception to maintenance of effort. Notwithstanding the restriction in Sec. 300.203(a), an LEA may reduce the level of expenditures by the LEA under Part B of the Act below the level of those expenditures for the preceding fiscal year if the reduction is attributable to any of the following:

1. The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel.

2. A decrease in the enrollment of children with disabilities.

3. The termination of the obligation of the agency, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the SEA, because the child--

a) Has left the jurisdiction of the agency;

b) Has reached the age at which the obligation of the agency to provide FAPE to the child has terminated; or

c) No longer needs the program of special education.

4. The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.

5. The assumption of cost by the high cost fund operated by the SEA under Sec. 300.704(c).

F. Adjustment to local fiscal efforts in certain fiscal years.

1. Amounts in excess. Notwithstanding Sec. 300.202(a)(2) and (b) and Sec. 300.203(a), and except as provided in paragraph (4) of this section and Sec. 300.230(e)(2), for any fiscal year for which the allocation received by an LEA under Sec. 300.705 exceeds the amount the LEA received for the previous fiscal year, the LEA may reduce the level of expenditures otherwise required by Sec. 300.203(a) by not more than 50 percent of the amount of that excess.

2. Use of amounts to carry out activities under ESEA. If an LEA exercises the authority under paragraph (1) of this section, the LEA must use an amount of local funds equal to the reduction in expenditures under paragraph (1) of this section to carry out activities that could be supported with funds under the ESEA regardless of whether the LEA is using funds under the ESEA for those activities.

3. State prohibition. Notwithstanding paragraph (1) of this section, if the SEA determines that an LEA is unable to establish and maintain programs of FAPE that meet the requirements of section 613(a) of the Act and this part or the SEA has taken action against the LEA under section 616 of the Act and subpart F of these regulations, the SEA must prohibit the LEA from reducing the level of expenditures under paragraph (1) of this section for that fiscal year.

4. Special rule. The amount of funds expended by an LEA for early intervening services under Sec. 300.226 shall count toward the maximum amount of expenditures that the LEA may reduce under paragraph (1) of this section.

G. School-wide programs under title I of the ESEA.

1. General. Notwithstanding the provisions of Secs. 300.202 and 300.203 or any other provision of Part B of the Act, an LEA may use funds received under Part B of the Act for any fiscal year to carry out a school-wide program under section 1114 of the ESEA, except that the amount used in any school-wide program may not exceed--

a)(1) The amount received by the LEA under Part B of the Act for that fiscal year; divided by

(2) The number of children with disabilities in the jurisdiction of the LEA; and multiplied by

b) The number of children with disabilities participating in the school-wide program.

2. Funding conditions. The funds described in paragraph (1) of this section are subject to the following conditions:

a) The funds must be considered as Federal Part B funds for purposes of the calculations required by Sec. 300.202(a)(2) and (a)(3).

b) The funds may be used without regard to the requirements of Sec. 300.202(a)(1).

3. Meeting other Part B requirements. Except as provided in paragraph (2) of this section, all other requirements of Part B of the Act must be met by an LEA using Part B funds in accordance with paragraph (1) of this section, including ensuring that children with disabilities in school-wide program schools--

a) Receive services in accordance with a properly developed IEP; and

b) Are afforded all of the rights and services guaranteed to children with disabilities under the Act.

H. Personnel development. The LEA must ensure that all personnel necessary to carry out Part B of the Act are appropriately and adequately prepared, subject to the requirements of Sec. 300.156 (related to personnel qualifications) and section 2122 of the ESEA.

I. Permissive use of funds.

1. Uses. Notwithstanding Secs. 300.202, 300.203(a), and 300.162(b), funds provided to an LEA under Part B of the Act may be used for the following activities:

a) Services and aids that also benefit nondisabled children. For the costs of special education and related services, and supplementary aids and services, provided in a regular class or other education-related setting to a child with a disability in accordance with the IEP of the child, even if one or more nondisabled children benefit from these services.

b) Early intervening services. To develop and implement coordinated, early intervening educational services in accordance with Sec. 300.226.

c) High cost special education and related services. To establish and implement cost or risk sharing funds, consortia, or cooperatives for the LEA itself, or for LEAs working in a consortium of which the LEA is a part, to pay for high cost special education and related services.

2. Administrative case management. An LEA may use funds received under Part B of the Act to purchase appropriate technology for recordkeeping, data collection, and related case management activities of teachers and related services personnel providing services described in the IEP of children with disabilities, that is needed for the implementation of those case management activities.

J. Treatment of charter schools and their students.

1. Rights of children with disabilities. Children with disabilities who attend public charter schools and their parents retain all rights under this part.

2. Charter schools that are public schools of the LEA.

a) In carrying out Part B of the Act and these regulations with respect to charter schools that are public schools of the LEA, the LEA must--

(1) Serve children with disabilities attending those charter schools in the same manner as the LEA serves children with disabilities in its other schools, including providing supplementary and related services on site at the charter school to the same extent to which the LEA has a policy or practice of providing such services on the site to its other public schools; and

(2) Provide funds under Part B of the Act to those charter schools--

(i) On the same basis as the LEA provides funds to the LEA's other public schools, including proportional distribution based on relative enrollment of children with disabilities; and

(ii) At the same time as the LEA distributes other Federal funds to the LEA's other public schools, consistent with the State's charter school law.

b) If the public charter school is a school of an LEA that receives funding under Sec. 300.705 and includes other public schools--

(1) The LEA is responsible for ensuring that the requirements of this part are met, unless State law assigns that responsibility to some other entity; and

(2) The LEA must meet the requirements of paragraph (2)(a) of this section.

3. Public charter schools that are LEAs. If the public charter school is an LEA, consistent with Sec. 300.28, that receives funding under Sec. 300.705, that charter school is responsible for ensuring that the requirements of this part are met, unless State law assigns that responsibility to some other entity.

4. Public charter schools that are not an LEA or a school that is part of an LEA.

a) If the public charter school is not an LEA receiving funding under Sec. 300.705, or a school that is part of an LEA receiving funding under Sec. 300.705, the SEA is responsible for ensuring that the requirements of this part are met.

b) Paragraph (4)(a) of this section does not preclude a State from assigning initial responsibility for ensuring the requirements of this part are met to another entity. However, the SEA must maintain the ultimate responsibility for ensuring compliance with this part, consistent with Sec. 300.149.

K. Purchase of instructional materials.

1. General. Not later than December 3, 2006, an LEA that chooses to coordinate with the National Instructional Materials Access Center (NIMAC), when purchasing print instructional materials, must acquire those instructional materials in the same manner, and subject to the same conditions as the SEA under Sec. 300.172.

2. Rights of LEA.

a) Nothing in this section shall be construed to require an LEA to coordinate with the NIMAC.

b) If an LEA chooses not to coordinate with the NIMAC, the LEA must provide an assurance to the SEA that the LEA will provide instructional materials to blind persons or other persons with print disabilities in a timely manner.

c) Nothing in this section relieves an LEA of its responsibility to ensure that children with disabilities who need instructional materials in accessible formats but are not included under the definition of blind or other persons with print disabilities in Sec. 300.172(e)(1)(i) or who need materials that cannot be produced from NIMAS files, receive those instructional materials in a timely manner.

L. Information for SEA. The LEA must provide the SEA with information necessary to enable the SEA to carry out its duties under Part B of the Act, including, with respect to Secs. 300.157 and 300.160, information relating to the performance of children with disabilities participating in programs carried out under Part B of the Act.

M. Public information. The LEA must make available to parents of children with disabilities and to the general public all documents relating to the eligibility of the agency under Part B of the Act.

N. Records regarding migratory children with disabilities. The LEA must cooperate in the Secretary's efforts under section 1308 of the ESEA to ensure the linkage of records pertaining to migratory children with disabilities for the purpose of electronically exchanging, among the States, health and educational information regarding those children.

O. Exception for prior local plans.

1. General. If an LEA or a State agency described in Sec. 300.228 has on file with the SEA policies and procedures that demonstrate that the LEA or State agency meets any requirement of Sec. 300.200, including any policies and procedures filed under Part B of the Act as in effect before December 3, 2004, the SEA must consider the LEA or State agency to have met that requirement for purposes of receiving assistance under Part B of the Act.

2. Modification made by an LEA or State agency. Subject to paragraph (3) of this section, policies and procedures submitted by an LEA or a State agency in accordance with this subpart remain in effect until the LEA or State agency submits to the SEA the modifications that the LEA or State agency determines are necessary.

3. Modifications required by the SEA. The SEA will require an LEA or a State agency to modify its policies and procedures, but only to the extent necessary to ensure the LEA's or State agency's compliance with Part B of the Act or State law, if--

a) After December 3, 2004, the effective date of the Individuals with Disabilities Education Improvement Act of 2004, the applicable provisions of the Act (or the regulations developed to carry out the Act) are amended;

b) There is a new interpretation of an applicable provision of the Act by Federal or State courts; or

c) There is an official finding of noncompliance with Federal or State law or regulations.

P. Notification of LEA or State agency in case of ineligibility. If the SEA determines that an LEA or State agency is not eligible under Part B of the Act, then the SEA must--

1. Notify the LEA or State agency of that determination; and

2. Provide the LEA or State agency with reasonable notice and an opportunity for a hearing.

Q. Fiscal Sanctions. If the SEA finds that a LEA, special school, or other agency, herein referred to as an applicant, with the responsibility under state law for the provision of a FAPE to students with disabilities is failing to comply with any requirement described under Part B of the IDEA, the applicable federal or state regulations, or state policies and procedures related to the requirements of the IDEA, the SEA may impose sanctions, including the reduction, withholding, or recovery of payments made relative to the IDEA grant administered by the SEA. In accordance with Part B of the IDEA and the Education Division General Administrative Regulations (EDGAR) Title 34, Code of Federal Regulations Sections 75 and 76, the SEA shall provide reasonable notice and an opportunity for a hearing prior to taking any final action regarding the reduction, withholding, or recovery of payments to the applicant.

1. Hearing Issues. The SEA shall provide the applicant with notification of the right to a hearing and the procedures for a hearing if the SEA determines

a) An applicant is not eligible for assistance under Part B of the IDEA;

b) An applicant, for three or more consecutive years, needs intervention or substantial intervention, in implementing the requirements of Part B of the IDEA;

c) An applicant is unable or unwilling to consolidate with other applicants or agencies in accordance with the IDEA;

d) An applicant failed to submit an accurate and unduplicated count of the number of students with disabilities receiving special education and related services, or in the case of children enrolled by their parents in private or home-school programs, failed to accurately report the count of students eligible to receive special education and related services;

e) An applicant is not meeting the requirements of Part B of the IDEA and the provision of a FAPE to students with disabilities and the applicant has not, or the SEA has reason to believe the applicant cannot, correct the problem within one year; or

f) An applicant is not meeting any of the other federal or state requirements relative to Part B of the IDEA that allow the reduction, withholding, or recovery of funds.

2. Hearing Appeals Panel. When a school district or public agency requests a hearing, in writing, the state superintendent of education (Superintendent) shall select a three-member hearing panel to conduct

the proceeding. The hearing panel shall consist of at least two of the SEA's deputy superintendents or their designees, and one additional individual designated by the superintendent.

3. Hearing Procedures.

a) An applicant shall request a hearing by notifying the Superintendent by certified mail of its decision to appeal a decision as set forth in these procedures.

b) The applicant shall include the nature of the request for the hearing, including the reasons for any disagreement with the determinations by the SEA, and the facts on which the request for the hearing is based.

c) The applicant shall request a hearing within thirty calendar days of the date of the SEA's notification of the intent to impose the specified sanction. For purposes of these procedures, the date of the notice by the SEA is the date the notice is received by the applicant.

d) The hearing shall be scheduled before a hearing panel within thirty calendar days from the receipt of the request.

e) The applicant shall receive written notice at least ten days prior to the hearing date. The notice shall include the date, location, and time of the hearing.

f) The applicant and the SEA may present evidence in writing and through witnesses and may be represented by counsel at the hearing. The parties shall exchange the names of proposed witnesses no later than five days prior to the hearing. The parties shall have a minimum of six copies available of written materials that will be used as evidence during the hearing.

g) The hearing panel may determine the length and order of the presentations by the parties and determine the course of the proceedings. The hearing panel shall take all steps necessary to conduct a fair and impartial proceeding, avoid delays, maintain order, and comply with the additional procedures set forth in the SEA *Policies and Procedures for Programs for Students with Disabilities*.

h) The hearing panel shall make a formal recommendation to the Superintendent within five calendar days following the hearing.

i) If the applicant or its authorized representative fails to appear at the designated time, location, and date of the hearing, the appeal shall be considered closed and the hearing process terminated.

j) If the SEA determines that its proposed action is contrary to federal or state statutes, federal or state regulations, or applicable state policies and procedures related to the requirements of the IDEA, the SEA shall review its proposal and determine, what if any, alternative action is warranted.

k) The Superintendent shall issue a written decision within ten days of the date of the conclusion of the hearing. The written decision shall include the findings of fact and reasons for the decision.

l) The Superintendent's decision is final unless the applicant disagrees with the decision and files an appeal of the decision with a court of competent jurisdiction. If the SEA does not receive notice of an intent to appeal the decision, within thirty calendar days of the issuance of the written decision the SDCE shall implement the proposed action in whole or in part until the SEA is satisfied that the applicant is complying with the applicable federal and state requirements.

m) The SEA shall keep a record of the proceedings. Any party, at its expense, may obtain a copy of the record of the proceedings.

4. Decision. The Superintendent shall issue a written decision within ten days of the date of the conclusion of the hearing by transmitting the written decision to the superintendent or other authorized representative of the applicant.

5. Public attention. Any applicant that receives notice that the SEA is proposing to take or is taking an enforcement action pursuant to this section, must by means of public notice, take such actions as may be necessary to notify the public of the pendency of the action, including, at a minimum, posting the notice on the applicant's web site and distributing notice of the proposed act to the media and through public agencies.

R. LEA and State agency compliance.

1. General. If the SEA, after reasonable notice and an opportunity for a hearing, finds that an LEA or State agency that has been determined to be eligible under this subpart is failing to comply with any requirement described in Secs. 300.201 through 300.213, the SEA must reduce or must not provide any further payments to the LEA or State agency until the SEA is satisfied that the LEA or State agency is complying with that requirement.

2. Notice requirement. Any State agency or LEA in receipt of a notice described in paragraph (1) of this section must, by means of public notice, take the measures necessary to bring the pendency of an action pursuant to this section to the attention of the public within the jurisdiction of the agency.

3. Consideration. In carrying out its responsibilities under this section, each SEA must consider any decision resulting from a hearing held under Secs. 300.511 through 300.533 that is adverse to the LEA or State agency involved in the decision.

S. Joint establishment of eligibility.

1. General. The SEA may require an LEA to establish its eligibility jointly with another LEA if the SEA determines that the LEA will be ineligible under this subpart because the agency will not be able to establish and maintain programs of sufficient size and scope to effectively meet the needs of children with disabilities.

2. Charter school exception. The SEA may not require a charter school that is an LEA to jointly establish its eligibility under paragraph (1) of this section unless the charter school is explicitly permitted to do so under the State's charter school statute.

3. Amount of payments. If the SEA requires the joint establishment of eligibility under paragraph (1) of this section, the total amount of funds made available to the affected LEAs must be equal to the sum of the payments that each LEA would have received under Sec. 300.705 if the agencies were eligible for those payments.

T. Requirements for establishing eligibility.

1. Requirements for LEAs in general. LEAs that establish joint eligibility under this section must--

a) Adopt policies and procedures that are consistent with the State's policies and procedures under Secs. 300.101 through 300.163, and Secs. 300.165 through 300.174; and

b) Be jointly responsible for implementing programs that receive assistance under Part B of the Act.

2. Requirements for educational service agencies in general. If an educational service agency is required by State law to carry out programs under Part B of the Act, the joint responsibilities given to LEAs under Part B of the Act--

a) Do not apply to the administration and disbursement of any payments received by that educational service agency; and

b) Must be carried out only by that educational service agency.

3. Additional requirement. Notwithstanding any other provision of Secs. 300.223 through 300.224, an educational service agency must provide for the education of children with disabilities in the least restrictive environment, as required by Sec. 300.112.

U. Early intervening services.

1. General. An LEA may not use more than 15 percent of the amount the LEA receives under Part B of the Act for any fiscal year, less any amount reduced by the LEA pursuant to Sec. 300.205, if any, in combination with other amounts (which may include amounts other than education funds), to develop and implement coordinated, early intervening services, which may include interagency financing structures, for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade three) who are not currently identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment. (See Appendix D for examples of how Sec. 300.205(d), regarding local maintenance of effort, and Sec. 300.226(a) affect one another.)

2. Activities. In implementing coordinated, early intervening services under this section, an LEA may carry out activities that include--

a) Professional development (which may be provided by entities other than LEAs) for teachers and other school staff to enable such personnel to deliver scientifically based academic and behavioral interventions, including scientifically based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and

b) Providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction.

3. Construction. Nothing in this section shall be construed to either limit or create a right to FAPE under Part B of the Act or to delay appropriate evaluation of a child suspected of having a disability.

4. Reporting. Each LEA that develops and maintains coordinated, early intervening services under this section must annually report to the SEA on—

a) The number of children served under this section who received early intervening services; and

b) The number of children served under this section who received early intervening services and subsequently receive special education and related services under Part B of the Act during the preceding two year period.

3. Coordination with ESEA. Funds made available to carry out this section may be used to carry out coordinated, early intervening services aligned with activities funded by, and carried out under the ESEA if those funds are used to supplement, and not supplant, funds made available under the ESEA for the activities and services assisted under this section.

V. Direct services by the SEA.

1. General.

a) The SEA must use the payments that would otherwise have been available to an LEA or to a State agency to provide special education and related services directly to children with disabilities residing in the area served by that LEA, or for whom that State agency is responsible, if the SEA determines that the LEA or State agency--

(1) Has not provided the information needed to establish the eligibility of the LEA or State agency, or elected not to apply for its Part B allotment, under Part B of the Act;

(2) Is unable to establish and maintain programs of FAPE that meet the requirements of this part;

(3) Is unable or unwilling to be consolidated with one or more LEAs in order to establish and maintain the programs; or

(4) Has one or more children with disabilities who can best be served by a regional or State program or service delivery system designed to meet the needs of these children.

b) SEA administrative procedures.

(1) In meeting the requirements in paragraph (1) of this section, the SEA may provide special education and related services directly, by contract, or through other arrangements.

(2) The excess cost requirements of Sec. 300.202(b) do not apply to the SEA.

2. Manner and location of education and services. The SEA may provide special education and related services under paragraph (1) of this section in the manner and at the locations (including regional or State centers) as the SEA considers appropriate. The education and services must be provided in accordance with this part.

W. State agency eligibility. Any State agency that desires to receive a subgrant for any fiscal year under Sec. 300.705 must demonstrate to the satisfaction of the SEA that--

1. All children with disabilities who are participating in programs and projects funded under Part B of the Act receive FAPE, and that those children and their parents are provided all the rights and procedural safeguards described in this part; and

2. The agency meets the other conditions of this subpart that apply to LEAs.

X. Disciplinary information.

1. The State may require that a public agency include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit the statement to the same extent that the disciplinary information is included in, and transmitted with, the student records of nondisabled children.

2. The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child.

3. If the State adopts such a policy, and the child transfers from one school to another, the transmission of any of the child's records must include both the child's current IEP and any statement of current or previous disciplinary action that has been taken against the child.

Y. SEA flexibility.

1. Adjustment to State fiscal effort in certain fiscal years. For any fiscal year for which the allotment received by a State under Sec. 300.703 exceeds the amount the State received for the previous fiscal year and if the State in school year 2003-2004 or any subsequent school year pays or reimburses all LEAs within the State from State revenue 100 percent of the non-Federal share of the costs of special education and related services, the SEA, notwithstanding Secs. 300.162 through 300.163 (related to State-level nonsupplanting and maintenance of effort), and Sec. 300.175 (related to direct services by the SEA) may reduce the level of expenditures from State sources for the education of children with disabilities by not more than 50 percent of the amount of such excess.

2. Prohibition. Notwithstanding paragraph (1) of this section, if the Secretary determines that the SEA is unable to establish, maintain, or oversee programs of FAPE that meet the requirements of this part, or that the State needs assistance, intervention, or substantial intervention under Sec. 300.603, the Secretary prohibits the SEA from exercising the authority in paragraph (1) of this section.

3. Education activities. If the SEA exercises the authority under paragraph (1) of this section, the agency must use funds from State sources, in an amount equal to the amount of the reduction under paragraph (1) of this section, to support activities authorized under the ESEA, or to support need-based student or teacher higher education programs.

4. Report. For each fiscal year for which the SEA exercises the authority under paragraph (1) of this section, the SEA must report to the Secretary--

a) The amount of expenditures reduced pursuant to that paragraph; and

b) The activities that were funded pursuant to paragraph (3) of this section.

5. Limitation.

a) Notwithstanding paragraph (1) of this section, the SEA may not reduce the level of expenditures described in paragraph (1) of this section if any LEA in the State would, as a result of such reduction, receive less than 100 percent of the amount necessary to ensure that all children with disabilities served

by the LEA receive FAPE from the combination of Federal funds received under Part B of the Act and State funds received from the SEA.

b) If the SEA exercises the authority under paragraph (1) of this section, LEAs in the State may not reduce local effort under Sec. 300.205 by more than the reduction in the State funds they receive.

IV. Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational Placements

A. Parental Consent

1. Parental consent.

a) Parental consent for initial evaluation.

(1) The public agency proposing to conduct an initial evaluation to determine if a child qualifies as a child with a disability under Sec. 300.8 must, after providing notice consistent with Secs. 300.503 and 300.504, obtain informed consent, consistent with Sec. 300.9, from the parent of the child before conducting the evaluation.

(ii) Parental consent for initial evaluation must not be construed as consent for initial provision of special education and related services.

(iii) The public agency must make reasonable efforts to obtain the informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability.

(2) For initial evaluations only, if the child is a ward of the State and is not residing with the child's parent, the public agency is not required to obtain informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability if--

(i) Despite reasonable efforts to do so, the public agency cannot discover the whereabouts of the parent of the child;

(ii) The rights of the parents of the child have been terminated in accordance with State law; or

(iii) The rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.

(3)(i) If the parent of a child enrolled in public school or seeking to be enrolled in public school does not provide consent for initial evaluation under paragraph (a)(1) of this section, or the parent fails to respond to a request to provide consent, the public agency may, but is not required to, pursue the initial evaluation of the child by utilizing the procedural safeguards in subpart E of this part (including the mediation procedures under Sec. 300.506 or the due process procedures under Secs. 300.507 through 300.516), if appropriate, except to the extent inconsistent with State law relating to such parental consent.

(ii) The public agency does not violate its obligation under Sec. 300.111 and Secs. 300.301 through 300.311 if it declines to pursue the evaluation.

b) Parental consent for services.

(1) A public agency that is responsible for making FAPE available to a child with a disability must obtain informed consent from the parent of the child before the initial provision of special education and related services to the child.

(2) The public agency must make reasonable efforts to obtain informed consent from the parent for the initial provision of special education and related services to the child.

(3) If the parent of a child fails to respond to a request for, or refuses to consent to, the initial provision of special education and related services, the public agency:

(i) May not use the procedures in the Procedural Safeguards Due Process Procedures for Parents and Children section V (including the mediation procedures under Sec. 300.506) and the due process procedures under Sec. Sec. 300.507 through 300.516) in order to obtain agreement or a ruling that the services may be provided to the child;

(ii) Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with the special education and related services for which the parent refuses or fails to provide consent; and

(iii) Is not required to convene an IEP team meeting or develop an IEP under Sec. Sec. 300.320 and 300.324 for the child.

(4) If, at any time subsequent to the initial provision of special education and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services, the public agency:

(i) May not continue to provide special education and related services to the child, but must provide prior written notice in accordance with Sec. 300.503 before ceasing the provision of special education and related services;

(ii) May not use the procedures in the Procedural Safeguards section (including the mediation procedures under Sec. 300.506 or the due process procedures under Sec. Sec. 300.507 through 300.516) in order to obtain agreement or a ruling that he services may be provided to the child;

(iii) Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further special education and related services; and

(iv) Is not required to convene an IEP team meeting or develop an IEP under Sec. Sec. 300.320 and 300.324 for the child for further provision of special education and related services.

c) Parental consent for reevaluations.

(1) Subject to paragraph (c)(2) of this section, each public agency--

(i) Must obtain informed parental consent, in accordance with Sec. 300.300(a)(1), prior to conducting any reevaluation of a child with a disability.

(ii) If the parent refuses to consent to the reevaluation, the public agency may, but is not required to, pursue the reevaluation by using the consent override procedures described in paragraph (a)(3) of this section.

(iii) The public agency does not violate its obligation under Sec. 300.111 and Secs. 300.301 through 300.311 if it declines to pursue the evaluation or reevaluation.

(2) The informed parental consent described in paragraph (c)(1) of this section need not be obtained if the public agency can demonstrate that--

(i) It made reasonable efforts to obtain such consent; and

(ii) The child's parent has failed to respond.

d) Other consent requirements.

(1) Parental consent is not required before--

(i) Reviewing existing data as part of an evaluation or a reevaluation; or

(ii) Administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children.

(2) A public agency may not use a parent's refusal to consent to one service or activity under paragraphs (a), (b), and (c) of this section to deny the parent or child any other service, benefit, or activity of the public agency, except as required by this part.

(3)(i) If a parent of a child who is home schooled or placed in a private school by the parents at their own expense does not provide consent for the initial evaluation or the reevaluation, or the parent fails to respond to a request to provide consent, the public agency may not use the consent override procedures (described in paragraphs (a)(3) and (c)(1) of this section); and

(ii) The public agency is not required to consider the child as eligible for services under Secs. 300.132 through 300.144.

(4) To meet the reasonable efforts requirement in paragraphs (a)(1)(iii), (a)(2)(i), (b)(2), and (c)(2)(i) of this section, the public agency must document its attempts to obtain parental consent using the procedures in Sec. 300.322(d).

B. Evaluations and Reevaluations

1. Initial evaluations.

a) General. Each public agency must conduct a full and individual initial evaluation, in accordance with Secs. 300.305 and 300.306, before the initial provision of special education and related services to a child with a disability under this part.

b) Request for initial evaluation. Consistent with the consent requirements in Sec. 300.300, either a parent of a child or a public agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.

c) Procedures for initial evaluation. The initial evaluation--

(1) Must be conducted within 60 days of receiving parental consent for the evaluation and

(2) Must consist of procedures--

(i) To determine if the child is a child with a disability under Sec. 300.8; and

(ii) To determine the educational needs of the child.

d) Exception. The timeframe described in paragraph (c)(1) of this section does not apply to a public agency if--

(1) The parent of a child repeatedly fails or refuses to produce the child for the evaluation; or

(2) A child enrolls in a school of another public agency after the relevant timeframe in paragraph (c)(1) of this section has begun, and prior to a determination by the child's previous public agency as to whether the child is a child with a disability under Sec. 300.8.

e) The exception in paragraph (d)(2) of this section applies only if the subsequent public agency is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent public agency agree to a specific time when the evaluation will be completed.

2. Screening for instructional purposes is not evaluation. The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

3. Reevaluations.

a) General. A public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with Secs. 300.304 through 300.311--

(1) If the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or

(2) If the child's parent or teacher requests a reevaluation.

b) Limitation. A reevaluation conducted under paragraph (a) of this section--

(1) May occur not more than once a year, unless the parent and the public agency agree otherwise; and

(2) Must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary.

4. Evaluation procedures.

a) Notice. The public agency must provide notice to the parents of a child with a disability, in accordance with Sec. 300.503, that describes any evaluation procedures the agency proposes to conduct.

b) Conduct of evaluation. In conducting the evaluation, the public agency must--

(1) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining:

(i) Whether the child is a child with a disability under Sec. 300.8; and

(ii) The content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities);

(2) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and

(3) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

c) Other evaluation procedures. Each public agency must ensure that--

(1) Assessments and other evaluation materials used to assess a child under this part--

(i) Are selected and administered so as not to be discriminatory on a racial or cultural basis;

(ii) Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer;

(iii) Are used for the purposes for which the assessments or measures are valid and reliable;

(iv) Are administered by trained and knowledgeable personnel; and

(v) Are administered in accordance with any instructions provided by the producer of the assessments.

(2) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(3) Assessments are selected and administered so as best to ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

(4) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;

(5) Assessments of children with disabilities who transfer from one public agency to another public agency in the same school year are coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, consistent with Sec. 300.301(d)(2) and (e), to ensure prompt completion of full evaluations.

(6) In evaluating each child with a disability under Secs. 300.304 through 300.306, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.

(7) Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

5. Additional requirements for evaluations and reevaluations.

a) Review of existing evaluation data. As part of an initial evaluation (if appropriate) and as part of any reevaluation under this part, the IEP Team and other qualified professionals, as appropriate, must--

(1) Review existing evaluation data on the child, including--

(i) Evaluations and information provided by the parents of the child;

(ii) Current classroom-based, local, or State assessments, and classroom-based observations; and

(iii) Observations by teachers and related services providers; and

(2) On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine--

(i)(A) Whether the child is a child with a disability, as defined in Sec. 300.8, and the educational needs of the child; or

(B) In case of a reevaluation of a child, whether the child continues to have such a disability, and the educational needs of the child;

(ii) The present levels of academic achievement and related developmental needs of the child;

(iii)(A) Whether the child needs special education and related services; or the child needs special education and related services; or

(B) In the case of a reevaluation of a child, whether the child continues to need special education and related services; and

(iv) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum.

b) Conduct of review. The group described in paragraph (a) of this section may conduct its review without a meeting.

c) Source of data. The public agency must administer such assessments and other evaluation measures as may be needed to produce the data identified under paragraph (a) of this section.

d) Requirements if additional data are not needed.

(1) If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability, and to determine the child's educational needs, the public agency must notify the child's parents of'--

(i) That determination and the reasons for the determination; and

(ii) The right of the parents to request an assessment to determine whether the child continues to be a child with a disability, and to determine the child's educational needs.

(2) The public agency is not required to conduct the assessment described in paragraph (d)(1)(ii) of this section unless requested to do so by the child's parents.

e) Evaluations before change in eligibility.

(1) Except as provided in paragraph (e)(2) of this section, a public agency must evaluate a child with a disability in accordance with Secs. 300.304 through 300.311 before determining that the child is no longer a child with a disability.

(2) The evaluation described in paragraph (e)(1) of this section is not required before the termination of a child's eligibility under this part due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for FAPE under State law.

(3) For a child whose eligibility terminates under circumstances described in paragraph (e)(2) of this section, a public agency must provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

6. Determination of eligibility.

a) General. Upon completion of the administration of assessments and other evaluation measures--

(1) A group of qualified professionals and the parent of the child determines whether the child is a child with a disability, as defined in Sec. 300.8, in accordance with paragraph (b) of this section and the educational needs of the child; and

(2) The public agency provides a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.

b) Special rule for eligibility determination. A child must not be determined to be a child with a disability under this part--

(1) If the determinant factor for that determination is--

(i) Lack of appropriate instruction in reading, including the essential components of reading instruction (as defined in section 1208(3) of the ESEA);

(ii) Lack of appropriate instruction in math; or

(iii) Limited English proficiency; and

(2) If the child does not otherwise meet the eligibility criteria under Sec. 300.8(a).

c) Procedures for determining eligibility and educational need.

(1) In interpreting evaluation data for the purpose of determining if a child is a child with a disability under Sec. 300.8, and the educational needs of the child, each public agency must--

(i) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and

(ii) Ensure that information obtained from all of these sources is documented and carefully considered.

(2) If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with Secs. 300.320 through 300.324.

C. Additional Procedures for Identifying Children With Specific Learning Disabilities

1. Specific learning disabilities.

a) General. A State must adopt, consistent with Sec. 300.309, criteria for determining whether a child has a specific learning disability as defined in Sec. 300.8(c)(10). In addition, the criteria adopted by the State--

(1) Must not require the use of a severe discrepancy between intellectual ability and achievement for determining whether a child has a specific learning disability, as defined in Sec. 300.8(c)(10);

(2) Must permit the use of a process based on the child's response to scientific, research-based intervention; and

(3) May permit the use of other alternative research-based procedures for determining whether a child has a specific learning disability, as defined in Sec. 300.8(c)(10).

b) Consistency with State criteria. A public agency must use the State criteria adopted pursuant to paragraph (a) of this section in determining whether a child has a specific learning disability.

2. Additional group members. The determination of whether a child suspected of having a specific learning disability is a child with a disability as defined in Sec. 300.8, must be made by the child's parents and a team of qualified professionals, which must include--

a)(1) The child's regular teacher; or

(2) If the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age; or

(3) For a child of less than school age, an individual qualified by the SEA to teach a child of his or her age; and

b) At least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.

3. Determining the existence of a specific learning disability.

a) The group described in Sec. 300.306 may determine that a child has a specific learning disability, as defined in Sec. 300.8(c)(10), if--

(1) The child does not achieve adequately for the child's age or to meet State-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or State-approved grade-level standards:

(i) Oral expression.

(ii) Listening comprehension.

(iii) Written expression.

(iv) Basic reading skill.

(v) Reading fluency skills.

(vi) Reading comprehension.

(vii) Mathematics calculation.

(viii) Mathematics problem solving.

(2)(i) The child does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the areas identified in paragraph (a)(1) of this section when using a process based on the child's response to scientific, research-based intervention; or

(ii) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with Secs. 300.304 and 300.305; and

(3) The group determines that its findings under paragraphs (a)(1) and (2) of this section are not primarily the result of--

(i) A visual, hearing, or motor disability;

(ii) Intellectual disability;

(iii) Emotional disturbance;

(iv) Cultural factors;

(v) Environmental or economic disadvantage; or

(vi) Limited English proficiency.

b) To ensure that underachievement in a child suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group must consider, as part of the evaluation described in Secs. 300.304 through 300.306--

(1) Data that demonstrate that prior to, or as a part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and

(2) Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents.

c) The public agency must promptly request parental consent to evaluate the child to determine if the child needs special education and related services, and must adhere to the timeframes described in Secs. 300.301 and 300.303, unless extended by mutual written agreement of the child's parents and a group of qualified professionals, as described in Sec. 300.306(a)(1)--

(1) If, prior to a referral, a child has not made adequate progress after an appropriate period of time when provided instruction, as described in paragraphs (b)(1) and (b)(2) of this section; and

(2) Whenever a child is referred for an evaluation.

4. Observation.

a) The public agency must ensure that the child is observed in the child's learning environment (including the regular classroom setting) to document the child's academic performance and behavior in the areas of difficulty.

b) The group described in Sec. 300.306(a)(1), in determining whether a child has a specific learning disability, must decide to--

(1) Use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation; or

(2) Have at least one member of the group described in Sec. 300.306(a)(1) conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent, consistent with Sec. 300.300(a), is obtained.

c) In the case of a child of less than school age or out of school, a group member must observe the child in an environment appropriate for a child of that age.

5. Specific documentation for the eligibility determination.

a) For a child suspected of having a specific learning disability, the documentation of the determination of eligibility, as required in Sec. 300.306(a)(2), must contain a statement of--

(1) Whether the child has a specific learning disability;

(2) The basis for making the determination, including an assurance that the determination has been made in accordance with Sec. 300.306(c)(1);

(3) The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning;

(4) The educationally relevant medical findings, if any;

(5) Whether--

(i) The child does not achieve adequately for the child's age or to meet State-approved grade-level standards consistent with Sec. 300.309(a)(1); and

(ii)(A) The child does not make sufficient progress to meet age or State-approved grade-level standards consistent with Sec. 300.309(a)(2)(i); or

(B) The child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade level standards or intellectual development consistent with Sec. 300.309(a)(2)(ii);

(6) The determination of the group concerning the effects of a visual, hearing, or motor disability; intellectual disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level; and

(7) If the child has participated in a process that assesses the child's response to scientific, research-based intervention--

(i) The instructional strategies used and the student-centered data collected; and

(ii) The documentation that the child's parents were notified about--

(A) The State's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;

(B) Strategies for increasing the child's rate of learning; and

(C) The parents' right to request an evaluation.

b) Each group member must certify in writing whether the report reflects the member's conclusion. If it does not reflect the member's conclusion, the group member must submit a separate statement presenting the member's conclusions.

D. Individualized Education Programs

1. Definition of individualized education program.

a) General. As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with Secs. 300.320 through 300.324, and that must include--

(1) A statement of the child's present levels of academic achievement and functional performance, including--

(i) How the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children); or

(ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;

(2)(i) A statement of measurable annual goals, including academic and functional goals designed to--

(A) Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and

(B) Meet each of the child's other educational needs that result from the child's disability;

(ii) For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;

(3) A description of--

(i) How the child's progress toward meeting the annual goals described in paragraph (2) of this section will be measured; and

(ii) When periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;

(4) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child--

(i) To advance appropriately toward attaining the annual goals;

(ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activities; and

(iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section;

(5) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in paragraph (a)(4) of this section;

(6)(i) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments consistent with section 612(a)(16) of the Act; and

(ii) If the IEP Team determines that the child must take an alternate assessment instead of a particular regular State or districtwide assessment of student achievement, a statement of why--

(A) The child cannot participate in the regular assessment; and

(B) The particular alternate assessment selected is appropriate for the child; and

(7) The projected date for the beginning of the services and modifications described in paragraph (a)(4) of this section, and the anticipated frequency, location, and duration of those services and modifications.

b) Transition services. Beginning not later than the first IEP to be in effect when the child turns 13, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include--

(1) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and

(2) The transition services (including courses of study) needed to assist the child in reaching those goals.

c) Transfer of rights at age of majority. Beginning not later than one year before the child reaches the age of majority under State law, the IEP must include a statement that the child has been informed of the child's rights under Part B of the Act, if any, that will transfer to the child on reaching the age of majority under Sec. 300.520.

d) Construction. Nothing in this section shall be construed to require--

(1) That additional information be included in a child's IEP beyond what is explicitly required in section 614 of the Act; or

(2) The IEP Team to include information under one component of a child's IEP that is already contained under another component of the child's IEP.

2. IEP Team.

a) General. The public agency must ensure that the IEP Team for each child with a disability includes--

(1) The parents of the child;

(2) Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);

(3) Not less than one special education teacher of the child, or where appropriate, not less then one special education provider of the child;

(4) A representative of the public agency who--

(i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;

(ii) Is knowledgeable about the general education curriculum; and

(iii) Is knowledgeable about the availability of resources of the public agency.

(5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (a)(6) of this section;

(6) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and

(7) Whenever appropriate, the child with a disability.

b) Transition services participants.

(1) In accordance with paragraph (a)(7) of this section, the public agency must invite a child with a disability to attend the child's IEP Team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals under Sec. 300.320(b).

(2) If the child does not attend the IEP Team meeting, the public agency must take other steps to ensure that the child's preferences and interests are considered.

(3) To the extent appropriate, with the consent of the parents or a child who has reached the age of majority, in implementing the requirements of paragraph (b)(1) of this section, the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

c) Determination of knowledge and special expertise. The determination of the knowledge or special expertise of any individual described in paragraph (a)(6) of this section must be made by the party (parents or public agency) who invited the individual to be a member of the IEP Team.

d) Designating a public agency representative. A public agency may designate a public agency member of the IEP Team to also serve as the agency representative, if the criteria in paragraph (a)(4) of this section are satisfied.

e) IEP Team attendance.

(1) A member of the IEP Team described in paragraphs (a)(2) through (a)(5) of this section is not required to attend an IEP Team meeting, in whole or in part, if the parent of a child with a disability

and the public agency agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

(2) A member of the IEP Team described in paragraph (e)(1) of this section may be excused from attending an IEP Team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if--

(i) The parent, in writing, and the public agency consent to the excusal; and

(ii) The member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.

f) Initial IEP Team meeting for child under Part C. In the case of a child who was previously served under Part C of the Act, an invitation to the initial IEP Team meeting must, at the request of the parent, be sent to the Part C service coordinator or other representatives of the Part C system to assist with the smooth transition of services.

3. Parent participation.

a) Public agency responsibility--general. Each public agency must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP Team meeting or are afforded the opportunity to participate, including--

(1) Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and

(2) Scheduling the meeting at a mutually agreed on time and place.

b) Information provided to parents.

(1) The notice required under paragraph (a)(1) of this section must--

(i) Indicate the purpose, time, and location of the meeting and who will be in attendance; and

(ii) Inform the parents of the provisions in Sec. 300.321(a)(6) and (c) (relating to the participation of other individuals on the IEP Team who have knowledge or special expertise about the child), and Sec. 300.321(f) (relating to the participation of the Part C service coordinator or other representatives of the Part C system at the initial IEP Team meeting for a child previously served under Part C of the Act).

(2) For a child with a disability beginning not later than the first IEP to be in effect when the child turns 13, or younger if determined appropriate by the IEP Team, the notice also must--

(i) Indicate--

(A) That a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child, in accordance with Sec. 300.320(b); and

(B) That the agency will invite the student; and

(ii) Identify any other agency that will be invited to send a representative.

c) Other methods to ensure parent participation. If neither parent can attend an IEP Team meeting, the public agency must use other methods to ensure parent participation, including individual or conference telephone calls, consistent with Sec. 300.328 (related to alternative means of meeting participation).

d) Conducting an IEP Team meeting without a parent in attendance. A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case, the public agency must keep a record of its attempts to arrange a mutually agreed on time and place, such as--

(1) Detailed records of telephone calls made or attempted and the results of those calls;

(2) Copies of correspondence sent to the parents and any responses received; and

(3) Detailed records of visits made to the parent's home or place of employment and the results of those visits.

e) Use of interpreters or other action, as appropriate. The public agency must take whatever action is necessary to ensure that the parent understands the proceedings of the IEP Team meeting, including arranging for an interpreter for parents with deafness or whose native language is other than English.

f) Parent copy of child's IEP. The public agency must give the parent a copy of the child's IEP at no cost to the parent.

4. When IEPs must be in effect.

a) General. At the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in Sec. 300.320.

b) IEP or IFSP for children aged three through five.

(1) In the case of a child with a disability aged three through five, the IEP Team must consider an IFSP that contains the IFSP content (including the natural environments statement) described in section 636(d) of the Act and its implementing regulations (including an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills for children with IFSPs under this section who are at least three years of age), and that is developed in accordance with the IEP procedures under this part. The IFSP may serve as the IEP of the child, if using the IFSP as the IEP is--

(i) Consistent with State policy; and

(ii) Agreed to by the agency and the child's parents.

(2) In implementing the requirements of paragraph (b)(1) of this section, the public agency must--

(i) Provide to the child's parents a detailed explanation of the differences between an IFSP and an IEP; and

(ii) If the parents choose an IFSP, obtain written informed consent from the parents.

c) Initial IEPs; provision of services. Each public agency must ensure that--

(1) A meeting to develop an IEP for a child is conducted within 30 days of a determination that the child needs special education and related services; and

(2) As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

d) Accessibility of child's IEP to teachers and others. Each public agency must ensure that--

(1) The child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation; and

(2) Each teacher and provider described in paragraph (d)(1) of this section is informed of--

(i) His or her specific responsibilities related to implementing the child's IEP; and

(ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

e) IEPs for children who transfer public agencies in the same State. If a child with a disability (who had an IEP that was in effect in a previous public agency in the same State) transfers to a new public agency in the same State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide FAPE to the child (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency either--

(1) Adopts the child's IEP from the previous public agency; or

(2) Develops, adopts, and implements a new IEP that meets the applicable requirements in Secs. 300.320 through 300.324.

f) IEPs for children who transfer from another State. If a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a public agency in a new State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency--

(1) Conducts an evaluation pursuant to Secs. 300.304 through 300.306 (if determined to be necessary by the new public agency); and

(2) Develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in Secs. 300.320 through 300.324.

g) Transmittal of records. To facilitate the transition for a child described in paragraphs (e) and (f) of this section--

(1) The new public agency in which the child enrolls must take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous public agency in which the child was enrolled, pursuant to 34 CFR 99.31(a)(2); and

(2) The previous public agency in which the child was enrolled must take reasonable steps to promptly respond to the request from the new public agency.

E. Development of IEP

1. Development, review, and revision of IEP.

a) Development of IEP:

(1) General. In developing each child's IEP, the IEP Team must consider--

(i) The strengths of the child;

(ii) The concerns of the parents for enhancing the education of their child;

(iii) The results of the initial or most recent evaluation of the child; and

(iv) The academic, developmental, and functional needs of the child.

(2) Consideration of special factors. The IEP Team must—

(i) In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior;

(ii) In the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;

(iii) In the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;

(iv) Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and

(v) Consider whether the child needs assistive technology devices and services.

(3) Requirement with respect to regular education teacher. A regular education teacher of a child with a disability, as a member of the IEP Team, must, to the extent appropriate, participate in the development of the IEP of the child, including the determination of--

(i) Appropriate positive behavioral interventions and supports and other strategies for the child; and

(ii) Supplementary aids and services, program modifications, and support for school personnel consistent with Sec. 300.320(a)(4).

(4) Agreement.

(i) In making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent of a child with a disability and the public agency may agree not to convene an IEP Team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP.

(ii) If changes are made to the child's IEP in accordance with paragraph (a)(4)(i) of this section, the public agency must ensure that the child's IEP Team is informed of those changes.

(5) Consolidation of IEP Team meetings. To the extent possible, the public agency must encourage the consolidation of reevaluation meetings for the child and other IEP Team meetings for the child.

(6) Amendments. Changes to the IEP may be made either by the entire IEP Team at an IEP Team meeting, or as provided in paragraph (a)(4) of this section, by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.

b) Review and revision of IEPs:

(1) General. Each public agency must ensure that, subject to paragraphs (b)(2) and (b)(3) of this section, the IEP Team--

(i) Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and

(ii) Revises the IEP, as appropriate, to address--

(A) Any lack of expected progress toward the annual goals described in Sec. 300.320(a)(2), and in the general education curriculum, if appropriate;

(B) The results of any reevaluation conducted under Sec. 300.303;

(C) Information about the child provided to, or by, the parents, as described under Sec. 300.305(a)(2);

(D) The child's anticipated needs; or

(E) Other matters.

(2) Consideration of special factors. In conducting a review of the child's IEP, the IEP Team must consider the special factors described in paragraph (a)(2) of this section.

(3) Requirement with respect to regular education teacher. A regular education teacher of the child, as a member of the IEP Team, must, consistent with paragraph (a)(3) of this section, participate in the review and revision of the IEP of the child.

c) Failure to meet transition objectives:

(1) Participating agency failure. If a participating agency, other than the public agency, fails to provide the transition services described in the IEP in accordance with Sec. 300.320(b), the public agency must reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in the IEP.

(2) Construction. Nothing in this part relieves any participating agency, including a State vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to children with disabilities who meet the eligibility criteria of that agency.

d) Children with disabilities in adult prisons:

(1) Requirements that do not apply. The following requirements do not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons:

(i) The requirements contained in section 612(a)(16) of the Act and Sec. 300.320(a)(6) (relating to participation of children with disabilities in general assessments).

(ii) The requirements in Sec. 300.320(b) (relating to transition planning and transition services) do not apply with respect to the children whose eligibility under Part B of the Act will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.

(2) Modifications of IEP or placement.

(i) Subject to paragraph (d)(2)(ii) of this section, the IEP Team of a child with a disability who is convicted as an adult under State law and incarcerated in an adult prison may modify the child's IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

(ii) The requirements of Secs. 300.320 (relating to IEPs), and 300.112 (relating to LRE), do not apply with respect to the modifications described in paragraph (d)(2)(i) of this section.

2. Private school placements by public agencies.

a) Developing IEPs.

(1) Before a public agency places a child with a disability in, or refers a child to, a private school or facility, the agency must initiate and conduct a meeting to develop an IEP for the child in accordance with Secs. 300.320 and 300.324.

(2) The agency must ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the agency must use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.

b) Reviewing and revising IEPs.

(1) After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the public agency.

(2) If the private school or facility initiates and conducts these meetings, the public agency must ensure that the parents and an agency representative--

(i) Are involved in any decision about the child's IEP; and

(ii) Agree to any proposed changes in the IEP before those changes are implemented.

c) Responsibility. Even if a private school or facility implements a child's IEP, responsibility for compliance with this part remains with the public agency and the SEA.

3. Educational placements. Consistent with Sec. 300.501(c), each public agency must ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

4. Alternative means of meeting participation. When conducting IEP Team meetings and placement meetings pursuant to this subpart, and subpart E of this part, and carrying out administrative matters under section 615 of the Act (such as scheduling, exchange of witness lists, and status conferences), the parent of a child with a disability and a public agency may agree to use alternative means of meeting participation, such as video conferences and conference calls.

V. Procedural Safeguards Due Process Procedures for Parents and Children

A. Procedural Safeguards

1. Responsibility of SEA and other public agencies. Each SEA must ensure that each public agency establishes, maintains, and implements procedural safeguards that meet the requirements of Secs. 300.500 through 300.536.

2. Opportunity to examine records; parent participation in meetings.

a) Opportunity to examine records. The parents of a child with a disability must be afforded, in accordance with the procedures of Secs. 300.613 through 300.621, an opportunity to inspect and review all education records with respect to--

(1) The identification, evaluation, and educational placement of the child; and

(2) The provision of FAPE to the child.

b) Parent participation in meetings.

(1) The parents of a child with a disability must be afforded an opportunity to participate in meetings with respect to--

(i) The identification, evaluation, and educational placement of the child; and

(ii) The provision of FAPE to the child.

(2) Each public agency must provide notice consistent with Sec. 300.322(a)(1) and (b)(1) to ensure that parents of children with disabilities have the opportunity to participate in meetings described in paragraph (b)(1) of this section.

(3) A meeting does not include informal or unscheduled conversations involving public agency personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

c) Parent involvement in placement decisions.

(1) Each public agency must ensure that a parent of each child with a disability is a member of any group that makes decisions on the educational placement of the parent's child.

(2) In implementing the requirements of paragraph (c)(1) of this section, the public agency must use procedures consistent with the procedures described in Sec. 300.322(a) through (b)(1).

(3) If neither parent can participate in a meeting in which a decision is to be made relating to the educational placement of their child, the public agency must use other methods to ensure their participation, including individual or conference telephone calls, or video conferencing.

(4) A placement decision may be made by a group without the involvement of a parent, if the public agency is unable to obtain the parent's participation in the decision. In this case, the public agency must have a record of its attempt to ensure their involvement.

3. Independent educational evaluation.

a) General.

(1) The parents of a child with a disability have the right under this part to obtain an independent educational evaluation of the child, subject to paragraphs (b) through (e) of this section.

(2) Each public agency must provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the agency criteria applicable for independent educational evaluations as set forth in paragraph (e) of this section.

(3) For the purposes of this subpart--

(i) Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question; and

(ii) Public expense means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with Sec. 300.103.

b) Parent right to evaluation at public expense.

(1) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency, subject to the conditions in paragraphs (b)(2) through (4) of this section.

(2) If a parent requests an independent educational evaluation at public expense, the public agency must, without unnecessary delay, either--

(i) File a due process complaint to request a hearing to show that its evaluation is appropriate; or

(ii) Ensure that an independent educational evaluation is provided at public expense, unless the agency demonstrates in a hearing pursuant to Secs. 300.507 through 300.513 that the evaluation obtained by the parent did not meet agency criteria.

(3) If the public agency files a due process complaint notice to request a hearing and the final decision is that the agency's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.

(4) If a parent requests an independent educational evaluation, the public agency may ask for the parent's reason why he or she objects to the public evaluation. However, the public agency may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process complaint to request a due process hearing to defend the public evaluation.

(5) A parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees.

c) Parent-initiated evaluations. If the parent obtains an independent educational evaluation at public expense or shares with the public agency an evaluation obtained at private expense, the results of the evaluation--

(1) Must be considered by the public agency, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the child; and

(2) May be presented by any party as evidence at a hearing on a due process complaint under subpart E of this part regarding that child.

d) Requests for evaluations by hearing officers. If a hearing officer requests an independent educational evaluation as part of a hearing on a due process complaint, the cost of the evaluation must be at public expense.

e) Agency criteria.

(1) If an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner,

must be the same as the criteria that the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an independent educational evaluation.

(2) Except for the criteria described in paragraph (e)(1) of this section, a public agency may not impose conditions or timelines related to obtaining an independent educational evaluation at public expense.

4. Prior notice by the public agency; content of notice.

a) Notice. Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency--

(1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or

(2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

b) Content of notice. The notice required under paragraph (a) of this section must include--

(1) A description of the action proposed or refused by the agency;

(2) An explanation of why the agency proposes or refuses to take the action;

(3) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;

(4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;

(5) Sources for parents to contact to obtain assistance in understanding the provisions of this part;

(6) A description of other options that the IEP Team considered and the reasons why those options were rejected; and

(7) A description of other factors that are relevant to the agency's proposal or refusal.

c) Notice in understandable language.

(1) The notice required under paragraph (a) of this section must be--

(i) Written in language understandable to the general public; and

(ii) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(2) If the native language or other mode of communication of the parent is not a written language, the public agency must take steps to ensure--

(i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;

(ii) That the parent understands the content of the notice; and

(iii) That there is written evidence that the requirements in paragraphs (c)(2)(i) and (ii) of this section have been met.

5. Procedural safeguards notice.

a) General. A copy of the procedural safeguards available to the parents of a child with a disability must be given to the parents only one time a school year, except that a copy also must be given to the parents--

(1) Upon initial referral or parent request for evaluation;

(2) Upon receipt of the first State complaint under Secs. 300.151 through 300.153 and upon receipt of the first due process complaint under Sec. 300.507 in a school year;

(3) In accordance with the discipline procedures in Sec. 300.530(h); and

(4) Upon request by a parent.

b) Internet Web site. A public agency may place a current copy of the procedural safeguards notice on its Internet Web site if a Web site exists.

c) Contents. The procedural safeguards notice must include a full explanation of all of the procedural safeguards available under Sec. 300.148, Secs. 300.151 through 300.153, Sec. 300.300, Secs. 300.502 through 300.503, Secs. 300.505 through 300.518, Sec. 300.520, Secs. 300.530 through 300.536 and Secs. 300.610 through 300.625 relating to--

(1) Independent educational evaluations;

(2) Prior written notice;

(3) Parental consent;

(4) Access to education records;

(5) Opportunity to present and resolve complaints through the due process complaint and State complaint procedures, including--

(i) The time period in which to file a complaint;

(ii) The opportunity for the agency to resolve the complaint; and

(iii) The difference between the due process complaint and the State complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures;

(6) The availability of mediation;

(7) The child's placement during the pendency of any due process complaint;

(8) Procedures for students who are subject to placement in an interim alternative educational setting;

(9) Requirements for unilateral placement by parents of children in private schools at public expense;

(10) Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;

(11) State-level appeals (if applicable in the State);

(12) Civil actions, including the time period in which to file those actions; and

(13) Attorneys' fees.

d) Notice in understandable language. The notice required under paragraph (a) of this section must meet the requirements of Sec. 300.503(c).

6. Electronic mail. A parent of a child with a disability may elect to receive notices required by Secs. 300.503, 300.504, and 300.508 by an electronic mail communication, if the public agency makes that option available.

7. Mediation.

a) General. Each public agency must ensure that procedures are established and implemented to allow parties to disputes involving any matter under this part, including matters arising prior to the filing of a due process complaint, to resolve disputes through a mediation process.

b) Requirements. The procedures must meet the following requirements:

(1) The procedures must ensure that the mediation process--

(i) Is voluntary on the part of the parties;

(ii) Is not used to deny or delay a parent's right to a hearing on the parent's due process complaint, or to deny any other rights afforded under Part B of the Act; and

(iii) Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

(2) A public agency may establish procedures to offer to parents and schools that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party--

(i) Who is under contract with an appropriate alternative dispute resolution entity, or a parent training and information center or community parent resource center in the State established under section 671 or 672 of the Act; and

(ii) Who would explain the benefits of, and encourage the use of, the mediation process to the parents.

(3)(i) The State must maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.

(ii) The SEA must select mediators on a random, rotational, or other impartial basis.

(4) The State must bear the cost of the mediation process, including the costs of meetings described in paragraph (b)(2) of this section.

(5) Each session in the mediation process must be scheduled in a timely manner and must be held in a location that is convenient to the parties to the dispute.

(6) If the parties resolve a dispute through the mediation process, the parties must execute a legally binding agreement that sets forth that resolution and that--

(i) States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding; and

(ii) Is signed by both the parent and a representative of the agency who has the authority to bind such agency.

(7) A written, signed mediation agreement under this paragraph is enforceable in any State court of competent jurisdiction or in a district court of the United States. Discussions that occur during the mediation process must be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding of any Federal court or State court of a State receiving assistance under this part.

c) Impartiality of mediator.

(1) An individual who serves as a mediator under this part--

(i) May not be an employee of the SEA or the LEA that is involved in the education or care of the child; and

(ii) Must not have a personal or professional interest that conflicts with the person's objectivity.

(2) A person who otherwise qualifies as a mediator is not an employee of an LEA or State agency described under Sec. 300.228 solely because he or she is paid by the agency to serve as a mediator.

8. Filing a due process complaint.

a) General.

(1) A parent or a public agency may file a due process complaint on any of the matters described in Sec. 300.503(a)(1) and (2) (relating to the identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the child).

(2) The due process complaint must allege a violation that occurred not more than two years before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the due process complaint, except that the exceptions to the timeline described in Sec. 300.511(f) apply to the timeline in this section.

b) Information for parents. The public agency must inform the parent of any free or low-cost legal and other relevant services available in the area if--

(1) The parent requests the information; or

(2) The parent or the agency files a due process complaint under this section.

9. Due process complaint.

a) General.

(1) The public agency must have procedures that require either party, or the attorney representing a party, to provide to the other party a due process complaint (which must remain confidential).

(2) The party filing a due process complaint must forward a copy of the due process complaint to the SEA.

b) Content of complaint. The due process complaint required in paragraph (a)(1) of this section must include--

(1) The name of the child;

(2) The address of the residence of the child;

(3) The name of the school the child is attending;

(4) In the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child, and the name of the school the child is attending;

(5) A description of the nature of the problem of the child relating to the proposed or refused initiation or change, including facts relating to the problem; and

(6) A proposed resolution of the problem to the extent known and available to the party at the time.

c) Notice required before a hearing on a due process complaint. A party may not have a hearing on a due process complaint until the party, or the attorney representing the party, files a due process complaint that meets the requirements of paragraph (b) of this section.

d) Sufficiency of complaint.

(1) The due process complaint required by this section must be deemed sufficient unless the party receiving the due process complaint notifies the hearing officer and the other party in writing, within 15 days of receipt of the due process complaint, that the receiving party believes the due process complaint does not meet the requirements in paragraph (b) of this section.

(2) Within five days of receipt of notification under paragraph (d)(1) of this section, the hearing officer must make a determination on the face of the due process complaint of whether the due process complaint meets the requirements of paragraph (b) of this section, and must immediately notify the parties in writing of that determination.

(3) A party may amend its due process complaint only if--

(i) The other party consents in writing to the amendment and is given the opportunity to resolve the due process complaint through a meeting held pursuant to Sec. 300.510; or

(ii) The hearing officer grants permission, except that the hearing officer may only grant permission to amend at any time not later than five days before the due process hearing begins.

(4) If a party files an amended due process complaint, the timelines for the resolution meeting in Sec. 300.510(a) and the time period to resolve in Sec. 300.510(b) begin again with the filing of the amended due process complaint.

e) LEA response to a due process complaint.

(1) If the LEA has not sent a prior written notice under Sec. 300.503 to the parent regarding the subject matter contained in the parent's due process complaint, the LEA must, within 10 days of receiving the due process complaint, send to the parent a response that includes--

(i) An explanation of why the agency proposed or refused to take the action raised in the due process complaint;

(ii) A description of other options that the IEP Team considered and the reasons why those options were rejected;

(iii) A description of each evaluation procedure, assessment, record, or report the agency used as the basis for the proposed or refused action; and

(iv) A description of the other factors that are relevant to the agency's proposed or refused action.

(2) A response by an LEA under paragraph (e)(1) of this section shall not be construed to preclude the LEA from asserting that the parent's due process complaint was insufficient, where appropriate.

f) Other party response to a due process complaint. Except as provided in paragraph (e) of this section, the party receiving a due process complaint must, within 10 days of receiving the due process complaint, send to the other party a response that specifically addresses the issues raised in the due process complaint.

10. Model forms.

a) Each SEA must develop model forms to assist parents and public agencies in filing a due process complaint in accordance with Secs. 300.507(a) and 300.508(a) through (c) and to assist parents and other parties in filing a State complaint under Secs. 300.151 through 300.153. However, the SEA or LEA may not require the use of the model forms.

b) Parents, public agencies, and other parties may use the appropriate model form described in paragraph (a) of this section, or another form or other document, so long as the form or document that is used meets, as appropriate, the content requirements in Sec. 300.508(b) for filing a due process complaint, or the requirements in Sec. 300.153(b) for filing a State complaint.

11. Resolution process.

a) Resolution meeting.

(1) Within 15 days of receiving notice of the parent's due process complaint, and prior to the initiation of a due process hearing under Sec. 300.511, the LEA must convene a meeting with the parent and the relevant member or members of the IEP Team who have specific knowledge of the facts identified in the due process complaint that--

(i) Includes a representative of the public agency who has decision-making authority on behalf of that agency; and

(ii) May not include an attorney of the LEA unless the parent is accompanied by an attorney.

(2) The purpose of the meeting is for the parent of the child to discuss the due process complaint, and the facts that form the basis of the due process complaint, so that the LEA has the opportunity to resolve the dispute that is the basis for the due process complaint.

(3) The meeting described in paragraph (a)(1) and (2) of this section need not be held if--

(i) The parent and the LEA agree in writing to waive the meeting; or

(ii) The parent and the LEA agree to use the mediation process described in Sec. 300.506.

(4) The parent and the LEA determine the relevant members of the IEP Team to attend the meeting.

b) Resolution period.

(1) If the LEA has not resolved the due process complaint to the satisfaction of the parent within 30 days of the receipt of the due process complaint, the due process hearing may occur.

(2) Except as provided in paragraph (c) of this section, the timeline for issuing a final decision under Sec. 300.515 begins at the expiration of this 30-day period.

(3) Except where the parties have jointly agreed to waive the resolution process or to use mediation, notwithstanding paragraphs (b)(1) and (2) of this section, the failure of the parent filing a due process complaint to participate in the resolution meeting will delay the timelines for the resolution process and due process hearing until the meeting is held.

(4) If the LEA is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made (and documented using the procedures in Sec. 300.322(d)), the LEA may, at the conclusion of the 30-day period, request that a hearing officer dismiss the parent's due process complaint.

(5) If the LEA fails to hold the resolution meeting specified in paragraph (a) of this section within 15 days of receiving notice of a parent's due process complaint or fails to participate in the resolution meeting, the parent may seek the intervention of a hearing officer to begin the due process hearing timeline.

c) Adjustments to 30-day resolution period. The 45-day timeline for the due process hearing in Sec. 300.515(a) starts the day after one of the following events:

(1) Both parties agree in writing to waive the resolution meeting;

(2) After either the mediation or resolution meeting starts but before the end of the 30-day period, the parties agree in writing that no agreement is possible;

(3) If both parties agree in writing to continue the mediation at the end of the 30-day resolution period, but later, the parent or public agency withdraws from the mediation process.

d) Written settlement agreement. If a resolution to the dispute is reached at the meeting described in paragraphs (a)(1) and (2) of this section, the parties must execute a legally binding agreement that is--

(1) Signed by both the parent and a representative of the agency who has the authority to bind the agency; and

(2) Enforceable in any State court of competent jurisdiction or in a district court of the United States, or, by the SEA, if the State has other mechanisms or procedures that permit parties to seek enforcement of resolution agreements, pursuant to Sec. 300.537.

e) Agreement review period. If the parties execute an agreement pursuant to paragraph (c) of this section, a party may void the agreement within 3 business days of the agreement's execution.

12. Impartial due process hearing.

a) General. Whenever a due process complaint is received under Sec. 300.507 or Sec. 300.532, the parents or the LEA involved in the dispute must have an opportunity for an impartial due process hearing, consistent with the procedures in Secs. 300.507, 300.508, and 300.510.

b) Agency responsible for conducting the due process hearing. The hearing described in paragraph (a) of this section must be conducted by the SEA or the public agency directly responsible for the education of the child, as determined under State statute, State regulation, or a written policy of the SEA.

c) Impartial hearing officer.

(1) At a minimum, a hearing officer--

(i) Must not be--

(A) An employee of the SEA or the LEA that is involved in the education or care of the child; or

(B) A person having a personal or professional interest that conflicts with the person's objectivity in the hearing;

(ii) Must possess knowledge of, and the ability to understand, the provisions of the Act, Federal and State regulations pertaining to the Act, and legal interpretations of the Act by Federal and State courts;

(iii) Must possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and

(iv) Must possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.

(2) A person who otherwise qualifies to conduct a hearing under paragraph (c)(1) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer.

(3) Each public agency must keep a list of the persons who serve as hearing officers. The list must include a statement of the qualifications of each of those persons.

d) Subject matter of due process hearings. The party requesting the due process hearing may not raise issues at the due process hearing that were not raised in the due process complaint filed under Sec. 300.508(b), unless the other party agrees otherwise.

e) Timeline for requesting a hearing. A parent or agency must request an impartial hearing on their due process complaint within two years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the due process complaint.

f) Exceptions to the timeline. The timeline described in paragraph (e) of this section does not apply to a parent if the parent was prevented from filing a due process complaint due to--

(1) Specific misrepresentations by the LEA that it had resolved the problem forming the basis of the due process complaint; or

(2) The LEA's withholding of information from the parent that was required under this part to be provided to the parent.

13. Hearing rights.

a) General. Any party to a hearing conducted pursuant to Secs. 300.507 through 300.513 or Secs. 300.530 through 300.534, or an appeal conducted pursuant to Sec. 300.514, has the right to--

(1) Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities, except that whether parties have the right to be represented by nonattorneys at due process hearings is determined under State law.

(2) Present evidence and confront, cross-examine, and compel the attendance of witnesses;

(3) Prohibit the introduction of any evidence at the hearing that has not been disclosed to that party at least five business days before the hearing;

(4) Obtain a written, or, at the option of the parents, electronic, verbatim record of the hearing; and

(5) Obtain written, or, at the option of the parents, electronic findings of fact and decisions.

b) Additional disclosure of information.

(1) At least five business days prior to a hearing conducted pursuant to Sec. 300.511(a), each party must disclose to all other parties all evaluations completed by that date and recommendations based on the offering party's evaluations that the party intends to use at the hearing.

(2) A hearing officer may bar any party that fails to comply with paragraph (b)(1) of this section from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

c) Parental rights at hearings. Parents involved in hearings must be given the right to--

(1) Have the child who is the subject of the hearing present;

(2) Open the hearing to the public; and

(3) Have the record of the hearing and the findings of fact and decisions described in paragraphs (a)(4) and (a)(5) of this section provided at no cost to parents.

14. Hearing decisions.

a) Decision of hearing officer on the provision of FAPE.

(1) Subject to paragraph (a)(2) of this section, a hearing officer's determination of whether a child received FAPE must be based on substantive grounds.

(2) In matters alleging a procedural violation, a hearing officer may find that a child did not receive a FAPE only if the procedural inadequacies--

(i) Impeded the child's right to a FAPE;

(ii) Significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent's child; or

(iii) Caused a deprivation of educational benefit.

(3) Nothing in paragraph (a) of this section shall be construed to preclude a hearing officer from ordering an LEA to comply with procedural requirements under Secs. 300.500 through 300.536.

b) Construction clause. Nothing in Secs. 300.507 through 300.513 shall be construed to affect the right of a parent to file an appeal of the due process hearing decision with the SEA under Sec. 300.514(b), if a State level appeal is available.

c) Separate request for a due process hearing. Nothing in Secs. 300.500 through 300.536 shall be construed to preclude a parent from filing a separate due process complaint on an issue separate from a due process complaint already filed.

d) Findings and decision to advisory panel and general public. The public agency, after deleting any personally identifiable information, must--

(1) Transmit the findings and decisions referred to in Sec. 300.512(a)(5) to the State advisory panel established under Sec. 300.167; and

(2) Make those findings and decisions available to the public.

15. Finality of decision; appeal; impartial review.

a) Finality of hearing decision. A decision made in a hearing conducted pursuant to Secs. 300.507 through 300.513 or Secs. 300.530 through 300.534 is final, except that any party involved in the hearing may appeal the decision under the provisions of paragraph (b) of this section and Sec. 300.516.

b) Appeal of decisions; impartial review.

(1) If the hearing required by Sec. 300.511 is conducted by a public agency other than the SEA, any party aggrieved by the findings and decision in the hearing may appeal to the SEA.

(2) If there is an appeal, the SEA must conduct an impartial review of the findings and decision appealed. The official conducting the review must--

(i) Examine the entire hearing record;

(ii) Ensure that the procedures at the hearing were consistent with the requirements of due process;

(iii) Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights in Sec. 300.512 apply;

(iv) Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official;

(v) Make an independent decision on completion of the review; and

(vi) Give a copy of the written, or, at the option of the parents, electronic findings of fact and decisions to the parties.

c) Findings and decision to advisory panel and general public. The SEA, after deleting any personally identifiable information, must--

(1) Transmit the findings and decisions referred to in paragraph (b)(2)(vi) of this section to the State advisory panel established under Sec. 300.167; and

(2) Make those findings and decisions available to the public.

d) Finality of review decision. The decision made by the reviewing official is final unless a party brings a civil action under Sec. 300.516.

16. Timelines and convenience of hearings and reviews.

a) The public agency must ensure that not later than 45 days after the expiration of the 30 day period under Sec. 300.510(b), or the adjusted time periods described in Sec. 300.510(c)--

(1) A final decision is reached in the hearing; and

(2) A copy of the decision is mailed to each of the parties.

b) The SEA must ensure that not later than 30 days after the receipt of a request for a review--

(1) A final decision is reached in the review; and

(2) A copy of the decision is mailed to each of the parties.

c) A hearing or reviewing officer may grant specific extensions of time beyond the periods set out in paragraphs (a) and (b) of this section at the request of either party.

d) Each hearing and each review involving oral arguments must be conducted at a time and place that is reasonably convenient to the parents and child involved.

17. Civil action.

a) General. Any party aggrieved by the findings and decision made under Secs. 300.507 through 300.513 or Secs. 300.530 through 300.534 who does not have the right to an appeal under Sec. 300.514(b), and any party aggrieved by the findings and decision under Sec. 300.514(b), has the right to bring a civil action with respect to the due process complaint notice requesting a due process hearing under Sec. 300.507 or Secs. 300.530 through 300.532. The action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.

b) Time limitation. The party bringing the action in a federal court shall have 90 days from the date of the decision of the hearing officer or, if applicable, the decision of the State review official, to file a civil action; the party brining the action in a state court shall have 30 days from the date of the decision of the hearing officer or, if applicable, the decision of the State review official to file a civil action.

c) Additional requirements. In any action brought under paragraph (a) of this section, the court--

(1) Receives the records of the administrative proceedings;

(2) Hears additional evidence at the request of a party; and

(3) Basing its decision on the preponderance of the evidence, grants the relief that the court determines to be appropriate.

d) Jurisdiction of district courts. The district courts of the United States have jurisdiction of actions brought under section 615 of the Act without regard to the amount in controversy.

e) Rule of construction. Nothing in this part restricts or limits the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under these laws seeking relief that is also available under section 615 of the Act, the procedures under Secs. 300.507 and 300.514 must be exhausted to the same extent as would be required had the action been brought under section 615 of the Act.

18. Attorneys' fees.

a) In general.

(1) In any action or proceeding brought under section 615 of the Act, the court, in its discretion, may award reasonable attorneys' fees as part of the costs to--

(i) The prevailing party who is the parent of a child with a disability;

(ii) To a prevailing party who is the SEA or LEA against the attorney of a parent who files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or

(iii) To a prevailing SEA or LEA against the attorney of a parent, or against the parent, if the parent's request for a due process hearing or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

(2) Nothing in this subsection shall be construed to affect section 327 of the District of Columbia Appropriations Act, 2005.

b) Prohibition on use of funds.

(1) Funds under Part B of the Act may not be used to pay attorneys' fees or costs of a party related to any action or proceeding under section 615 of the Act and subpart E of this part.

(2) Paragraph (b)(1) of this section does not preclude a public agency from using funds under Part B of the Act for conducting an action or proceeding under section 615 of the Act.

c) Award of fees. A court awards reasonable attorneys' fees under section 615(i)(3) of the Act consistent with the following:

(1) Fees awarded under section 615(i)(3) of the Act must be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this paragraph.

(2)(i) Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under section 615 of the Act for services performed subsequent to the time of a written offer of settlement to a parent if--

(A) The offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than 10 days before the proceeding begins;

(B) The offer is not accepted within 10 days; and

(C) The court or administrative hearing officer finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement.

(ii) Attorneys' fees may not be awarded relating to any meeting of the IEP Team unless the meeting is convened as a result of an administrative proceeding or judicial action, or at the discretion of the State, for a mediation described in Sec. 300.506.

(iii) A meeting conducted pursuant to Sec. 300.510 shall not be considered--

(A) A meeting convened as a result of an administrative hearing or judicial action; or

(B) An administrative hearing or judicial action for purposes of this section.

(3) Notwithstanding paragraph (c)(2) of this section, an award of attorneys' fees and related costs may be made to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer.

(4) Except as provided in paragraph (c)(5) of this section, the court reduces, accordingly, the amount of the attorneys' fees awarded under section 615 of the Act, if the court finds that--

(i) The parent, or the parent's attorney, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;

(ii) The amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience;

(iii) The time spent and legal services furnished were excessive considering the nature of the action or proceeding; or

(iv) The attorney representing the parent did not provide to the LEA the appropriate information in the due process request notice in accordance with Sec. 300.508.

(5) The provisions of paragraph (c)(4) of this section do not apply in any action or proceeding if the court finds that the State or local agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of section 615 of the Act.

19. Child's status during proceedings.

a) Except as provided in Sec. 300.533, during the pendency of any administrative or judicial proceeding regarding a due process complaint notice requesting a due process hearing under Sec. 300.507, unless the State or local agency and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her current educational placement.

b) If the complaint involves an application for initial admission to public school, the child, with the consent of the parents, must be placed in the public school until the completion of all the proceedings.

c) If the complaint involves an application for initial services under this part from a child who is transitioning from Part C of the Act to Part B and is no longer eligible for Part C services because the child has turned three, the public agency is not required to provide the Part C services that the child had been receiving. If the child is found eligible for special education and related services under Part B and the parent consents to the initial provision of special education and related services under Sec. 300.300(b), then the public agency must provide those special education and related services that are not in dispute between the parent and the public agency.

d) If the hearing officer in a due process hearing conducted by the SEA or a State review official in an administrative appeal agrees with the child's parents that a change of placement is appropriate, that placement must be treated as an agreement between the State and the parents for purposes of paragraph (a) of this section.

20. Surrogate parents.

a) General. Each public agency must ensure that the rights of a child are protected when--

(1) No parent (as defined in Sec. 300.30) can be identified;

(2) The public agency, after reasonable efforts, cannot locate a parent;

(3) The child is a ward of the State under the laws of that State; or

(4) The child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(6)).

b) Duties of public agency. The duties of a public agency under paragraph (a) of this section include the assignment of an individual to act as a surrogate for the parents. This must include a method--

(1) For determining whether a child needs a surrogate parent; and

(2) For assigning a surrogate parent to the child.

c) Wards of the State. In the case of a child who is a ward of the State, the surrogate parent alternatively may be appointed by the judge overseeing the child's case, provided that the surrogate meets the requirements in paragraphs (d)(2)(i) and (e) of this section.

d) Criteria for selection of surrogate parents.

(1) The public agency may select a surrogate parent in any way permitted in the State Department of Education, Office of Exceptional Children's Policies and Procedures.

(2) Public agencies must ensure that a person selected as a surrogate parent--

(i) Is not an employee of the SEA, the LEA, or any other agency that is involved in the education or care of the child;

(ii) Has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents; and

(iii) Has knowledge and skills that ensure adequate representation of the child.

e) Non-employee requirement; compensation. A person otherwise qualified to be a surrogate parent under paragraph (d) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

f) Unaccompanied homeless youth. In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents without regard to paragraph (d)(2)(i) of this section, until a surrogate parent can be appointed that meets all of the requirements of paragraph (d) of this section.

g) Surrogate parent responsibilities. The surrogate parent may represent the child in all matters relating to--

(1) The identification, evaluation, and educational placement of the child; and

(2) The provision of FAPE to the child.

h) SEA responsibility. The SEA must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a public agency determines that the child needs a surrogate parent.

21. Transfer of parental rights at age of majority.

a) General. A State may provide that, when a child with a disability reaches the age of majority under State law that applies to all children (except for a child with a disability who has been determined to be incompetent under State law)--

(1)(i) The public agency must provide any notice required by this part to both the child and the parents; and

(ii) All rights accorded to parents under Part B of the Act transfer to the child;

(2) All rights accorded to parents under Part B of the Act transfer to children who are incarcerated in an adult or juvenile, State or local correctional institution; and

(3) Whenever a State provides for the transfer of rights under this part pursuant to paragraph (a)(1) or (a)(2) of this section, the agency must notify the child and the parents of the transfer of rights.

B. Discipline Procedures

1. Authority of school personnel.

a) Case-by-case determination. School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of this section, is appropriate for a child with a disability who violates a code of student conduct.

b) General.

(1) School personnel under this section may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement under Sec. 300.536).

(2) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal the public agency must provide services to the extent required under paragraph (d) of this section.

c) Additional authority. For disciplinary changes in placement that would exceed 10 consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability pursuant to paragraph (e) of this section, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities, except as provided in paragraph (d) of this section.

d) Services.

(1) A child with a disability who is removed from the child's current placement pursuant to paragraphs (c), or (g) of this section must--

(i) Continue to receive educational services, as provided in Sec. 300.101(a), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and

(ii) Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

(2) The services required by paragraph (d)(1), (d)(3), (d)(4), and (d)(5) of this section may be provided in an interim alternative educational setting.

(3) A public agency is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if it provides services to a child without disabilities who is similarly removed.

(4) After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, if the current removal is for not more than 10 consecutive school days and is not a change of placement under Sec. 300.536, school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed, as provided in Sec. 300.101(a), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

(5) If the removal is a change of placement under Sec. 300.536, the child's IEP Team determines appropriate services under paragraph (d)(1) of this section.

e) Manifestation determination.

(1) Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the child's IEP Team (as determined by the parent and the LEA) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine--

(i) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or

(ii) If the conduct in question was the direct result of the LEA's failure to implement the IEP.

(2) The conduct must be determined to be a manifestation of the child's disability if the LEA, the parent, and relevant members of the child's IEP Team determine that a condition in either paragraph (e)(1)(i) or (1)(ii) of this section was met.

(3) If the LEA, the parent, and relevant members of the child's IEP Team determine the condition described in paragraph (e)(1)(ii) of this section was met, the LEA must take immediate steps to remedy those deficiencies.

f) Determination that behavior was a manifestation. If the LEA, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability, the IEP Team must--

(1) Either--

(i) Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or

(ii) If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and

(2) Except as provided in paragraph (g) of this section, return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.

g) Special circumstances. School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child--

(1) Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of the SEA or an LEA;

(2) Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of the SEA or an LEA; or

(3) Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the SEA or an LEA.

h) Notification. On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the LEA must notify the parents of that decision, and provide the parents the procedural safeguards notice described in Sec. 300.504.

i) Definitions. For purposes of this section, the following definitions apply:

(1) Controlled substance means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

(2) Illegal drug means a controlled substance; but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.

(3) Serious bodily injury has the meaning given the term "serious bodily injury" under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.

(4) Weapon has the meaning given the term "dangerous weapon" under paragraph (2) of the first subsection (g) of section 930 of title 18, United States Code.

2. Determination of setting. The child's IEP Team determines the interim alternative educational setting for services under Sec. 300.530(c), (d)(5), and (g).

3. Appeal.

a) General. The parent of a child with a disability who disagrees with any decision regarding placement under Secs. 300.530 and 300.531, or the manifestation determination under Sec. 300.530(e), or an LEA that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others, may appeal the decision by requesting a hearing. The hearing is requested by filing a complaint pursuant to Secs. 300.507 and 300.508(a) and (b).

b) Authority of hearing officer.

(1) A hearing officer under Sec. 300.511 hears, and makes a determination regarding an appeal under paragraph (a) of this section.

(2) In making the determination under paragraph (b)(1) of this section, the hearing officer may--

(i) Return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation of Sec. 300.530 or that the child's behavior was a manifestation of the child's disability; or

(ii) Order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

(3) The procedures under paragraphs (a) and (b)(1) and (2) of this section may be repeated, if the LEA believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.

c) Expedited due process hearing.

(1) Whenever a hearing is requested under paragraph (a) of this section, the parents or the LEA involved in the dispute must have an opportunity for an impartial due process hearing consistent with the requirements of Secs. 300.507 and 300.508(a) through (c) and Secs. 300.510 through 300.514, except as provided in paragraph (c)(2) through (4) of this section.

(2) The SEA or LEA is responsible for arranging the expedited due process hearing, which must occur within 20 school days of the date the complaint requesting the hearing is filed. The hearing officer must make a determination within 10 school days after the hearing.

(3) Unless the parents and LEA agree in writing to waive the resolution meeting described in paragraph (c)(3)(i) of this section, or agree to use the mediation process described in Sec. 300.506--

(i) A resolution meeting must occur within seven days of receiving notice of the due process complaint; and

(ii) The due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of the receipt of the due process complaint.

(4) The decisions on expedited due process hearings are appealable consistent with Sec. 300.514.

4. Placement during appeals. When an appeal under Sec. 300.532 has been made by either the parent or the LEA, the child must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period specified in Sec. A300.530(c) or (g), whichever occurs first, unless the parent and the SEA or LEA agree otherwise.

5. Protections for children not determined eligible for special education and related services.

a) General. A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violated a code of student conduct, may assert any of the protections provided for in this part if the public agency had knowledge (as determined in accordance with paragraph (b) of this section) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

b) Basis of knowledge. A public agency must be deemed to have knowledge that a child is a child with a disability if before the behavior that precipitated the disciplinary action occurred--

(1) The parent of the child expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of special education and related services;

(2) The parent of the child requested an evaluation of the child pursuant to Secs. 300.300 through 300.311; or

(3) The teacher of the child, or other personnel of the LEA, expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education of the agency or to other supervisory personnel of the agency.

c) Exception. A public agency would not be deemed to have knowledge under paragraph (b) of this section if--

(1) The parent of the child--

(i) Has not allowed an evaluation of the child pursuant to Secs. 300.300 through 300.311; or

(ii) Has refused services under this part; or

(2) The child has been evaluated in accordance with Secs. 300.300 through 300.311 and determined to not be a child with a disability under this part.

d) Conditions that apply if no basis of knowledge.

(1) If a public agency does not have knowledge that a child is a child with a disability (in accordance with paragraphs (b) and (c) of this section) prior to taking disciplinary measures against the child, the child may be subjected to the disciplinary measures applied to children without disabilities who engage in comparable behaviors consistent with paragraph (d)(2) of this section.

(2)(i) If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under Sec. 300.530, the evaluation must be conducted in an expedited manner.

(ii) Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

(iii) If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the

agency must provide special education and related services in accordance with this part, including the requirements of Secs. 300.530 through 300.536 and section 612(a)(1)(A) of the Act.

6. Referral to and action by law enforcement and judicial authorities.

a) Rule of construction. Nothing in this part prohibits an agency from reporting a crime committed by a child with a disability to appropriate authorities or prevents State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

b) Transmittal of records.

(1) An agency reporting a crime committed by a child with a disability must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.

(2) An agency reporting a crime under this section may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.

7. Change of placement because of disciplinary removals.

a) For purposes of removals of a child with a disability from the child's current educational placement under Secs. 300.530 through 300.535, a change of placement occurs if--

(1) The removal is for more than 10 consecutive school days; or

(2) The child has been subjected to a series of removals that constitute a pattern--

(i) Because the series of removals total more than 10 school days in a school year;

(ii) Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and

(iii) Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

b)(1) The public agency determines on a case-by-case basis whether a pattern of removals constitutes a change of placement.

(2) This determination is subject to review through due process and judicial proceedings.

8. State enforcement mechanisms. Notwithstanding Secs. 300.506(b)(7) and 300.510(d)(2), which provide for judicial enforcement of a written agreement reached as a result of mediation or a resolution meeting, there is nothing in this part that would prevent the SEA from using other mechanisms to seek enforcement of that agreement, provided that use of those mechanisms is not mandatory and does not delay or deny a party the right to seek enforcement of the written agreement in a State court of competent jurisdiction or in a district court of the United States.

VI. Monitoring, Enforcement, Confidentiality, and Program Information

A. Monitoring, Technical Assistance, and Enforcement

1. State monitoring and enforcement.

a) The State must—

(1) Monitor the implementation of this part;

(2) Make the determinations annually about the performance of each LEA using the categories in Sec. 300.600(b)(1);

(3) Enforce this part, consistent with Sec. 300.604, using appropriate enforcement mechanisms, which must include, if applicable, the enforcement mechanisms identified in Sec. 300.604(a)(1) (technical assistance), (a)(3) (conditions on funding of an LEA), (b)(2)(i) (a corrective action plan or improvement plan), (b)(2)(v) (withholding funds in whole or in part, by the SEA), and (c)(2) (withholding funds, in whole or in part, by the SEA);

(4) Report annually on the performance of the State and of each LEA under this part, as provided in Sec. 300.602(b)(1)(i)(A) and (b)(2).

b) The primary focus of the State's monitoring activities must be on--

(1) Improving educational results and functional outcomes for all children with disabilities; and

(2) Ensuring that public agencies meet the program requirements under Part B of the Act, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.

c) As a part of its responsibilities under paragraph (a) of this section, the State must use quantifiable indicators and such qualitative indicators as are needed to adequately measure performance in the priority areas identified in paragraph (d) of this section, and the indicators established by the Secretary for the State performance plans.

d) The State must monitor the LEAs located in the State, using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in those areas:

(1) Provision of FAPE in the least restrictive environment.

(2) State exercise of general supervision, including child find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services as defined in Sec. 300.43 and in 20 U.S.C. 1437(a)(9).

(3) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification.

e) In exercising its monitoring responsibilities under paragraph d) of this section, the State must ensure that when it identifies noncompliance with the requirements of this part by LEAs, the

noncompliance is corrected as soon as possible, but in no case later than one year after the State's identification of the noncompliance.

2. State performance plans and data collection.

a) General. Not later than December 3, 2005, each State must have in place a performance plan that evaluates the State's efforts to implement the requirements and purposes of Part B of the Act, and describes how the State will improve such implementation.

(1) Each State must submit the State's performance plan to the Secretary for approval in accordance with the approval process described in section 616(c) of the Act.

(2) Each State must review its State performance plan at least once every six years, and submit any amendments to the Secretary.

(3) As part of the State performance plan, each State must establish measurable and rigorous targets for the indicators established by the Secretary under the priority areas described in Sec. 300.600(d).

b) Data collection.

(1) Each State must collect valid and reliable information as needed to report annually to the Secretary on the indicators established by the Secretary for the State performance plans.

(2) If the Secretary permits States to collect data on specific indicators through State monitoring or sampling, and the State collects the data through State monitoring or sampling, the State must collect data on those indicators for each LEA at least once during the period of the State performance plan.

(3) Nothing in Part B of the Act shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under Part B of the Act.

3. State use of targets and reporting.

a) General. Each State must use the targets established in the State's performance plan under Sec. 300.601 and the priority areas described in Sec. 300.600(d) to analyze the performance of each LEA.

b) Public reporting and privacy--

(1) Public report.

(i) Subject to paragraph (b)(1)(ii) of this section, the State must--

(A) Report annually to the public on the performance of each LEA located in the State on the targets in the State's performance plan as soon as practicable but no later than 120 days following the State's submission of its annual performance report to the Secretary under paragraph (b)(2) of this section; and

(B) Make each of the following items available through public means: the State's performance plan, under Sec. 300.601(a); annual performance reports, under paragraph (b)(2) of this

section; and the State's annual reports on the performance of each LEA located in the State, under paragraph (b)(1)(i)(A) of this section. In doing so, the State must, at a minimum, post the plan and reports on the SEA's web site, and distribute the plan and reports to the media and through public agencies.

(ii) If the State, in meeting the requirements of paragraph (b)(1)(i) of this section, collects performance data through State monitoring or sampling, the State must include in its report under paragraph (b)(1)(i)(A) of this section the most recently available performance data on each LEA, and the date the data were obtained.

(2) State performance report. The State must report annually to the Secretary on the performance of the State under the State's performance plan.

(3) Privacy. The State must not report to the public or the Secretary any information on performance that would result in the disclosure of personally identifiable information about individual children, or where the available data are insufficient to yield statistically reliable information.

4. Secretary's review and determination regarding State performance.

a) Review. The Secretary annually reviews the State's performance report submitted pursuant to Sec. 300.602(b)(2).

b) Determination--

(1) General. Based on the information provided by the State in the State's annual performance report, information obtained through monitoring visits, and any other public information made available, the Secretary determines if the State--

(i) Meets the requirements and purposes of Part B of the Act;

(ii) Needs assistance in implementing the requirements of Part B of the Act;

(iii) Needs intervention in implementing the requirements of Part B of the Act; or

(iv) Needs substantial intervention in implementing the requirements of Part B of the Act.

(2) Notice and opportunity for a hearing.

(i) For determinations made under paragraphs (b)(1)(iii) and (b)(1)(iv) of this section, the Secretary provides reasonable notice and an opportunity for a hearing on those determinations.

(ii) The hearing described in paragraph (b)(2) of this section consists of an opportunity to meet with the Assistant Secretary for Special Education and Rehabilitative Services to demonstrate why the Department should not make the determination described in paragraph (b)(1) of this section.

5. Enforcement.

a) Needs assistance. If the Secretary determines, for two consecutive years, that a State needs assistance under Sec. 300.603(b)(1)(ii) in implementing the requirements of Part B of the Act, the Secretary takes one or more of the following actions:

(1) Advises the State of available sources of technical assistance that may help the State address the areas in which the State needs assistance, which may include assistance from the Office of Special Education Programs, other offices of the Department of Education, other Federal agencies, technical assistance providers approved by the Secretary, and other federally funded nonprofit agencies, and requires the State to work with appropriate entities. Such technical assistance may include--

(i) The provision of advice by experts to address the areas in which the State needs assistance, including explicit plans for addressing the area for concern within a specified period of time;

(ii) Assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research;

(iii) Designating and using distinguished superintendents, principals, special education administrators, special education teachers, and other teachers to provide advice, technical assistance, and support; and

(iv) Devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service agencies, national centers of technical assistance supported under Part D of the Act, and private providers of scientifically based technical assistance.

(2) Directs the use of State-level funds under section 611(e) of the Act on the area or areas in which the State needs assistance.

(3) Identifies the State as a high-risk grantee and imposes special conditions on the State's grant under Part B of the Act.

b) Needs intervention. If the Secretary determines, for three or more consecutive years, that a State needs intervention under Sec. 300.603(b)(1)(iii) in implementing the requirements of Part B of the Act, the following shall apply:

(1) The Secretary may take any of the actions described in paragraph (a) of this section.

(2) The Secretary takes one or more of the following actions:

(i) Requires the State to prepare a corrective action plan or improvement plan if the Secretary determines that the State should be able to correct the problem within one year.

(ii) Requires the State to enter into a compliance agreement under section 457 of the General Education Provisions Act, as amended, 20 U.S.C. 1221 et seq. (GEPA), if the Secretary has reason to believe that the State cannot correct the problem within one year.

(iii) For each year of the determination, withholds not less than 20 percent and not more than 50 percent of the State's funds under section 611(e) of the Act, until the Secretary determines the State has sufficiently addressed the areas in which the State needs intervention.

(iv) Seeks to recover funds under section 452 of GEPA.

(v) Withholds, in whole or in part, any further payments to the State under Part B of the Act.

(vi) Refers the matter for appropriate enforcement action, which may include referral to the Department of Justice.

c) Needs substantial intervention. Notwithstanding paragraph (a) or (b) of this section, at any time that the Secretary determines that a State needs substantial intervention in implementing the requirements of Part B of the Act or that there is a substantial failure to comply with any condition of the SEA's or LEA's eligibility under Part B of the Act, the Secretary takes one or more of the following actions:

(1) Recovers funds under section 452 of GEPA.

(2) Withholds, in whole or in part, any further payments to the State under Part B of the Act.

(3) Refers the case to the Office of the Inspector General at the Department of Education.

(4) Refers the matter for appropriate enforcement action, which may include referral to the Department of Justice.

d) Report to Congress. The Secretary reports to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate within 30 days of taking enforcement action pursuant to paragraph (a), (b), or (c) of this section, on the specific action taken and the reasons why enforcement action was taken.

6. Withholding funds.

a) Opportunity for hearing. Prior to withholding any funds under Part B of the Act, the Secretary provides reasonable notice and an opportunity for a hearing to the SEA involved, pursuant to the procedures in Secs. 300.180 through 300.183.

b) Suspension. Pending the outcome of any hearing to withhold payments under paragraph (a) of this section, the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate funds under Part B of the Act, or both, after the recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate funds under Part B of the Act should not be suspended.

c) Nature of withholding.

(1) If the Secretary determines that it is appropriate to withhold further payments under Sec. 300.604(b)(2) or (c)(2), the Secretary may determine--

(i) That the withholding will be limited to programs or projects, or portions of programs or projects, that affected the Secretary's determination under Sec. 300.603(b)(1); or

(ii) That the SEA must not make further payments under Part B of the Act to specified State agencies or LEAs that caused or were involved in the Secretary's determination under Sec. 300.603(b)(1).

(2) Until the Secretary is satisfied that the condition that caused the initial withholding has been substantially rectified--

(i) Payments to the State under Part B of the Act must be withheld in whole or in part; and

(ii) Payments by the SEA under Part B of the Act must be limited to State agencies and LEAs whose actions did not cause or were not involved in the Secretary's determination under Sec. 300.603(b)(1), as the case may be.

7. Public attention. Whenever a State receives notice that the Secretary is proposing to take or is taking an enforcement action pursuant to Sec. 300.604, the State must, by means of a public notice, take such actions as may be necessary to notify the public within the State of the pendency of an action pursuant to Sec. 300.604, including, at a minimum, by posting the notice on the SEA's web site and distributing the notice to the media and through public agencies.

8. Divided State agency responsibility. For purposes of this subpart, if responsibility for ensuring that the requirements of Part B of the Act are met with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons is assigned to a public agency other than the SEA pursuant to Sec. 300.149(d), and if the Secretary finds that the failure to comply substantially with the provisions of Part B of the Act are related to a failure by the public agency, the Secretary takes appropriate corrective action to ensure compliance with Part B of the Act, except that--

a) Any reduction or withholding of payments to the State under Sec. 300.604 must be proportionate to the total funds allotted under section 611 of the Act to the State as the number of eligible children with disabilities in adult prisons under the supervision of the other public agency is proportionate to the number of eligible individuals with disabilities in the State under the supervision of the SEA; and

b) Any withholding of funds under Sec. 300.604 must be limited to the specific agency responsible for the failure to comply with Part B of the Act.

9. State enforcement.

a) If the SEA determines that an LEA is not meeting the requirements of Part B of the Act, including the targets in the State's performance plan, the SEA must prohibit the LEA from reducing the LEA's maintenance of effort under Sec. 300.203 for any fiscal year.

b) Nothing in this subpart shall be construed to restrict a State from utilizing any other authority available to it to monitor and enforce the requirements of Part B of the Act.

10. Rule of construction. Nothing in this subpart shall be construed to restrict the Secretary from utilizing any authority under GEPA, including the provisions in 34 CFR parts 76, 77, 80, and 81 to monitor and enforce the requirements of the Act, including the imposition of special conditions under 34 CFR 80.12.

B. Confidentiality of Information

1. Confidentiality. The Secretary takes appropriate action, in accordance with section 444 of GEPA, to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by SEAs and LEAs pursuant to Part B of the Act, and consistent with Secs. 300.611 through 300.627.

2. Definitions. As used in Secs. 300.611 through 300.625--

a) Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

b) Education records means the type of records covered under the definition of "education records" in 34 CFR part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA)).

c) Participating agency means any agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of the Act.

3. Notice to parents.

a) The SEA must give notice that is adequate to fully inform parents about the requirements of Sec. 300.123, including--

(1) A description of the extent that the notice is given in the native languages of the various population groups in the State;

(2) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;

(3) A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and

(4) A description of all of the rights of parents and children regarding this information, including the rights under FERPA and implementing regulations in 34 CFR part 99.

b) Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the State of the activity.

4. Access rights.

a) Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to Sec. 300.507 or Secs. 300.530 through 300.532, or resolution session pursuant to Sec. 300.510, and in no case more than 45 days after the request has been made.

b) The right to inspect and review education records under this section includes--

(1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;

(2) The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and

(3) The right to have a representative of the parent inspect and review the records.

c) An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

5. Record of access. Each participating agency must keep a record of parties obtaining access to education records collected, maintained, or used under Part B of the Act (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

6. Records on more than one child. If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

7. List of types and locations of information. Each participating agency must provide parents on request a list of the types and locations of education records collected, maintained, or used by the agency.

8. Fees.

a) Each participating agency may charge a fee for copies of records that are made for parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.

b) A participating agency may not charge a fee to search for or to retrieve information under this part.

9. Amendment of records at parent's request.

a) A parent who believes that information in the education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child may request the participating agency that maintains the information to amend the information.

b) The agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.

c) If the agency decides to refuse to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of the right to a hearing under Sec. 300.619.

10. Opportunity for a hearing. The agency must, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

11. Result of hearing.

a) If, as a result of the hearing, the agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it must amend the information accordingly and so inform the parent in writing.

b) If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it must inform the parent

of the parent's right to place in the records the agency maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

c) Any explanation placed in the records of the child under this section must--

(1) Be maintained by the agency as part of the records of the child as long as the record or contested portion is maintained by the agency; and

(2) If the records of the child or the contested portion is disclosed by the agency to any party, the explanation must also be disclosed to the party.

12. Hearing procedures. A hearing held under Sec. 300.619 must be conducted according to the procedures in 34 CFR 99.22.

13. Consent.

a) Parental consent must be obtained before personally identifiable information is disclosed to parties, other than officials of participating agencies in accordance with paragraph (b)(1) of this section, unless the information is contained in education records, and the disclosure is authorized without parental consent under 34 CFR part 99.

b)(1) Except as provided in paragraphs (b)(2) and (b)(3) of this section, parental consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of this part.

(2) Parental consent, or the consent of an eligible child who has reached the age of majority under State law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services in accordance with Sec. 300.321(b)(3).

(3) If a child is enrolled, or is going to enroll in a private school that is not located in the LEA of the parent's residence, parental consent must be obtained before any personally identifiable information about the child is released between officials in the LEA where the private school is located and officials in the LEA of the parent's residence.

14. Safeguards.

a) Each participating agency must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

b) One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information.

c) All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under Sec. 300.123 and 34 CFR part 99.

d) Each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

15. Destruction of information.

a) The public agency must inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child.

b) The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

16. Children's rights.

a) The SEA must have in effect policies and procedures regarding the extent to which children are afforded rights of privacy similar to those afforded to parents, taking into consideration the age of the child and type or severity of disability.

b) Under the regulations for FERPA in 34 CFR 99.5(a), the rights of parents regarding education records are transferred to the student at age 18.

c) If the rights accorded to parents under Part B of the Act are transferred to a student who reaches the age of majority, consistent with Sec. 300.520, the rights regarding educational records in Secs. 300.613 through 300.624 must also be transferred to the student. However, the public agency must provide any notice required under section 615 of the Act to the student and the parents.

17. Enforcement. The SEA must have in effect the policies and procedures, including sanctions that the State uses, to ensure that its policies and procedures consistent with Secs. 300.611 through 300.625 are followed and that the requirements of the Act and the regulations in this part are met. The sanctions are described in Section III. Local Education Eligibility.

18. Department use of personally identifiable information. If the Department or its authorized representatives collect any personally identifiable information regarding children with disabilities that is not subject to the Privacy Act of 1974, 5 U.S.C. 552a, the Secretary applies the requirements of 5 U.S.C. 552a(b)(1) and (b)(2), 552a(b)(4) through (b)(11); 552a(c) through 552a(e)(3)(B); 552a(e)(3)(D); 552a(e)(5) through (e)(10); 552a(h); 552a(m); and 552a(n); and the regulations implementing those provisions in 34 CFR part 5b.

C. Reports--Program Information

1. Annual report of children served--report requirement.

a) The SEA must annually report to the Secretary on the information required by section 618 of the Act at the times specified by the Secretary.

b) The SEA must submit the report on forms provided by the Secretary.

2. Annual report of children served--information required in the report.

a) For purposes of the annual report required by section 618 of the Act and Sec. 300.640, the State and public agencies must count and report the number of children with disabilities receiving special education and related services on any date between October 1 and December 1, inclusive, of each year.

b) For the purpose of this reporting provision, a child's age is the child's actual age on the date of the child count.

c) The SEA or public agency may not report a child under more than one disability category.

d) If a child with a disability has more than one disability, the SEA or public agency must report that child in accordance with the following procedure:

(1) If a child has only two disabilities and those disabilities are deafness and blindness, and the child is not reported as having a developmental delay, that child must be reported under the category "deaf-blindness."

(2) A child who has more than one disability and is not reported as having deaf-blindness or as having a developmental delay must be reported under the category "multiple disabilities."

3. Data reporting.

a) Protection of personally identifiable data. The data described in section 618(a) of the Act and in Sec. 300.641 must be publicly reported by each State in a manner that does not result in disclosure of data identifiable to individual children.

b) Sampling. The Secretary may permit States and the Secretary of the Interior to obtain data in section 618(a) of the Act through sampling.

4. Annual report of children served--certification. The SEA must include in its report a certification signed by an authorized official of the agency that the information provided under Sec. 300.640 is an accurate and unduplicated count of children with disabilities receiving special education and related services on the dates in question.

5. Annual report of children served--criteria for counting children. The SEA may include in its report children with disabilities who are enrolled in a school or program that is operated or supported by a public agency, and that--

a) Provides them with both special education and related services that meet State standards;

b) Provides them only with special education, if a related service is not required, that meets State standards; or

c) In the case of children with disabilities enrolled by their parents in private schools, counts those children who are eligible under the Act and receive special education or related services or both that meet State standards under Secs. 300.132 through 300.144.

6. Annual report of children served--other responsibilities of the SEA. In addition to meeting the other requirements of Secs. 300.640 through 300.644, the SEA must--

a) Establish procedures to be used by LEAs and other educational Institutions in counting the number of children with disabilities receiving special education and related services;

b) Set dates by which those agencies and institutions must report to the SEA to ensure that the State complies with Sec. 300.640(a);

c) Obtain certification from each agency and institution that an unduplicated and accurate count has been made;

d) Aggregate the data from the count obtained from each agency and institution, and prepare the reports required under Secs. 300.640 through 300.644; and

e) Ensure that documentation is maintained that enables the State and the Secretary to audit the accuracy of the count.

7. Disproportionality.

a) General. Each State that receives assistance under Part B of the Act, and the Secretary of the Interior, must provide for the collection and examination of data to determine if significant disproportionality based on race and ethnicity is occurring in the State and the LEAs of the State with respect to--

(1) The identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 602(3) of the Act;

(2) The placement in particular educational settings of these children; and

(3) The incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

b) Review and revision of policies, practices, and procedures. In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of these children, in accordance with paragraph (a) of this section, the State or the Secretary of the Interior must:

(1) Provide for the review and, if appropriate revision of the policies, procedures, and practices used in the identification or placement to ensure that the policies, procedures, and practices comply with the requirements of the Act.

(2) Require any LEA identified under paragraph (a) of this section to reserve the maximum amount of funds under section 613(f) of the Act to provide comprehensive coordinated early intervening services to serve children in the LEA, particularly, but not exclusively, children in those groups that were significantly overidentified under paragraph (a) of this section; and

(3) Require the LEA to publicly report on the revision of policies, practices, and procedures described under paragraph (b)(1) of this section.

VII. Authorization, Allotment, Use of Funds, and Authorization of Appropriations

A. Allotments, Grants, and Use of Funds

1. Grants to States.

a) Purpose of grants. The Secretary makes grants to States, outlying areas, and freely associated States (as defined in Sec. 300.717), and provides funds to the Secretary of the Interior, to assist them to provide special education and related services to children with disabilities in accordance with Part B of the Act.

b) Maximum amount. The maximum amount of the grant a State may receive under section 611 of the Act is--

(1) For fiscal years 2005 and 2006--

(i) The number of children with disabilities in the State who are receiving special education and related services--

(A) Aged three through five, if the State is eligible for a grant under section 619 of the Act; and

(B) Aged 6 to 21; multiplied by--

(ii) Forty (40) percent of the average per pupil expenditure in public elementary schools and secondary schools in the United States (as defined in Sec. 300.717); and

(2) For fiscal year 2007 and subsequent fiscal years--

(i) The number of children with disabilities in the 2004-2005 school year in the State who received special education and related services:

(A) Aged three through five if the State is eligible for a grant under section 619 of the Act; and

(B) Aged 6 to 21; multiplied by

(ii) Forty (40) percent of the average per pupil expenditure in public elementary schools and secondary schools in the United States (as defined in Sec. 300.717);

(iii) Adjusted by the rate of annual change in the sum of--

(A) Eighty-five (85) percent of the State's population of children aged 3 to 21 who are of the same age as children with disabilities for whom the State ensures the availability of FAPE under Part B of the Act; and

(B) Fifteen (15) percent of the State's population of children described in paragraph (b)(2)(iii)(A) of this section who are living in poverty.

2. Outlying areas, freely associated States, and the Secretary of the Interior.

a) Outlying areas and freely associated States.

(1) Funds reserved. From the amount appropriated for any fiscal year under section 611(i) of the Act, the Secretary reserves not more than one percent, which must be used--

(i) To provide assistance to the outlying areas in accordance with their respective populations of individuals aged 3 through 21; and

(ii) To provide each freely associated State a grant in the amount that the freely associated State received for fiscal year 2003 under Part B of the Act, but only if the freely associated State--

(A) Meets the applicable requirements of Part B of the Act that apply to States.

(B) Meets the requirements in paragraph (a)(2) of this section.

(2) Application. Any freely associated State that wishes to receive funds under Part B of the Act must include, in its application for assistance--

(i) Information demonstrating that it will meet all conditions that apply to States under Part B of the Act.

(ii) An assurance that, notwithstanding any other provision of Part B of the Act, it will use those funds only for the direct provision of special education and related services to children with disabilities and to enhance its capacity to make FAPE available to all children with disabilities;

(iii) The identity of the source and amount of funds, in addition to funds under Part B of the Act, that it will make available to ensure that FAPE is available to all children with disabilities within its jurisdiction; and

(iv) Such other information and assurances as the Secretary may require.

(3) Special rule. The provisions of Public Law 95-134, permitting the consolidation of grants by the outlying areas, do not apply to funds provided to the outlying areas or to the freely associated States under Part B of the Act.

b) Secretary of the Interior. From the amount appropriated for any fiscal year under section 611(i) of the Act, the Secretary reserves 1.226 percent to provide assistance to the Secretary of the Interior in accordance with Secs. 300.707 through 300.716.

3. Technical assistance.

a) In general. The Secretary may reserve not more than one-half of one percent of the amounts appropriated under Part B of the Act for each fiscal year to support technical assistance activities authorized under section 616(i) of the Act.

b) Maximum amount. The maximum amount the Secretary may reserve under paragraph (a) of this section for any fiscal year is $25,000,000, cumulatively adjusted by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

4. Allocations to States.

a) General. After reserving funds for technical assistance under Sec. 300.702, and for payments to the outlying areas, the freely associated States, and the Secretary of the Interior under Sec. 300.701 (a)

and (b) for a fiscal year, the Secretary allocates the remaining amount among the States in accordance with paragraphs (b), (c), and (d) of this section.

b) Special rule for use of fiscal year 1999 amount. If a State received any funds under section 611 of the Act for fiscal year 1999 on the basis of children aged three through five, but does not make FAPE available to all children with disabilities aged three through five in the State in any subsequent fiscal year, the Secretary computes the State's amount for fiscal year 1999, solely for the purpose of calculating the State's allocation in that subsequent year under paragraph (c) or (d) of this section, by subtracting the amount allocated to the State for fiscal year 1999 on the basis of those children.

c) Increase in funds. If the amount available for allocations to States under paragraph (a) of this section for a fiscal year is equal to or greater than the amount allocated to the States under section 611 of the Act for the preceding fiscal year, those allocations are calculated as follows:

(1) Allocation of increase.--

(i) General. Except as provided in paragraph (c)(2) of this section, the Secretary allocates for the fiscal year--

(A) To each State the amount the State received under this section for fiscal year 1999;

(B) Eighty-five (85) percent of any remaining funds to States on the basis of the States' relative populations of children between the ages of 3 and 21 who are of the same age as children with disabilities for whom the State ensures the availability of FAPE under Part B of the Act; and

(C) Fifteen (15) percent of those remaining funds to States on the basis of the States' relative populations of children described in paragraph (c)(1)(i)(B) of this section who are living in poverty.

(ii) Data. For the purpose of making grants under this section, the Secretary uses the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary.

(2) Limitations. Notwithstanding paragraph (c)(1) of this section, allocations under this section are subject to the following:

(i) Preceding year allocation. No State's allocation may be less than its allocation under section 611 of the Act for the preceding fiscal year.

(ii) Minimum. No State's allocation may be less than the greatest of--

(A) The sum of--

(1) The amount the State received under section 611 of the Act for fiscal year 1999; and

(2) One third of one percent of the amount by which the amount appropriated under section 611(i) of the Act for the fiscal year exceeds the amount appropriated for section 611 of the Act for fiscal year 1999;

(B) The sum of--

(1) The amount the State received under section 611 of the Act for the preceding fiscal year; and

(2) That amount multiplied by the percentage by which the increase in the funds appropriated for section 611 of the Act from the preceding fiscal year exceeds 1.5 percent; or

(C) The sum of--

(1) The amount the State received under section 611 of the Act for the preceding fiscal year; and

(2) That amount multiplied by 90 percent of the percentage increase in the amount appropriated for section 611 of the Act from the preceding fiscal year.

(iii) Maximum. Notwithstanding paragraph (c)(2)(ii) of this section, no State's allocation under paragraph (a) of this section may exceed the sum of--

(A) The amount the State received under section 611 of the Act for the preceding fiscal year; and

(B) That amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated under section 611 of the Act from the preceding fiscal year.

(3) Ratable reduction. If the amount available for allocations to States under paragraph (c) of this section is insufficient to pay those allocations in full, those allocations are ratably reduced, subject to paragraph (c)(2)(i) of this section.

d) Decrease in funds. If the amount available for allocations to States under paragraph (a) of this section for a fiscal year is less than the amount allocated to the States under section 611 of the Act for the preceding fiscal year, those allocations are calculated as follows:

(1) Amounts greater than fiscal year 1999 allocations. If the amount available for allocations under paragraph (a) of this section is greater than the amount allocated to the States for fiscal year 1999, each State is allocated the sum of--

(i) 1999 amount. The amount the State received under section 611 of the Act for fiscal year 1999; and

(ii) Remaining funds. An amount that bears the same relation to any remaining funds as the increase the State received under section 611 of the Act for the preceding fiscal year over fiscal year 1999 bears to the total of all such increases for all States.

(2) Amounts equal to or less than fiscal year 1999 allocations--

(i) General. If the amount available for allocations under paragraph (a) of this section is equal to or less than the amount allocated to the States for fiscal year 1999, each State is allocated the amount it received for fiscal year 1999.

(ii) Ratable reduction. If the amount available for allocations under paragraph (d) of this section is insufficient to make the allocations described in paragraph (d)(2)(i) of this section, those allocations are ratably reduced.

5. State-level activities.

a) State administration.

(1) For the purpose of administering Part B of the Act, including paragraph (c) of this section, section 619 of the Act, and the coordination of activities under Part B of the Act with, and providing technical assistance to, other programs that provide services to children with disabilities--

(i) Each State may reserve for each fiscal year not more than the maximum amount the State was eligible to reserve for State administration under section 611 of the Act for fiscal year 2004 or $800,000 (adjusted in accordance with paragraph (a)(2) of this section), whichever is greater; and

(ii) Each outlying area may reserve for each fiscal year not more than five percent of the amount the outlying area receives under Sec. 300.701(a) for the fiscal year or $35,000, whichever is greater.

(2) For each fiscal year, beginning with fiscal year 2005, the Secretary cumulatively adjusts--

(i) The maximum amount the State was eligible to reserve for State administration under section 611 of the Act for fiscal year 2004; and

(ii) $800,000, by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

(3) Prior to expenditure of funds under paragraph (a) of this section, the State must certify to the Secretary that the arrangements to establish responsibility for services pursuant to section 612(a)(12)(A) of the Act are current.

(4) Funds reserved under paragraph (a)(1) of this section may be used for the administration of Part C of the Act, if the SEA is the lead agency for the State under that Part.

b) Other State-level activities.

(1) States may reserve a portion of their allocations for other State-level activities. The maximum amount that a State may reserve for other State-level activities is as follows:

(i) If the amount that the State sets aside for State administration under paragraph (a) of this section is greater than $850,000 and the State opts to finance a high cost fund under paragraph (c) of this section:

(A) For fiscal years 2005 and 2006, 10 percent of the State's allocation under Sec. 300.703.

(B) For fiscal year 2007 and subsequent fiscal years, an amount equal to 10 percent of the State's allocation for fiscal year 2006 under Sec. 300.703 adjusted cumulatively for inflation.

(ii) If the amount that the State sets aside for State administration under paragraph (a) of this section is greater than $850,000 and the State opts not to finance a high cost fund under paragraph (c) of this section--

(A) For fiscal years 2005 and 2006, nine percent of the State's allocation under Sec. 300.703.

(B) For fiscal year 2007 and subsequent fiscal years, an amount equal to nine percent of the State's allocation for fiscal year 2006 adjusted cumulatively for inflation.

(iii) If the amount that the State sets aside for State administration under paragraph (a) of this section is less than or equal to $850,000 and the State opts to finance a high cost fund under paragraph (c) of this section:

(A) For fiscal years 2005 and 2006, 10.5 percent of the State's allocation under Sec. 300.703.

(B) For fiscal year 2007 and subsequent fiscal years, an amount equal to 10.5 percent of the State's allocation for fiscal year 2006 under Sec. 300.703 adjusted cumulatively for inflation.

(iv) If the amount that the State sets aside for State administration under paragraph (a) of this section is equal to or less than $850,000 and the State opts not to finance a high cost fund under paragraph (c) of this section:

(A) For fiscal years 2005 and 2006, nine and one-half percent of the State's allocation under Sec. 300.703.

(B) For fiscal year 2007 and subsequent fiscal years, an amount equal to nine and one-half percent of the State's allocation for fiscal year 2006 under Sec. 300.703 adjusted cumulatively for inflation.

(2) The adjustment for inflation is the rate of inflation as measured by the percentage of increase, if any, from the preceding fiscal year in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

(3) Some portion of the funds reserved under paragraph (b)(1) of this section must be used to carry out the following activities:

(i) For monitoring, enforcement, and complaint investigation; and

(ii) To establish and implement the mediation process required by section 615(e) of the Act, including providing for the costs of mediators and support personnel;

(4) Funds reserved under paragraph (b)(1) of this section also may be used to carry out the following activities:

(i) For support and direct services, including technical assistance, personnel preparation, and professional development and training;

(ii) To support paperwork reduction activities, including expanding the use of technology in the IEP process;

(iii) To assist LEAs in providing positive behavioral interventions and supports and mental health services for children with disabilities;

(iv) To improve the use of technology in the classroom by children with disabilities to enhance learning;

(v) To support the use of technology, including technology with universal design principles and assistive technology devices, to maximize accessibility to the general education curriculum for children with disabilities;

(vi) Development and implementation of transition programs, including coordination of services with agencies involved in supporting the transition of students with disabilities to postsecondary activities;

(vii) To assist LEAs in meeting personnel shortages;

(viii) To support capacity building activities and improve the delivery of services by LEAs to improve results for children with disabilities;

(ix) Alternative programming for children with disabilities who have been expelled from school, and services for children with disabilities in correctional facilities, children enrolled in State-operated or State-supported schools, and children with disabilities in charter schools;

(x) To support the development and provision of appropriate accommodations for children with disabilities, or the development and provision of alternate assessments that are valid and reliable for assessing the performance of children with disabilities, in accordance with sections 1111(b) and 6111 of the ESEA; and

(xi) To provide technical assistance to schools and LEAs, and direct services, including supplemental educational services as defined in section 1116(e) of the ESEA to children with disabilities, in schools or LEAs identified for improvement under section 1116 of the ESEA on the sole basis of the assessment results of the disaggregated subgroup of children with disabilities, including providing professional development to special and regular education teachers, who teach children with disabilities, based on scientifically based research to improve educational instruction, in order to improve academic achievement to meet or exceed the objectives established by the State under section 1111(b)(2)(G) of the ESEA.

c) Local educational agency high cost fund.

(1) In general--

(i) For the purpose of assisting LEAs (including a charter school that is an LEA or a consortium of LEAs) in addressing the needs of high need children with disabilities, each State has the option to reserve for each fiscal year 10 percent of the amount of funds the State reserves for other State-level activities under paragraph (b)(1) of this section--

(A) To finance and make disbursements from the high cost fund to LEAs in accordance with paragraph (c) of this section during the first and succeeding fiscal years of the high cost fund; and

(B) To support innovative and effective ways of cost sharing by the State, by an LEA, or among a consortium of LEAs, as determined by the State in coordination with representatives from LEAs, subject to paragraph (c)(2)(ii) of this section.

(ii) For purposes of paragraph (c) of this section, local educational agency includes a charter school that is an LEA, or a consortium of LEAs.

(2)(i) A State must not use any of the funds the State reserves pursuant to paragraph (c)(1)(i) of this section, which are solely for disbursement to LEAs, for costs associated with establishing, supporting, and otherwise administering the fund. The State may use funds the State reserves under paragraph (a) of this section for those administrative costs.

(ii) A State must not use more than 5 percent of the funds the State reserves pursuant to paragraph (c)(1)(i) of this section for each fiscal year to support innovative and effective ways of cost sharing among consortia of LEAs.

(3)(i) The SEA must develop, not later than 90 days after the State reserves funds under paragraph (c)(1)(i) of this section, annually review, and amend as necessary, a State plan for the high cost fund. Such State plan must--

(A) Establish, in consultation and coordination with representatives from LEAs, a definition of a high need child with a disability that, at a minimum--

(1) Addresses the financial impact a high need child with a disability has on the budget of the child's LEA; and

(2) Ensures that the cost of the high need child with a disability is greater than 3 times the average per pupil expenditure (as defined in section 9101 of the ESEA) in that State;

(B) Establish eligibility criteria for the participation of an LEA that, at a minimum, take into account the number and percentage of high need children with disabilities served by an LEA;

(C) Establish criteria to ensure that placements supported by the fund are consistent with the requirements of Secs. 300.114 through 300.118;

(D) Develop a funding mechanism that provides distributions each fiscal year to LEAs that meet the criteria developed by the State under paragraph(c)(3)(i)(B) of this section;

(E) Establish an annual schedule by which the SEA must make its distributions from the high cost fund each fiscal year; and

(F) If the State elects to reserve funds for supporting innovative and effective ways of cost sharing under paragraph (c)(1)(i)(B) of this section, describe how these funds will be used.

(ii) The State must make its final State plan available to the public not less than 30 days before the beginning of the school year, including dissemination of such information on the State Web site.

(4)(i) Each SEA must make all annual disbursements from the high cost fund established under paragraph (c)(1)(i) of this section in accordance with the State plan published pursuant to paragraph (c)(3) of this section.

(ii) The costs associated with educating a high need child with a disability, as defined under paragraph (c)(3)(i)(A) of this section, are only those costs associated with providing direct special education and related services to the child that are identified in that child's IEP, including the cost of room and board for a residential placement determined necessary, consistent with Sec. 300.114, to implement a child's IEP.

(iii) The funds in the high cost fund remain under the control of the State until disbursed to an LEA to support a specific child who qualifies under the State plan for the high cost funds or distributed to LEAs, consistent with paragraph (c)(9) of this section.

(5) The disbursements under paragraph (c)(4) of this section must not be used to support legal fees, court costs, or other costs associated with a cause of action brought on behalf of a child with a disability to ensure FAPE for such child.

(6) Nothing in paragraph (c) of this section--

(i) Limits or conditions the right of a child with a disability who is assisted under Part B of the Act to receive FAPE pursuant to section 612(a)(1) of the Act in the least restrictive environment pursuant to section 612(a)(5) of the Act; or

(ii) Authorizes the SEA or LEA to establish a limit on what may be spent on the education of a child with a disability.

(7) Notwithstanding the provisions of paragraphs (c)(1) through (6) of this section, a State may use funds reserved pursuant to paragraph (c)(1)(i) of this section for implementing a placement neutral cost sharing and reimbursement program of high need, low incidence, catastrophic, or extraordinary aid to LEAs that provides services to high need children based on eligibility criteria for such programs that were created not later than January 1, 2004, and are currently in operation, if such program serves children that meet the requirement of the definition of a high need child with a disability as described in paragraph (c)(3)(i)(A) of this section.

(8) Disbursements provided under paragraph (c) of this section must not be used to pay costs that otherwise would be reimbursed as medical assistance for a child with a disability under the State Medicaid program under Title XIX of the Social Security Act.

(9) Funds reserved under paragraph (c)(1)(i) of this section from the appropriation for any fiscal year, but not expended pursuant to paragraph (c)(4) of this section before the beginning of their last year of availability for obligation, must be allocated to LEAs in the same manner as other funds from the appropriation for that fiscal year are allocated to LEAs under Sec. 300.705 during their final year of availability.

d) Inapplicability of certain prohibitions. A State may use funds the State reserves under paragraphs (a) and (b) of this section without regard to--

(1) The prohibition on commingling of funds in Sec. 300.162(b).

(2) The prohibition on supplanting other funds in Sec. 300.162(c).

e) Special rule for increasing funds. A State may use funds the State reserves under paragraph (a)(1) of this section as a result of inflationary increases under paragraph (a)(2) of this section to carry out activities authorized under paragraph(b)(4)(i), (iii), (vii), or (viii) of this section.

f) Flexibility in using funds for Part C. Any State eligible to receive a grant under section 619 of the Act may use funds made available under paragraph (a)(1) of this section, Sec. 300.705(c), or Sec. 300.814(e) to develop and implement a State policy jointly with the lead agency under Part C of the Act and the SEA to provide early intervention services (which must include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) in accordance with Part C of the Act to children with disabilities who are eligible for services under section 619 of the Act and who previously received services under Part C of the Act until the children enter, or are eligible under State law to enter, kindergarten, or elementary school as appropriate.

6. Subgrants to LEAs.

a) Subgrants required. Each State that receives a grant under section 611 of the Act for any fiscal year must distribute any funds the State does not reserve under Sec. 300.704 to LEAs (including public charter schools that operate as LEAs) in the State that have established their eligibility under section 613 of the Act for use in accordance with Part B of the Act. Effective funds that become available on July 1, 2009, each State must distribute funds to eligible LEAs, including public charter schools that operate as LEAs, even if the LEA is not serving any children with disabilities.

b) Allocations to LEAs. For each fiscal year for which funds are allocated to States under Sec. 300.703, each State shall allocate funds as follows:

(1) Base payments. The State first must award each LEA described in paragraph (a) of this section the amount the LEA would have received under section 611 of the Act for fiscal year 1999, if the State had distributed 75 percent of its grant for that year under section 611(d) of the Act, as that section was then in effect.

(2) Base payment adjustments. For any fiscal year after 1999--

(i) If a new LEA is created, the State must divide the base allocation determined under paragraph (b)(1) of this section for the LEAs that would have been responsible for serving children with disabilities now being served by the new LEA, among the new LEA and affected LEAs based on the relative numbers of children with disabilities between the ages 3 to 21;

(ii) If one or more LEAs are combined into a single new LEA, the State must combine the base allocations of the merged LEAs; and

(iii) If, for two or more LEAs, geographic boundaries or administrative responsibility for providing services to children with disabilities ages 3 through 21 change, the base allocations of affected LEAs must be redistributed among affected LEAs based on the relative numbers of children with disabilities between the ages 3 to 21; and

(iv) If an LEA received a base payment of zero in its first year of operation, the SEA must adjust the base payment for the first fiscal year after the first annual child count in which the LEA reports

that it is serving any children with disabilities. The State must divide the base allocation determined under paragraph (b)(1) of this section for the LEAs that would have been responsible for serving children with disabilities now being served by the LEA, among the LEA and affected LEAs based on the relative numbers of children with disabilities between the ages 3 to 21.

(3) Allocation of remaining funds. After making allocations under paragraph (b)(1) of this section, as adjusted by paragraph (b)(2) of this section, the State must--

(i) Allocate 85 percent of any remaining funds to those LEAs on the basis of the relative numbers of children enrolled in public and private elementary schools and secondary schools within the LEA's jurisdiction; and

(ii) Allocate 15 percent of those remaining funds to those LEAs in accordance with their relative numbers of children living in poverty, as determined by the SEA.

c) Reallocation of funds.

(1) If the SEA determines that an LEA is adequately providing FAPE to all children with disabilities residing in the area served by that agency with State and local funds, the SEA may reallocate any portion of the funds under this part that are not needed by that LEA to provide FAPE to other LEAs in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas served by those other LEAs. The SEA may also retain those funds to use at the State level to the extent the State has not reserved the maximum amount of funds it is permitted to reserve for State-level activities pursuant to Sec. 300.704.

(2) After the SEA distributes funds under this part to an eligible LEA that is not serving any children with disabilities, as provided in paragraph (a) of this section, the SEA must determine, within a reasonable period of time prior to the end of the carryover period in 34 CFR 76.709, whether the LEA has obligated the funds. The SEA may reallocate any of those funds not obligated by the LEA to other LEAs in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas served by those other LEAs. The SEA may also retain those funds for use at the State level to the extent the State has not reserved the maximum amount of funds it is permitted to reserve for State-level activities pursuant to Sec. 300.704.

C. Definitions that Apply to this Subpart

1. Definitions applicable to allotments, grants, and use of funds. As used in this subpart--

a) Freely associated States means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau;

b) Outlying areas means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

c) State means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

d) Average per-pupil expenditure in public elementary schools and secondary schools in the United States means--

(1) Without regard to the source of funds--

(i) The aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all LEAs in the 50 States and the District of Columbia); plus

(ii) Any direct expenditures by the State for the operation of those agencies; divided by (2) The aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year.

D. Acquisition of Equipment and Construction or Alteration of Facilities

1. Acquisition of equipment and construction or alteration of facilities.

a) General. If the Secretary determines that a program authorized under Part B of the Act will be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary may allow the use of those funds for those purposes.

b) Compliance with certain regulations. Any construction of new facilities or alteration of existing facilities under paragraph (a) of this section must comply with the requirements of--

(1) Appendix A of part 36 of title 28, Code of Federal Regulations (commonly known as the "Americans with Disabilities Accessibility Standards for Buildings and Facilities"); or

(2) Appendix A of subpart 101-19.6 of title 41, Code of Federal Regulations (commonly known as the "Uniform Federal Accessibility Standards").

VIII. Preschool Grants for Children with Disabilities

A. In general. The Secretary provides grants under section 619 of the Act to assist States to provide special education and related services in accordance with Part B of the Act--

1. To children with disabilities aged three through five years; and

2. At a State's discretion, to two-year-old children with disabilities who will turn three during the school year.

B. Definition of State. As used in this subpart, State means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

C. Eligibility. A State is eligible for a grant under section 619 of the Act if the State--

1. Is eligible under section 612 of the Act to receive a grant under Part B of the Act; and

2. Makes FAPE available to all children with disabilities, aged three through five, residing in the State.

D. Eligibility for financial assistance. No State or LEA, or other public institution or agency, may receive a grant or enter into a contract or cooperative agreement under subpart 2 or 3 of Part D of the Act

that relates exclusively to programs, projects, and activities pertaining to children aged three through five years, unless the State is eligible to receive a grant under section 619(b) of the Act.

E. Allocations to States. The Secretary allocates the amount made available to carry out section 619 of the Act for a fiscal year among the States in accordance with Secs. 300.808 through 300.810.

F. Increase in funds. If the amount available for allocation to States under Sec. 300.807 for a fiscal year is equal to or greater than the amount allocated to the States under section 619 of the Act for the preceding fiscal year, those allocations are calculated as follows:

1. Except as provided in Sec. 300.809, the Secretary--

a) Allocates to each State the amount the State received under section 619 of the Act for fiscal year 1997;

b) Allocates 85 percent of any remaining funds to States on the basis of the States' relative populations of children aged three through five; and

c) Allocates 15 percent of those remaining funds to States on the basis of the States' relative populations of all children aged three through five who are living in poverty.

2. For the purpose of making grants under this section, the Secretary uses the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary.

G. Limitations.

1. Notwithstanding Sec. 300.808, allocations under that section are subject to the following:

a) No State's allocation may be less than its allocation under section 619 of the Act for the preceding fiscal year.

b) No State's allocation may be less than the greatest of--

(1) The sum of--

(i) The amount the State received under section 619 of the Act for fiscal year 1997; and

(ii) One-third of one percent of the amount by which the amount appropriated under section 619(j) of the Act for the fiscal year exceeds the amount appropriated for section 619 of the Act for fiscal year 1997;

(2) The sum of--

(i) The amount the State received under section 619 of the Act for the preceding fiscal year; and

(ii) That amount multiplied by the percentage by which the increase in the funds appropriated under section 619 of the Act from the preceding fiscal year exceeds 1.5 percent; or

(3) The sum of--

(i) The amount the State received under section 619 of the Act for the preceding fiscal year; and

(ii) That amount multiplied by 90 percent of the percentage increase in the amount appropriated under section 619 of the Act from the preceding fiscal year.

2. Notwithstanding paragraph (1)(b) of this section, no State's allocation under Sec. 300.808 may exceed the sum of--

a) The amount the State received under section 619 of the Act for the preceding fiscal year; and

b) That amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated under section 619 of the Act from the preceding fiscal year.

3. If the amount available for allocation to States under Sec. 300.808 and paragraphs (1) and (2) of this section is insufficient to pay those allocations in full, those allocations are ratably reduced, subject to paragraph (1)(a) of this section.

H. Decrease in funds. If the amount available for allocations to States under Sec. 300.807 for a fiscal year is less than the amount allocated to the States under section 619 of the Act for the preceding fiscal year, those allocations are calculated as follows:

1. If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1997, each State is allocated the sum of--

a) The amount the State received under section 619 of the Act for fiscal year 1997; and

b) An amount that bears the same relation to any remaining funds as the increase the State received under section 619 of the Act for the preceding fiscal year over fiscal year 1997 bears to the total of all such increases for all States.

2. If the amount available for allocations is equal to or less than the amount allocated to the States for fiscal year 1997, each State is allocated the amount the State received for fiscal year 1997, ratably reduced, if necessary.

I. Reservation for State activities.

1. Each State may reserve not more than the amount described in paragraph (2) of this section for administration and other State-level activities in accordance with Secs. 300.813 and 300.814.

2. For each fiscal year, the Secretary determines and reports to the SEA an amount that is 25 percent of the amount the State received under section 619 of the Act for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of--

a) The percentage increase, if any, from the preceding fiscal year in the State's allocation under section 619 of the Act; or

b) The rate of inflation, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

J. State administration.

1. For the purpose of administering section 619 of the Act (including the coordination of activities under Part B of the Act with, and providing technical assistance to, other programs that provide services to children with disabilities), a State may use not more than 20 percent of the maximum amount the State may reserve under Sec. 300.812 for any fiscal year.

2. Funds described in paragraph (1) of this section may also be used for the administration of Part C of the Act.

K. Other State-level activities. Each State must use any funds the State reserves under Sec. 300.812 and does not use for administration under Sec. 300.813--

1. For support services (including establishing and implementing the mediation process required by section 615(e) of the Act), which may benefit children with disabilities younger than three or older than five as long as those services also benefit children with disabilities aged three through five;

2. For direct services for children eligible for services under section 619 of the Act;

3. For activities at the State and local levels to meet the performance goals established by the State under section 612(a)(15) of the Act;

4. To supplement other funds used to develop and implement a statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not more than one percent of the amount received by the State under section 619 of the Act for a fiscal year;

5. To provide early intervention services (which must include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) in accordance with Part C of the Act to children with disabilities who are eligible for services under section 619 of the Act and who previously received services under Part C of the Act until such children enter, or are eligible under State law to enter, kindergarten; or

6. At the State's discretion, to continue service coordination or case management for families who receive services under Part C of the Act, consistent with Sec. 300.814(e).

L. Subgrants to LEAs. Each State that receives a grant under section 619 of the Act for any fiscal year must distribute all of the grant funds that the State does not reserve under Sec. 300.812 to LEAs (including public charter schools that operate as LEAs) in the State that have established their eligibility under section 613 of the Act. Effective with funds that become available on July 1, 2009, each State must distribute funds to eligible LEAs that are responsible for providing education to children aged three through five years, including public charter schools that operate as LEAs, even if the LEA is not serving any preschool children with disabilities.

M. Allocations to LEAs.

1. Base payments. The State must first award each LEA described in Sec. 300.815 the amount that agency would have received under section 619 of the Act for fiscal year 1997 if the State had distributed 75 percent of its grant for that year under section 619(c)(3), as such section was then in effect.

2. Base payment adjustments. For fiscal year 1998 and beyond--

a) If a new LEA is created, the State must divide the base allocation determined under paragraph (1) of this section for the LEAs that would have been responsible for serving children with disabilities now being served by the new LEA, among the new LEA and affected LEAs based on the relative numbers of children with disabilities ages three through five currently provided special education by each of the LEAs;

b) If one or more LEAs are combined into a single new LEA, the State must combine the base allocations of the merged LEAs;

c) If for two or more LEAs, geographic boundaries or administrative responsibility for providing services to children with disabilities ages three through five changes, the base allocations of affected LEAs must be redistributed among affected LEAs based on the relative numbers of children with disabilities ages three through five currently provided special education by each affected LEA; and

d) If an LEA received a base payment of zero in its first year of operation, the SEA must adjust the base payment for the first fiscal year after the first annual child count in which the LEA reports that it is serving any children with disabilities aged three through five years. The State must divide the base allocation determined under paragraph (1) of this section for the LEAs that would have been responsible for serving children with disabilities aged three through five years now being served by the LEA, among the LEA and affected LEAs based on the relative numbers of children with disabilities aged three through five years currently provided special education by each of the LEAs. This requirement takes effect with funds that become available on July 1, 2009.

3. Allocation of remaining funds. After making allocations under paragraph (1) of this section, the State must--

a) Allocate 85 percent of any remaining funds to those LEAs on the basis of the relative numbers of children enrolled in public and private elementary schools and secondary schools within the LEA's jurisdiction; and

b) Allocate 15 percent of those remaining funds to those LEAs in accordance with their relative numbers of children living in poverty, as determined by the SEA.

4. Use of best data. For the purpose of making grants under this section, States must apply on a uniform basis across all LEAs the best data that are available to them on the numbers of children enrolled in public and private elementary and secondary schools and the numbers of children living in poverty.

N. Reallocation of LEA funds.

1. If the SEA determines that an LEA is adequately providing FAPE to all children with disabilities aged three through five residing in the area served by the LEA with State and local funds, the SEA may reallocate any portion of the funds under section 619 of the Act that are not needed by that LEA to provide FAPE to other LEAs in the State that are not adequately providing special education and related services to all children with disabilities aged three through five residing in the areas served by those other

LEAs. The SEA may also retain those funds for use at the State level to the extent the State has not reserved the maximum amount of funds it is permitted to reserve for State-level activities pursuant to Sec. 300.812.

2. After the SEA distributes section 619 funds to an eligible LEA that is not serving any children with disabilities aged three through five, as provided in Sec. 300.815, the SEA must determine, within a reasonable period of time prior to the end of the carryover period in 34 CFR 76.709, whether the LEA has obligated the funds. The SEA may reallocate any of those funds not obligated by the LEA to other LEAs in the State that are not adequately providing special education and related services to all children with disabilities aged three through five years residing in the areas served by those other LEAs. The SEA may also retain those funds for use at the State level to the extent the State has not reserved the maximum amount of funds it is permitted to reserve for State-level activities pursuant to Sec. 300.812.

O. Part C of the Act inapplicable. Part C of the Act does not apply to any child with a disability receiving FAPE, in accordance with Part B of the Act, with funds received under section 619 of the Act.

IX. The State Board of Education authorizes the South Carolina Department of Education to develop and amend the Policies and Procedures of the Office of Exceptional Children as necessary to meet U.S. Department of Education approval.

Title of Regulation:	**Regulation No.:**	**R43-243.1**
CRITERIA FOR ENTRY INTO PROGRAMS OF SPECIAL EDUCATION FOR STUDENTS WITH DISABILITIES	**Effective Date:**	**09/23/11**

Constitutional and Statutory Provisions:

Section(s):

59-21-510, et seq.	Education of Physically and Mentally Handicapped Children.
59-33-10, et seq.	Special Education for the Handicapped.

Code of Laws of South Carolina, 1976.

20 U.S.C. § 1400 et seq.	Individuals with Disabilities Education Improvement Act of 2004

U.S. Code of Laws

State Board Regulation:

Criteria for Entry into Programs of Special Education for Students with Disabilities.

A. General Requirements

These criteria for entry into programs of special education for students with disabilities will be used by all members of the multidisciplinary team, who may include school psychologists, speech-language therapists, and other persons responsible for the identification and evaluation of students with disabilities.

The federal definitions for all categories of disabilities have been used, as included in the Individuals with Disabilities Act (IDEA). All examiners, however, must be appropriately credentialed or licensed and should have completed training that is directly relevant to the assessment procedure being conducted. Examiners may administer supplementary measures such as curriculum-based assessments to gain additional information.

All evaluation procedures must ensure that the following minimal requirements are met:

1. Tests and other evaluation materials used to assess a student suspected of having a disability are selected and administered so as not to be discriminatory on a racial or cultural basis and are provided and administered in the student's native language or other mode of communication unless it is clearly unfeasible to use that language or any mode of communication.

2. Materials and procedures used to assess a student with limited English proficiency are selected and administered to ensure that they measure the extent to which the student has a disability and needs special education, rather than measuring the student's English language skills.

3. A variety of assessment tools and strategies are used to gather relevant functional and developmental information about the student, including information provided by the parent and information related to enabling the student to be involved in and progress in the general curriculum (or for a preschool child to participate in appropriate activities) that may assist in determining whether the student is one with a disability and what the content of the student's IEP should be.

4. Any standardized tests that are given to a student have been validated for the specific purpose for which they are used and are administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests. If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions, such as the qualifications of the person administering the test or the method of test administration, must be included in the evaluation report.

5. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

6. Tests are selected and administered so as best to ensure that if a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level, or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure).

7. No single procedure is used as the sole criterion for determining whether a student has a disability and for determining an appropriate educational program for the student.

8. The student is assessed in all areas related to the suspected disability, including, if appropriate, his or her health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

9. In the assessment of each student with a disability, the methods of evaluation are sufficiently comprehensive to identify all of the student's special education and related-services needs, whether or not they are commonly linked to the category in which the student is suspected of having a disability.

10. Each school district/agency uses technically sound instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors.

11. Each school district/agency uses assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the student.

B. Autism

1. Definition

Autism is a developmental disability, generally evident before age three, which adversely affects a student's educational performance and significantly affects developmental rates and sequences, verbal and non-verbal communication and social interaction and participation. Other characteristics often associated with autism are unusual responses to sensory experiences, engagement in repetitive activities and stereotypical movements and resistance to environmental change or change in daily routines. Students with autism vary widely in their abilities and behavior. The diagnosis of Autism does not apply if a student's educational performance is adversely affected primarily because the student has an emotional disorder. Autism may exist concurrently with other areas of disability.

Autism, also referenced as autism spectrum disorder, for the purpose of eligibility, may include Autistic Disorder, Pervasive Developmental Disorder Not Otherwise Specified (PDD-NOS), or Asperger's Syndrome provided the student's educational performance is adversely affected and the student meets the eligibility and placement requirements.

2. Eligibility Criteria

There is evidence that the child has any of the Pervasive Developmental Disorders, such as Autistic Disorder, Asperger's Disorder, PDD-NOS as indicated in the following diagnostic references:

a. Asperger’s Disorder:

(1) There is evidence that the child demonstrates impairments in social interaction, such as marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction; failure to develop peer relationships appropriate to developmental level; a lack of spontaneous seeking to share enjoyment, interests, or achievements with other people (i.e., by a lack of showing, bringing, or pointing out objects of interest); or lack of social or emotional reciprocity are noted; and

(2) Restricted repetitive and stereotyped patterns of behavior, interests, and activities such as encompassing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus, apparently inflexible adherence to specific, nonfunctional routines or rituals, stereotyped and repetitive motor mannerisms, persistent preoccupation with parts of objects.

(3) The adverse effects of the Asperger’s Disorder on the child’s educational performance require specialized instruction and/or related services.

b. Autistic Disorder

(1) In addition to the characteristics listed in (a)(1) and (2) of this subsection, there also is evidence that the child demonstrates impairments in communication, such as delay in, or total lack of, the development of spoken language (not accompanied by an attempt to compensate through alternative modes of communication such as gesture or mime). In individuals with adequate speech, marked impairment in the ability to initiate or sustain a conversation with others, stereotyped and repetitive use of language or idiosyncratic language, or lack of varied, spontaneous make-believe play or social imitative play appropriate to developmental level is noted.

(2) The adverse effects of the Autistic Disorder on the child’s educational performance require specialized instruction and/or related services.

c. PDD-NOS

(1) There is evidence that the child demonstrates any of the characteristics listed in a or b of this subsection without displaying all of the characteristics associated with either Asperger's Disorder or Autistic Disorder.

(2) The adverse effects of the PDD-NOS on the child’s educational performance require specialized instruction and/or related services.

C. Deaf-blindness

1. Definition

Deaf-blindness means concomitant hearing loss and visual impairment, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children who are deaf or hard of hearing or children who are blind or visually impaired.

2. Eligibility Criteria

a. There is evidence that the child meets the criteria for both the Deaf/Hard of Hearing category and the Visual Impairment category.

(1) a hearing loss that is 20 dB or greater at any one frequency, either unilaterally or bilaterally, or

(2) a fluctuating hearing loss, either unilaterally or bilaterally, and

(3) The visual acuity with correction is 20/70 or worse in the better eye; or

(4) The visual acuity is better than 20/70 with correction in the better eye, and there is documentation of either of the following conditions: a diagnosed progressive loss of vision or a visual field of 40 degrees or less; or

(5) The visual acuity is unable to be determined by a licensed optometrist or ophthalmologist, and the existence of functional vision loss is supported by functional vision assessment findings; or

(6) There is evidence of cortical visual impairment.

b. The adverse effects of the hearing and visual impairment on the child's educational performance require specialized instruction and/or related services.

D. Deaf/Hard of Hearing

1. Definition

Deaf means a hearing loss that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects a student's academic or functional performance.

Hard of Hearing means a hearing loss, whether permanent or fluctuating, that adversely affects a student's academic or functional performance with or without amplification, but that is not included under the definition of deaf in this section.

2. Eligibility Criteria

a. There is evidence that the child has

(1) a hearing loss that is 20 dB or greater at any one frequency, either unilaterally or bilaterally, or

(2) a fluctuating hearing loss, either unilaterally or bilaterally.

b. The adverse effects of the deafness or hard of hearing impairment on the child's educational performance require specialized instruction and/or related services.

E. Developmental Delay

1. Definition

A child with developmental delay is a child age 3-9 who has been identified before the age of 7 as experiencing significant developmental delays in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development: and who, by reason thereof, needs special education and related services.

The term significant developmental delay refers to a delay in a child's development in adaptive behavior, cognition, communication, motor development or social development to the extent that, if not provided with special intervention, it may adversely affect his/her educational performance in age-appropriate activities. The term does not apply to children who are experiencing a slight or temporary lag in one or more areas of development, or a delay which is primarily due to environmental, cultural, or economic disadvantage, lack of experience in age appropriate activities, lack of appropriate instruction in reading, lack of appropriate instruction in math, limited English proficiency or the child does not otherwise meet the eligibility criteria as a child with a disability.

2. Eligibility Criteria

a. There is evidence that child is exhibiting a significant developmental delay in one or more of the following areas:

(1) physical development

(2) cognitive development

(3) communication development

(4) social or emotional development

(5) adaptive behavior development.

b. There is evidence that the delay is not due to:

Lack of appropriate instruction in reading, including the essential components of reading instruction (defined in section 1208(3) of the Elementary and Secondary Education Act;

(1) Lack of appropriate instruction in math;

(2) Limited English proficiency; or

(3) The presence of any other disability for children ages six through seven.

c. The adverse effects of the developmental delay on the child's educational performance require specialized instruction and/or related services.

F. Emotional Disability

1. Definition

Emotional Disability means an emotional disturbance defined as a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects the student's educational performance:

a. an inability to learn that cannot be explained by intellectual, sensory, or health factors;
b. an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
c. inappropriate types of behavior or feelings in normal circumstances;
d. a general pervasive mood of unhappiness or depression;
e. a tendency to develop physical symptoms or fears associated with personal or school problems.

The term includes schizophrenia. The term does not apply to children who are socially maladjusted unless it is determined that they have a serious emotional disturbance.

2. Eligibility Criteria

a. There is evidence that the child exhibits one or more of the following characteristics over a long period of time and to a marked degree: an inability to learn that cannot be explained by intellectual, sensory, or health factors; an inability to build or maintain satisfactory interpersonal relationships with peers and teachers; inappropriate types of behavior or feelings in normal circumstances; general pervasive mood of unhappiness or depression; or a tendency to develop physical symptoms or fears associated with personal or school problems.

b. The adverse effects of the emotional disability on the child's educational performance require specialized instruction and/or related services.

G. Intellectual Disabilities

1. Definitions

Intellectual Disability means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a child's educational performance.

2. Eligibility Criteria

a. There is evidence that the child has:

(1) Significant limitations in intellectual functioning must be evidenced by scores on both verbal and nonverbal scales that are at least two standard deviations below the mean (+/- the standard error of measurement) on an individually administered intelligence test.

(2) Significant deficits in adaptive behavior must be evidenced by a score at least two standard deviations below the mean (+/- the standard error of measurement) in at least two adaptive skill domains.

(3) Significant deficits in educational performance (pre-academic, academic and/or functional academic skills) must be evidenced by significant delays in functioning when compared to the child's same aged peers.

b. The adverse effects of the intellectual disability on the child's educational performance require specialized instruction and/or related services.

H. Multiple Disabilities

1. Definition

Multiple Disabilities means concomitant impairments (such as intellectual disabilities-blindness or intellectual disabilities-orthopedic impairment), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf-blindness.

2. Eligibility Criteria

a. There is evidence that the child meets all eligibility requirements for two or more disabilities. The term does not include developmental delay, deaf-blindness, or speech/language impairment.

b. The adverse effects of the multiple disabilities on the child's educational performance cannot be accommodated in special education programs solely for one of the disabilities and require specialized instruction and/or related services.

I. Other Health Impairment

1. Definition

Other Health Impairment means having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette's syndrome and adversely affects a student's educational performance.

2. Eligibility Criteria

a. There is evidence that the child has a chronic or acute health problem.

b. There is evidence that the diagnosed chronic or acute health problem results in limited alertness to the educational environment due to limited strength, limited vitality, limited or heightened alertness to the surrounding environment.

c. The adverse effects of the other health impairment on the child's educational performance require specialized instruction and/or related services.

J. Orthopedic Impairment

1. Definition

Orthopedic impairment means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly (e.g., clubfoot,

absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).

2. Eligibility Criteria

a. There is evidence that the child has a severe orthopedic impairment.

b. The adverse effects of the orthopedic impairment on the child's educational performance require specialized instruction and/or related services.

K. Specific Learning Disabilities

1. Definition

Specific Learning disability means a disorder in one of more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

2. Eligibility Criteria

a. There is evidence that the child does not achieve adequately for his/her age or to meet state-approved grade level standards in one or more of the following areas: Basic reading skills, Reading fluency, Reading comprehension, Mathematics calculation, Mathematics problem-solving, Written expression, Oral expression, or Listening comprehension; and either

(1) does not make sufficient progress to meet age or state-approved grade-level standards when using a process based on the child's response to scientific, research-based intervention, or

(2) exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade-level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments.

b. The child's underachievement is not due to: visual, hearing, or motor disability; intellectual disability; emotional disability; cultural factors; environmental or economic disadvantage; limited English proficiency; or lack of appropriate instruction in reading or math.

c. The adverse effects of the learning disability on the child's educational performance require specialized instruction and/or related services.

L. Speech-Language Impairment

1. Definition

Speech-Language Impairment means a communication disorder, such as stuttering, impaired articulation, language impairment, or a voice impairment, that adversely affects a child's educational performance.

2. Eligibility Criteria

a. There is evidence that the child has one or more of the following impairments:

(1) fluency - interruption in the flow of speech characterized by an atypical rate, or rhythm in sounds, syllables, words, and phrases that significantly reduces the child's ability to participate within the learning environment with or without his or her awareness of the dysfluencies or stuttering

(2) articulation - atypical production of phonemes characterized by substitutions, omissions, additions or distortions that impairs intelligibility in conversational speech and adversely affects academic achievement and/or functional performance in the educational setting

(3) language – impaired comprehension and/or use of spoken language which adversely affects written and/or other symbol systems and the child's ability to participate in the classroom environment

(4) voice – interruption in one or more processes of pitch, quality, intensity, resonance, or a disruption in vocal cord function that significantly reduces the child's ability to communicate effectively

b. The adverse effects of the speech-language impairment on the child's educational performance require specialized instruction and/or related services

M. Traumatic Brain Injury

1. Definition

Traumatic Brain Injury means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a student's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

2. Eligibility Criteria

a. There is evidence that the child had a traumatic brain injury.

b. The adverse effects of the traumatic brain injury on the child's educational performance require specialized instruction and/or related services.

N. Visual Impairment

1. Definition

Visual impairment, including blindness, means impairment in vision that, even with correction, adversely affects a student's educational performance. The term includes both partial sight and blindness.

2. Eligibility Criteria

a. There is evidence that

(1) The visual acuity with correction is 20/70 or worse in the better eye; or

(2) The visual acuity is better than 20/70 with correction in the better eye, and there is documentation of either of the following conditions: a diagnosed progressive loss of vision or a visual field of 40 degrees or less;

(3) The visual acuity is unable to be determined by a licensed optometrist or ophthalmologist, and the existence of functional vision loss is supported by functional vision assessment findings; or

(4) There is evidence of cortical visual impairment.

b. The student's visual impairment adversely affects his or her educational and functional performance. The adverse effects of the visual impairment on the child's educational performance require specialized instruction and related services.

O. Reevaluation

Reevaluations for all categories of disability must be conducted at least once every three years and must be conducted more frequently if conditions warrant, if the parents or school personnel request such reevaluations, or if the student's dismissal from special education is being considered.

1. This reevaluation must be planned and conducted by an IEP team and other qualified professionals as appropriate.

2. The IEP team must review existing evaluation data on the student, including evaluations and information provided by his or her parents, current classroom-based assessments, and observations of teachers and related service providers.

3. On the basis of that review and input from the student's parents, the IEP team must identify what additional data, if any, are needed to determine the following:

a. whether the student continues to have a disability;

b. what the present levels of performance and the educational needs of the student are;

c. whether the student continues to need special education and related services; and

d. whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set forth in his or her IEP and to participate, as appropriate, in the general curriculum.

4. Appropriate, qualified professionals must administer such tests and/or collect other evaluation information to produce the data identified by the IEP team.

5. If the IEP team and other qualified professionals, as appropriate, determine that no additional data are needed, the team must document the justification for this determination.

Title of Regulation:	**Regulation No.:**	**R 43-244**
INTERSCHOLASTIC ACTIVITIES	**Effective Date:**	**07/80**

Constitutional and Statutory Provisions:

Section(s):

59-5-60.	General powers of [State] Board.
59-39-160.	Interscholastic activities; requirements for participation; responsibility for monitoring; participation by handicapped.
59-63-55.	Report required of certain injuries.
59-67-510.	Use of transportation equipment for special events and other educational purposes.

Code of Laws of South Carolina, 1976.

State Board Regulation:

Interscholastic Activities.

Kindergarten; Grades 1-6: Each school shall prohibit competitive sports of a varsity pattern with scheduled league games and championships for Grades 1-6.

Title of Regulation:	**Regulation No.:**	**R 43-244.1**
INTERSCHOLASTIC ACTIVITIES: ACADEMIC REQUIREMENTS FOR PARTICIPATION	**Effective Date:**	**05/88**

Constitutional and Statutory Provisions:

Section(s):

59-5-60	General powers of [State] Board.
59-39-160	Interscholastic activities; requirements for participation; responsibility for monitoring; participation by handicapped.
59-63-55	Report required of certain injuries.
59-67-510	Use of transportation equipment for special events and other educational purposes.

Code of Laws of South Carolina, 1976.

State Board Regulation:

Interscholastic Activities: Academic Requirements for Participation.

I. To participate in interscholastic activities, students in grades 9-12 must have passed at least four academic courses, including each unit the student takes that is required for graduation, with an overall passing average in the preceding semester. Academic courses must be defined as those courses of instruction for which credit toward high school graduation is given. These may be required or approved electives.

A. An ineligible student shall not be allowed to participate in any interscholastic activity.

B. Interscholastic activities shall be defined as all school-sponsored activities for which preparation occurs outside of the regular school day. Individuals or members of groups involved in activities which include out-of-school practice on more than one occasion weekly shall meet eligibility requirements.

C. Academic course shall be defined as any approved course of instruction in the secondary curriculum, required or elective, for which one unit of credit or its equivalent is awarded on a yearly basis, or one-half unit of credit or its equivalent is awarded on a semester basis. If more than one unit of credit is awarded on a yearly basis in a particular subject, this subject shall count as more than one academic course. (Example: A subject taught for three units of credit shall be considered the equivalent of three academic courses.)

D. To be eligible in the first semester, each student must have passed four academic courses that were completed during the second semester of the previous school year.

E. To be eligible in the second semester, each student in grades 9 through 12 must pass at least four academic courses during the first semester.

F. Those courses specifically mandated for a high school diploma shall be considered required courses. A course may not be considered as an elective until all requirements in that subject area have been met. When a student is enrolled in more than four required courses, he must pass four required courses to be

eligible for interscholastic activities. When a student is enrolled in four or less required courses, he must pass each required course.

G.Credit courses used for eligibility purposes must be courses that are applicable as credit toward a state high school diploma. If a student has met or is meeting all requirements for graduation and is enrolled in college credit courses, these college credit courses may be used to meet eligibility requirements.

H.Credits earned in a summer school approved by the State Department of Education may be applied toward first semester eligibility if all other requirements of this regulation are met. Academic deficiencies may not be made up through enrollment in correspondence courses or adult education programs.

I. Each student graduating prior to 1987 and needing only 18 units for a South Carolina high school diploma shall be required to pass at least four of the following subjects when enrolled:

1. Language Arts I, II, III, IV (or Remedial English, developmental reading, or remedial reading when taken to meet language arts requirements for graduation)

2. U. S. History

3. Economics

4. Government

5. Other Social Studies (additional one unit taken to meet graduation requirements)

6. Mathematics (to meet two-unit requirement for graduation).

7. Natural Science (to meet one-unit requirement for graduation).

8. Physical Education or ROTC (to meet one-unit requirement for graduation)

J. Each student entering the ninth grade for the first time in the 1983-84 school year or graduating in 1987 or thereafter and needing 20 units for a South Carolina high school diploma shall be required to pass at least four of the following subjects when enrolled:

1. Language Arts I, II, III, IV (or remedial English, with emphasis on reading and functional English, developmental reading, or remedial reading when taken to meet language arts requirements for graduation)

2. U. S History

3. Economics

4. Government

5. Other Social Studies (additional one unit taken to meet graduation requirements)

6. Mathematics (to meet three-unit requirement for graduation). If an approved course in computer science is taken to count as one unit of the mathematics requirement, this course will be considered a required course.

7. Natural Science (to meet two-unit requirement for graduation). If a student is taking the six units in a specific occupational area in lieu of the second unit required in natural science, all courses taken to accumulate these six units shall be considered required courses.

8. Physical Education or ROTC (to meet one-unit requirement for graduation)

K. Each student must maintain an overall passing average during the preceding semester in order to be eligible for participation in interscholastic activities.

1. Each student's overall passing average shall be determined by a numerical average or the district's grading system that determines pass/fail of all courses taken during the previous semester. A passing average shall be consistent with the district's established grading systems.

2. Overall passing average for first semester eligibility shall be determined using numerical scores or the district's grading system to determine pass/fail on all courses completed during the previous semester. (Note: Courses taken during summer school must be included in the determination of this average. If a course is repeated in summer school, the highest grade would be used in determining this average.)

3. Overall passing average for second-semester eligibility shall be determined by using numerical scores or the district's grading system that determines pass/fail on all courses taken during first semester.

L. If interscholastic activities are connected with curriculum experiences in a regular classroom situation (e.g., band, chorus, vocational), a student determined to be ineligible will be allowed to continue as part of the class and earn the grade and credit(s) for that course. Ineligible students will not be allowed to participate in interscholastic activities and shall not be penalized or have the course grade lowered because of their ineligibility to participate in those activities.

II. All activities currently under the jurisdiction of the South Carolina High School League shall remain in effect.

III. The monitoring of all other interscholastic activities is the responsibility of the local board of trustees.

A. Local boards of trustees shall develop and implement a system of monitoring the eligibility of students in grades 9-12 within the individual school districts who are involved in interscholastic activities not under the jurisdiction of the S. C. High School League.

B. The State Department of Education shall provide schools and school districts with a monitoring format for reporting to the local boards of trustees. This format shall be designed to monitor requirements of this regulation and all necessary implications.

C. Eligibility for any interscholastic activity shall be determined and reported prior to participation in that activity. Eligibility for each student will continue from first semester through the 95th day of the school year allowing five days for grades to be averaged and recorded after the end of the first semester.

D. Compliance with this portion of the regulation shall be reported to the State Department of Education through the assurances portion of the Basic Educational Data System accreditation process for district superintendents and boards of trustees.

E. Failure to comply with this regulation shall result in an accreditation deficiency for the local board of trustees.

IV. Those students diagnosed as handicapped in accordance with the criteria established by the State Board of Education and satisfying the requirements of their Individualized Education Plan (IEP) as required by Public Law 94-142 shall be permitted to participate in interscholastic activities.

A. Each student in grades 9-12 classified as handicapped and being served by a program designed for his/her handicapping condition that does not lead to a state high school diploma will be considered eligible for participation if he/she is successfully meeting the requirements of his/her Individual Education Plan.

B. Each student in grades 9-12 classified as handicapped and being served in a program leading to a state high school diploma shall be required to meet the requirements previously stated in this regulation for eligibility to participate in interscholastic activities.

V. Any local board of trustees in its discretion is authorized to impose more stringent standards than those contained in this section for participation in interscholastic activities by students in grades 9-12.

VI. The provisions for eligibility in interscholastic activities shall take effect at the beginning of the second semester of the 1984-85 school year.

A. Eligibility for participation in interscholastic activities for first semester of the 1984-85 school year will be determined by previously existing rules and regulations of the S. C. High School League and/or local school districts and will not be influenced by the requirements of this regulation.

B. Beginning with second semester of the 1984-85 school year and thereafter, each student must meet requirements of this regulation (59-39-160) in order to be eligible for participation in interscholastic activities.

Title of Regulation:	**Regulation No.:**	**R 43-246**
INSTRUCTION AT A PLACE OTHER THAN SCHOOL	**Effective Date:**	**05/89**

Constitutional and Statutory Provisions:

Section(s):

59-5-60.	General powers of [State] Board.
59-65-40.	Instruction at place other than school.

Code of Laws of South Carolina, 1976.

State Board Regulation:

Instruction at Place Other Than School.

A parent or guardian denied permission by a district board of trustees to begin or continue a program of home instruction may appeal that decision to the State Board of Education, pursuant to Section 59-65-40 of the Code of Laws of South Carolina, 1976. When permission to operate a home instruction program is denied by a district board of trustees, the district board must notify the parent or guardian in writing of his/her right to appeal to the State Board of Education. The notice of appeal must be submitted, in writing, to the State Superintendent within ten days of receipt of the written denial by the district board of trustees, and the parent or guardian must notify the district superintendent of the appeal. The district superintendent shall send a copy of the record of the meeting held by the district board of trustees to consider the home instruction application to the State Superintendent of Education.

The record will be referred to the State Board of Education or its designee. The parties will be notified of the date on which the State Board of Education will review the record. The parties may submit a written brief at least five (5) working days before the date set for review. The State Board of Education may invite the parties to make an oral presentation. The Chair of the State Board of Education will notify the parties in writing of the final decision of the board.

Title of Regulation:	**Regulation No.:**	**R 43-248**
SOUTH CAROLINA VIRTUAL SCHOOL PROGRAM	**Effective Date:**	**06/27/14**

Constitutional and Statutory Provisions:

Section(s):

59-5-60.	General powers of [State] Board.
59-16-10, et seq.	South Carolina Virtual School Program

Code of Laws of South Carolina, 1976.

State Board Regulation:

43-248. Virtual Education Program.

I. Overview of the Virtual Education Program

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

B. The virtual education legislation makes the following stipulations:

1. Any public, private, or homeschooled student legally residing in South Carolina who is twenty-one years of age or younger is eligible to enroll in the virtual education program.

2. A private school or homeschooled student enrolled in the virtual education program is not entitled to receive any of the services or privileges that are available to public school students other than the right to receive an appropriate unit of credit for a completed course.

3. The virtual education program is not a school but a program; therefore, it is not authorized by statute to issue a state high school diploma.

C. These regulations—which are predicated on the virtual education program statute, other state statutes, and SBE regulations—are subject to modification by the South Carolina Department of Education (SCDE) only if those statutes or regulations are amended.

II. Virtual Education Program Sponsorship

A. Sponsor Registration

1. In order to become a virtual education sponsor, a public school district, a public school, a private school, or a homeschooling parent (statutes that apply to homeschooling are S.C. Code Ann. Sections 59-65-40, 59-65-45, 59-65-46, and 59-65-47) must be registered with the virtual education program.

2. In order to be registered as a virtual education program sponsor, the school district, public school, private school, or homeschooling parent must fulfill the following requirements:

a. have in place a program of studies that leads to a diploma,

b. comply with the policies governing online courses established by the virtual education program,

c. identify the individual(s) who will advise the student regarding courses he or she will need to earn a diploma, and

d. identify the individual who will assist the student in resolving any technology issues that may arise.

B. Sponsor Responsibilities

1. All registered virtual education program sponsors must fulfill the following responsibilities:

a. verify that a student is a legal resident of the state of South Carolina before enrolling him or her in the virtual education program,

b. update sponsor registration information, and

c. respond to a student's request to enroll in a virtual education course.

2. A sponsor may forfeit its right to enroll students in the virtual education program if it fails to abide by these requirements.

III. Virtual Education Program Student Enrollment

A. Student Responsibilities

1. Sponsor Approval

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.

(2) *Nonpublic school students*—those who are not in membership in a public school but are instead enrolled in a private school or are homeschooled—must have approval from the nonpublic sponsor:

(a) the private school that the student attends, or

(b) the homeschooling parent/legal guardian.

(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 virtual education program course.

b. A student who is no longer enrolled in any school and who is at least seventeen years of age must enroll in a public adult education program for sponsorship to take a course from the virtual education program.

2. Computer Access

The student must furnish his or her own computer, or have access to one, and must have Internet access in order to take the virtual education program courses, although the sponsor is not prohibited from providing these.

3. Online Agreements

a. The student must indicate a willingness to abide by the acceptable use policy posted on the virtual education program's Web site.

b. The student must agree to abide by the virtual education program policies and expectations posted on the virtual education program Web site.

4. Online Application

a. The student must complete an online application for the course(s) he or she has approval to take.

b. The studentmust contact his or her instructor within three days of the start of class.

B. Parent/Legal Guardian Responsibility

1. The parent/legal guardian of a student who is seventeen years of age or younger must give approval for the student to take a course with the virtual education program.

2. The parent/legal guardian of a student who is seventeen years of age or younger must agree that the student will abide by the acceptable use policy posted on the virtual education program Web site.

C. SBE Responsibility

1. The SBE will implement a system for prioritizing the students who have enrolled in virtual education program courses if the virtual education program 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. Virtual Education Program Course Grades and Units of Credits

A. Virtual Education Program Responsibilities

1. The virtual education program must provide to the student's sponsor a certified grade report specifying the course title, the inclusive course dates, the final numeric grade, the quality points, and the unit value after the student has completed the final exam(s).

2. The certified grade report for courses requiring an End-of-Course Examination Program (EOCEP) test will be provided to the sponsors of all nonpublic school students after the test has been administered. The final numeric grade on this report will be calculated in accordance with the requirements outlined in Regulation 43-262.4, End-of-Course Tests.

3. The virtual education program may authorize another entity to provide the grade report to a nonpublic sponsor.

4. The virtual education program must maintain student course records.

B. Sponsor Responsibilities

1. All sponsors must award the numeric grade and unit value to the student enrolled in a course through the virtual education program by recording them on the student's transcript in his or her permanent record in the same manner as is done with any other course the student takes.

2. All nonpublic sponsors must contact the district test coordinator in the public school district in which they reside to arrange for students to take the appropriate EOCEP tests online.

3. Each district must determine whether it will charge nonpublic sponsors a fee for the administration of the EOCEP tests. If a fee is charged, it must be reasonable and must be directly related to the district's added costs for providing this testing service and cannot exceed the fee established by the SBE. Districts that fail to reasonably accommodate nonpublic school students will be ineligible to participate in the virtual education program.

4. All sponsors must ensure that the final examination for each course is conducted in a proctored environment.

5. All sponsors must provide all reports as stipulated in these regulations.

6. Units earned by a student through the virtual education program will be accepted in the public schools if the student presents his or her grade report from the virtual education program or if his or her transcript reflects the numeric grade and unit value that were recorded on the grade report issued by the virtual education program.

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 virtual education program to issue the grade report.

2. The student must complete the course requirements within the enrollment course period 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 virtual education program to determine whether the circumstances surrounding the student's request for a course extension is warranted.

V. EOCEP Assessments

A. All EOCEP tests must be administered under the supervision of a public school district in accordance with stipulations specified in the current SCDE EOCEP test administration manual. All test security statutes and SBE regulations in this manual apply to nonpublic sponsors and nonpublic students.

B. A student who is taking a course for which an EOCEP test is required must take the test online in the school district where he or she resides. If an online testing location is unavailable, the district's test coordinator must find a location in a nearby district. The district's responsibility extends no further than locating the test site.

VI. Virtual Education Program Course-Selection Procedures and Criteria

A. The virtual education program 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 virtual education program online survey; or

3. requested by a sponsor under circumstances that the virtual education program deems valid.

B. The virtual education program 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. Virtual Education Program Course Costs

A. The SBE will determine when and if the virtual education program may charge fees and tuition. If program funds are either reduced or unavailable, the virtual education program may charge a fee to students . The virtual education program may charge a fee to students so long as the fee does not exceed the per pupil cost of the program. Students eligible for free and reduced lunch will not be charged.

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

VIII. Virtual Education Program Instructors

A. Instructor Employment

1. The SCDE is responsible for employing all virtual education program instructors.

2. Instructors may be employed either as SCDE-classified staff or as SCDE-contracted adjunct staff.

B. Instructor Qualifications

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

2. An in-state virtual education program instructor who does not hold a valid South Carolina teaching certificate or who has not been employed by a South Carolina public school district in the last five years must undergo a criminal records check by the South Carolina Law Enforcement Division. An out-of-state virtual education program instructor must undergo any criminal records check that the SCDE determines to be necessary.

C. Instructor Requirements

1. Virtual education program instructors must successfully complete all virtual education program pre-service and in-service training requirements.

2. Training topics must include the development and organization of online courses; the technical aspects of online course delivery; the management of virtual classrooms; and the monitoring and assessment of student performance, progress, and achievement.

D. Instructor Evaluation

1. Virtual education program instructors who are SCDE-classified staff will be evaluated in accordance with state laws and regulations. Virtual education program instructors who are SCDE-contracted adjunct staff employed as temporary employees will be evaluated on the basis of the same criteria as are SCDE-classified staff.

2. Virtual education program instructors must meet all applicable Assisting, Developing, and Evaluating Professional Teaching (ADEPT) requirements.

E. Instructor Loads

1. The student load for each instructor is determined by the particular course(s) the instructor is teaching.

2. The teaching load for each instructor must not exceed one hundred and fifty students at any given time.

IX. Required Reports

A. Sponsor Responsibility

1. School districts and nonpublic sponsors must report to the virtual education program the reason for a student's withdrawal from a course at the time he or she withdraws.

2. The report must be submitted at the time the student withdraws.

B. Virtual Education Program Responsibility

1. The virtual education program will report to the SBE annually.

2. The report must contain the following information:

a. the courses being offered through the virtual education program during the current school year,

b. the number of local school districts participating and the number of the district students participating,

c. the number of private schools participating and the number of the private school students participating,

d. the number of homeschool students participating,

e. the success rates for students by courses,

f. the number of students who withdraw from a course and the reason for each student's withdrawal,

g. the number of students who were prevented from enrolling in a course because of space limitations,

h. the total monies expended by the virtual education program, and

i. the results of the virtual education program online survey of students, parents, and sponsors.

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.

Title of Regulation:	**Regulation No.:**	**R43-258.1**
ADVANCED PLACEMENT	**Effective Date:**	**07/25/08**

Constitutional and Statutory Provisions:

Section(s):
59-29-190. Advanced placement course for academically talented students
Code of Laws of South Carolina, 1976.

State Board Regulation:

Advanced Placement.

I. DEFINITION OF ADVANCED PLACEMENT COURSES
Advanced Placement (AP) Courses: Courses developed by the College Board with prescribed curricula and tests for which students receive high school credit and for which students scoring at an acceptable level on the AP examination will be eligible to receive college credit from participating institutions.

II. SCHOOL REQUIREMENTWS FOR ADVANCED PLACEMENT OFFERINGS
All secondary schools whose organizational structure includes grades 11 or 12 shall offer an AP course(s).

III. POPULATION TO BE SERVED
All students enrolled in AP programs for which funding is provided under these regulations shall be required to take the College Board administered examination.

IV. REQUIREMENTS FOR ADVANCED PLACEMENT TEACHERS
The South Carolina Department of Education will fund and coordinate AP teacher training courses. Each teacher of an AP course shall have completed the appropriate AP three-graduate-hour training program or have successfully completed forty-five hours of training provided by College Board endorsed professional development opportunities verified by the appropriate college or university.

Exception 1: Newly assigned teachers of AP courses will have one calendar year to meet the AP course training requirements.

Exception 2: Teachers who hold a PhD. in their subject area may have the training waived.
Teachers of AP courses shall meet annually with their Professional Growth and Development Plan evaluators to discuss appropriate goal setting and/or revision. The plan may include, but is not limited to, College Board workshops and professional development opportunities.

Title of Regulation: **Regulation No.:** **43-259**

ADULT EDUCATION **Effective Date:** **06/27/14**

Constitutional and Statutory Provisions:

Section(s):
59-5-60(1), (3), (6). General powers of [State] Board.
59-39-100. Issuance of uniform diplomas by accredited high school; units required.
Code of Laws of South Carolina, 1976.

20 U.S.C. § 6301 et seq. No Child Left Behind Act
U.S. Code of Laws

State Board Regulation:

43-259. Adult Education.

I. The State High School Equivalency Diploma

The State Board of Education (SBE) will issue a state high school equivalency diploma to eligible candidates who successfully complete a SBE approved high school equivalency test. The SBE authorizes the administration of approved high school equivalency tests by the South Carolina Department of Education (SCDE) under policies established by the SBE.

A. Eligibility Requirements for Equivalency Diploma Candidates

1. Service Personnel and Veterans

To be eligible for a state high school equivalency diploma, the candidate must be seventeen years of age or older and must be either a resident of South Carolina or a former resident whose most recent elementary or secondary school attendance was in South Carolina.

2. General Adult Population

a. To be eligible for a state high school equivalency diploma, the candidate must be seventeen years of age or older, must not be currently enrolled in high school, and must either be a current resident of South Carolina or a former resident whose most recent elementary or secondary school attendance was in South Carolina.

b. A candidate for a state high school equivalency diploma who is seventeen or eighteen years of age must submit a "Verification of School Withdrawal" form completed by either the school principal or attendance supervisor of the last South Carolina school he or she attended or from the district superintendent of the school. The "Verification of School Withdrawal" form must verify the candidate's date of birth and the date of his or her last attendance at the school. In the event that the last school he or she attended was outside South Carolina, a person seventeen or eighteen years of age may either submit a letter signed by his or her high school principal or designee verifying his or her date of birth and the date

of last attendance in school or submit a letter from the superintendent of schools in the district in which he or she currently resides indicating that the candidate is not enrolled in any schools within the school district. A copy of the candidate's driver's license, state-issued identification card, or birth certificate must accompany the letter. Verification letters are to be submitted with the application for testing.

c. A candidate over the age of eighteen who has been enrolled in high school during the current school year must submit a "Verification of School Withdrawal" form completed by either the school principal or attendance supervisor of the last South Carolina school he or she attended or from the district superintendent. The "Verification of School Withdrawal" form must verify the candidate's date of birth and the date of his or her last attendance at the school.

3. Juvenile Offenders

Certain juvenile offenders who are under the jurisdiction of the State Department of Juvenile Justice may be granted an exception to the requirement that in order to be eligible for a state high school equivalency diploma, a candidate must be seventeen years of age or older and not be currently enrolled in high school during the current school year.

For a juvenile offender to qualify for this exception, the following criteria must be met:

a. The juvenile is at least sixteen years of age.

b. The juvenile is under the jurisdiction of the family court based on an adjudication of delinquent behavior and must be committed to a juvenile correctional institution or committed to participate in community-based alternative programs under the jurisdiction of the Department of Juvenile Justice.

c. The family court certifies that it is in the best interest of the juvenile for him or her to be exempted from the public school compulsory attendance law.

d. The juvenile's enrollment in public school or completion of a community-based alternative program would not be feasible upon his or her release from a juvenile correctional institution either because it is necessary that he or she find immediate employment or because he or she will immediately enroll in postsecondary education.

B. Passing Score Requirements

1. Eligible candidates who were initial examinees before July 1, 1991, were awarded a state high school equivalency certificate if they attained an average standard score of 45 or above for the five tests in the GED battery. The South Carolina high school equivalency certificate was not awarded after July 1, 1995.

2. Eligible candidates who were examinees after July 1, 1991, were awarded a state high school equivalency diploma if they attained a minimum-standard score of 35 on each of the five tests in the GED battery and an average standard score of 45 or above for the five tests.

3. Eligible candidates who were examinees after January 1, 1997, were awarded a state high school equivalency diploma if they attained a minimum-standard score of 40 on each of the five tests in the GED battery and an average standard score of 45 or above for the five tests.

4. Eligible candidates who are examinees after January 1, 2002, will be awarded a state high school equivalency diploma if they attain a minimum standard score of 410 on each of the five tests in the GED battery and an average standard score of 450 or above for the five tests.

5. Passing score requirements for all high school equivalency tests authorized by the SCDE after December 31, 2013, will follow test publisher's guidelines and any additional requirements established by the SBE.

C. Testing and Credential Application Procedures

1. High School Equivalency Testing in South Carolina

a. High school equivalency tests may be scheduled and administered at adult education centers, technical or community colleges, and other locations approved by the director of the SCDE's Office of Adult Education.

b. Eligible candidates must submit an application to the SCDE's High School Equivalency Testing Office, or an approved high school equivalency testing center, and pay the required fee set by the SCDE for the testing service and the diploma.

c. Official score reports will be provided to initial examinees only after the completion of the entire high school equivalency test battery.

d. Nonresident individuals who are living temporarily in South Carolina may be permitted to take the high school equivalency tests in South Carolina if they meet minimum age requirements and are not enrolled in high school. Nonresident individuals will not be awarded a state high school equivalency diploma unless their most recent elementary or secondary school of attendance was in South Carolina. Nonresidents must submit an application for testing services to the SCDE's High School Equivalency Testing Office or an approved high school equivalency test center and must pay the required fee set by the SCDE to cover the full costs of the testing and the score report.

e. Guidelines for the re-testing of high school equivalency candidates are outlined in the SCDE High School Equivalency Testing Office Policies and Procedures Manual.

2. High School Equivalency Testing Outside South Carolina

Eligible candidates tested outside South Carolina must submit a diploma application to the SCDE's High School Equivalency Testing Office and must pay the required fee to cover the costs of the diploma. Applicants must arrange for official score reports to be sent to the chief examiner in the SCDE's High School Equivalency Testing Office. Score reports will be accepted as official only when sent directly by an official high school equivalency testing center, by the transcript service of the Defense Activity for Nontraditional Education Support (DANTES), or by the GED Testing Service in Washington, D.C. Eligible candidates who are tested outside of South Carolina must meet the state's passing score requirements in order to receive a state high school equivalency diploma.

II. Adult Education: High School Diploma Program

A. Graduation Requirements

1. The student must earn a total of 24 prescribed units of credit and pass the exit examination to earn a state high school diploma. The unit requirements are distributed as follows:

Unit Requirements	
English/language arts	4.0
Mathematics	4.0
Science	3.0
U.S. History and Constitution	1.0
Economics	0.5
U.S. Government	0.5
Other social studies course(s)	1.0
Computer science (including keyboarding)*	1.0
Electives	9.0

	24.0 total

* Keyboarding may count up to one-half unit of the computer science requirement.

2. A student may transfer credit earned in the adult education program to a secondary school to count toward the units of credit required for a state high school diploma earned through the regular course of study at a high school, if for each unit being transferred, the student has spent a minimum of 120 hours in class time in that subject at that level and the teacher was properly certified to teach the course.

3. Membership in an adult education program shall be limited to individuals eighteen years of age or older who have left the elementary or secondary school, except when the local school board assigns students under the age of eighteen years who are not officially in membership in a regular school. Students under eighteen may be assigned to an adult education program when they exhibit either an unusual educational need or physical, social, or economic problem that can be served more effectively by the adult education program. Schools should provide counseling regarding all alternatives available to high school students considering dropping out. No student under the age of sixteen may be assigned to the adult education program for any reason.

4. No student shall be graduated from the adult education program prior to the time that he or she would have graduated from a regular high school unless written approval is granted by the high school principal and the SCDE's Office of Adult Education. For a student to be eligible to receive a state high school diploma, he or she must complete one semester in residence (i.e., through actual attendance in the adult education program). This semester in residence is a prerequisite for the state high school diploma and may not be waived. For the purposes of adult education programs, a semester in residence is defined as follows: a minimum of 60 hours of classroom attendance for a student needing only 1 unit to graduate, and a minimum of 30 hours of classroom attendance for a student who needs only one-half unit to graduate. Completion of a one-half unit or one unit via the virtual school program while enrolled in an adult education program will satisfy the semester-in-residence requirement. A student who enters an adult education program needing only to pass one or more subtests of the state exit examination must attend a minimum of 12 hours in classroom attendance prior to taking the state exit exam.

5. The student must complete a study of and pass an examination on the provisions and principles of the United States Constitution, the Declaration of Independence, the *Federalist* papers, and American institutions and ideals.

6. A student may earn an unlimited number of units of credit per school year with a maximum of six earned through classroom attendance.

B. Provisions for Granting Course Credit

1. Course credit shall be accepted when official transcripts are received from schools that are accredited by a state or by one of the following: 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.

2. An adult education program may award credit for courses that have been approved by the SCDE in a proficiency-based system, see R.43-234, II.C., Defined Program, Grades 9–12 and Graduation Requirements. Credit shall only be accepted from institutions validated by the SBE or accredited by one of the following: 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.

3. High school diploma credit may be granted only by a teacher certified in the specific area in which credit is to be awarded. If the adult education teacher is not certified in the specific area in which the student is seeking credit, another currently employed adult education teacher that is certified in the specific area may review the student's work and award the unit of credit on that basis. Documentation of the high school credit awarded becomes part of the student's permanent record.

4. Adult Education students are eligible to earn high school units through the district's dual credit arrangement, see R.43-234, III., Defined Program, Grades 9–12 and Graduation Requirements.

C. Approved Programs and Granting of Credit

No credit toward a state high school diploma shall be granted to any adult education student unless the program has been officially approved in writing by the Office of Adult Education and the Office of Federal and State Accountability at the SCDE. Program-related requirements include, but are not limited to, the following:

1. Each district must provide properly certified administrative, teaching, and supervisory staff for the adult education program. Staff members may be either full-time or part-time, according to the size of the program.

2. Each director must either be certified in one of the acceptable areas of certification for an adult education director or hold both an advanced degree in the field of adult education and a South Carolina teaching certificate.

3. Each adult education program must have a director (full-time or part-time).

4. Each center supervisor or program coordinator must either meet the same qualifications for certification as set forth in item 2 above for adult education directors or have a master's degree or a bachelor's degree and five years of adult education experience.

5. Each adult education teacher must be properly certified and meet the appropriate federal statutory requirements.

6. Each adult education high school subject-area teacher must be properly certified and meet appropriate federal statutory requirements to teach the subject area in which he or she is assigned to teach.

7. Any staff member who is assigned duties in a subject for which he or she is not properly certified must hold a valid teaching credential, must have completed 12 semester hours of credit in the assigned subject, and must have obtained an out-of-field permit in that subject from the Office of Educator Certification. The staff member must earn 6 semester hours toward proper certification each year for renewal of the out-of-field permit. After June 30, 2006, out-of-field permits will no longer be issued to teachers who teach core academic subjects as specified by the appropriate federal statutory requirements. These core academic subjects are English, reading or language arts, mathematics, science, foreign languages, civics, government, economics, history, geography, and the arts. The Director of the Office of Adult Education may waive the requirement of properly certified teachers in instances of critical needs. Critical needs may include but are not limited to the following: there is no certification available in the particular subject area; there is no certified teacher available because of the location of the class or meeting time of the class. Non-certified teachers must work under the supervision of an on-site, properly certified teacher. Non-certified teachers may not provide instruction in courses awarding Carnegie units of credit.

8. In order to earn credit toward a state high school diploma earned through an adult education program, a student must attend class a minimum of 60 hours to receive consideration for a unit of high school credit and 30 hours for consideration for one-half unit of high school credit. Actual course credit will be awarded only after the student has completed all course requirements. Completion of a one-half unit or one unit via the virtual school program while enrolled in an adult education program will satisfy the attendance requirement.

9. Applications for innovative-approach programs must be submitted to the SCDE's Office of Adult Education when a departure from certain established standards is necessary for the implementation of the new program. Requests for prior approval must be made to the Office of Adult Education and must be approved by the SCDE's Office of Federal and State Accountability.

10. An accurate record of the attendance and achievements of each student must be kept and must be stored in locked, fireproof filing cabinets or vaults or in a secure database with backup copies. Records of high school credits earned must be retained indefinitely.

11. Students enrolled in the high school completion program must be given access to appropriate library facilities or the Internet.

Title of Regulation:	**Regulation No.:**	**R 43-260**
USE AND DISSEMINATION OF TEST RESULTS	**Effective Date:**	**06/26/09**

Constitutional and Statutory Provisions:

Section(s):

59-20-60(4)(f).	Spending priority; audits; reports; Education Finance Review Committee.
59-30-10(b)(1), (c)(2), (d)(2) and (1).	Duties of State Board of Education concerning state basic skills assessment program.

Code of Laws of South Carolina, 1976.

State Board Regulation:

Use and Dissemination of Test Results.

1. The participation of local school districts in the statewide testing program is required under Section 59-20-60(7)(c) of the South Carolina Education Finance Act and the South Carolina Education Accountability Act of 1998 (Supp. 2008).

2. The South Carolina Department of Education will report statewide and school district test results in conjunction with such demographic and socio-economic data as may be necessary for accurate and meaningful interpretation.

3. Test data for individuals shall be released only in a manner that is consistent with the provisions of Section 438 (Privacy Rights of Parents and Students) of the General Education Provisions Act (Title IV of Public Law 90-247, as amended) and any other relevant legislation.

4. The State Superintendent of Education is authorized to develop and implement such administrative procedures as he/she may deem necessary and appropriate for the purposes of fulfilling the intent of these policies.

Title of Regulation: **Regulation No.: R 43-261**

DISTRICT AND SCHOOL PLANNING **Effective Date:** 6/25/04

Constitutional and Statutory Authority:

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

59-5-60 (2004)	General powers of [State] Board
59-18-1300 (2004)	District accountability system; development and review
59-18-1310 (Supp. 2003)	Consolidation of strategic plans and improvement reports; submission dates
59-18-1510 (2004)	Assignment of external review committee; activities and recommendations
59-139-05 *et seq.* (2004)	Early Child Development and Academic Assistance
59-20-60 (2004)	Spending priority; audits; evaluations and reports; statewide testing programs; Innovation Initiative; improvement councils; Education Finance Review Committee
20 U.S.C. § 6301 *et seq.* (2002)	Federal No Child Left Behind Act of 2001

Descriptor Code: BBF/BF/IJB

State Board Regulation:

43-261. District and School Planning

A. Development of District Strategic Plan and School Renewal Plans

1. Each school district must develop a five-year district strategic plan and each school must develop a five-year school renewal plan as required by the Early Childhood Development and Academic Assistance Act of 1993 and the Education Accountability Act of 1998. District and school plans shall coordinate and align improvement initiatives.

2. New five-year district and school plans shall be submitted to the State Department of Education by April 30, 2005, and every five years thereafter. Plans will become effective on July 1 of the same year. The annual update of the district strategic plan must be submitted to the State Department of Education by April 30 of each year.

3. The district strategic plan includes the accountability system that directs an annual needs assessment; prioritizes the performance goals; and reports how the district supports schools, students, and families. The district strategic plan and school renewal plans must establish priorities and prioritize efforts to focus on raising student achievement levels for all students, the prevention of academic problems, and reducing the achievement gaps identified on the annual report card. It is imperative that the planning processes demonstrate a commitment to continuous improvement and respond to accountability requirements in both state and federal legislation. The plans must be developed collaboratively by a broad-based group of stakeholders using a consensus process.

4. The district strategic plan, school renewal plans, and annual updates must be reviewed and approved by the local board of trustees and coordinate funding from local, state, federal, and private sources.

5. Districts and schools are urged to follow the model planning process developed by the State Department of Education, although no single planning format is required for district or school plans. Whatever process is used for developing a district strategic plan and school renewal plans must include each of the following components:

   a. comprehensive needs assessment,
   b. performance goals,
   c. interim performance goals,
   d. strategies and action plans,
   e. evaluation of the strategies,
   f. evidence of comprehensive consensus building, and
   g. assurances.

6. Schools that use the Southern Association of Colleges and Schools (SACS) accreditation process may substitute the SACS plan for the school renewal plan provided that it includes the components (a) through (g) listed above and described below.

   a. Comprehensive Needs Assessment

      The annual needs assessment will provide focus for planning teams to set priorities for the plan. The comprehensive needs assessment must identify targeted areas of discrepancy between the desired performance levels and the current status as indicated by available data. Any discrepancies in the following areas identified by the school and district report cards must be included in the plan:

      (1) achievement,

(2) achievement by subgroups,
(3) graduation rates,
(4) attendance,
(5) discipline,
(6) teacher/administrator quality and professional growth, and
(7) other priority areas.

b. Performance Goals

Measurable performance goals, written in five-year increments, shall be developed to address the major areas of discrepancy found in the needs assessment in key areas reported in the district and school report cards. Performance goals in the district strategic plan and school renewal plans must address

(1) student achievement,
(2) teacher/administrator quality,
(3) school climate (parent involvement, safe and healthy schools, and other locally identified areas), and
(4) other innovation initiatives or priorities as identified by districts and schools.

c. Interim Performance Goals

Interim performance goals will establish annual measurable targets for the five-year performance goals.

d. Strategies and Action Plans

Strategies shall be derived from scientifically-based education research and best practice and shall be designed to meet the performance and interim performance goals. Action plans, which may include innovative initiatives, will provide details (action/activity, person responsible, start and end dates for major action steps, professional development, necessary resources, and progress measures) regarding the implementation of each data-driven strategy to ensure continuous improvement. Staff development shall meet national professional development standards and must provide participants the knowledge and skills necessary to implement the strategies. Coordination of funding from local, state, federal, and private sources is imperative. Schools visited by an external review team (ERT) must incorporate appropriate recommendations into their annual update.

e. Evaluation of the Strategies

Ongoing evaluation (formative and summative) will assess the progress toward performance goals and annual interim performance goals. Measures of effectiveness must include outcome and process indicators of improvement. The methods of assessing the efficacy of the strategies must provide data regarding the impact of the strategies and whether they should be continued, modified, or terminated. After the initial year of the plan, the evaluation results from the annual update will become a key component of the ongoing needs assessment process.

f. Evidence of Comprehensive Consensus Building

Shared decision making is central to the formulation of a functional plan. Therefore, a collaborative consensus building process shall be used in the development of the district strategic plan and school renewal plans. Stakeholders, including teachers, administrators/principals, parents/guardians, and community representatives, must be actively involved in the district strategic planning and school renewal planning processes. The School Improvement Council must actively participate in the development of the school renewal plan.

g. Assurances

Assurances, signed by the district superintendent, attest that the district and schools comply with all applicable federal and state statutory and fiscal requirements.

B. Review of District Strategic Plan and School Renewal Plans

1. The district strategic plan, school renewal plans, and annual updates shall be submitted to the local board of trustees for review and approval. Five-year plans approved by the local board of trustees must be submitted to the State Department of Education for review and approval by peer review panels convened and trained by the Department.

2. The review panel will do one of the following: (1) approve the plan, (2) provisionally approve the plan pending suggested modifications, or (3) disapprove the plan. The Department shall provide technical assistance, directly or indirectly, to districts and schools with provisionally approved or disapproved plans to ensure that all plans are approved.

3. All district strategic plan updates will be reviewed by the State Department of Education on an annual basis.

C. Waivers

Upon request of a district board of trustees or its designee, the State Board of Education may waive any regulation that would impede the implementation of an approved district strategic plan or school renewal plan.

Title of Regulation	**Regulation No.:**	**43-262**
ASSESSMENT PROGRAM	**Effective Date:**	**06/26/09**

Constitutional and Statutory Provisions:

Section(s):

59-5-60.	General powers of [State] Board
59-18-310.	Development or adoption of statewide assessment program to measure student performance
59-18-320.	Review of field test; general administration of test; accommodations for students with disabilities; adoption of new standards.
59-18-330.	First grade readiness test
59-18-340.	Determining student and school performance relative to national performance levels
59-20-60(7)(c).	Spending Priority; audits; evaluations and reports; statewide testing programs; Innovation Initiative; improvement councils; Education Finance Review Committee
59-30-10.	Duties of State Board of Education concerning state basic skills assessment program

Code of Laws of South Carolina, 1976.

20 U.S.C. § 6301 et seq.	No Child Left Behind Act of 2001

U.S. Code of Laws

State Board Regulations:

Assessment Program.

I. STATEWIDE ASSESSMENT PROGRAM

A. The Education Accountability Act of 1998 (EAA), S.C. Code Ann. Section 59-18-310 (Supp. 2008), and the No Child Left Behind Act of 2001, 20 U.S.C. Section 6301, et seq. (2002) (NCLB) require that the State Board of Education develop or adopt a statewide assessment program in certain grades and selected content/skill areas.

B. The statewide assessment program will involve testing public school students at selected grade levels and in selected content and skill areas at times specified by the South Carolina Department of Education. The grade(s) and content/skill areas to be included in the assessment program are identified by the EAA, NCLB, and State Board of Education regulations.

The statewide assessment program includes

Palmetto Assessment of State Standards (PASS),
South Carolina Alternate Assessment (SC-Alt),
Exit Examination, and
End-of-Course Tests.

C. The program is funded through an annual appropriation included in the South Carolina General Appropriations Act. The request for such funding is included in the annual budget request of the State Superintendent of Education. Continued operation of the program is contingent upon the availability of funds.

D. Responsibilities of the South Carolina Department of Education for assessments in which school districts are required to participate.

1. Supply all necessary test materials, scoring, and standard score reports at no cost to the local school districts.

2. Pay all shipping costs for the transportation of test materials and score reports between the Department, school districts, and scoring service(s).

3. Provide workshops on test administration, interpretation, and utilization for district test coordinators and other selected staff.

4. Report the statewide results of the program to the State Board of Education on an annual basis.

5. Field-test, at the discretion of the State Superintendent of Education, new assessment instruments and/or procedures and recommend changes in the Statewide Assessment Program to the State Board of Education, the Education Oversight Committee, and other appropriate policy-making bodies.

E. Responsibilities of local school districts

1. As used in these regulations, "local school district" shall mean public school districts as well as other state-supported educational institutions that award state high school diplomas.

2. Participate in the statewide assessment program as required by law.

3. Designate one or more district test coordinators (DTCs) who will be the point of contact for the South Carolina Department of Education or its contractors as well as attend the workshops provided by the South Carolina Department of Education. The DTC is responsible for training school test coordinators (STCs) and the distribution, receipt, storage, and return of test materials and reports.

4. Administer the tests (including field tests) in accordance with procedures and at dates and times specified by the South Carolina Department of Education.

5. Maintain a complete and accurate inventory of all state-owned tests and related materials that are stored in the district.

F. Students with disabilities shall be included in the assessment program in compliance with the provisions of South Carolina and federal statutes and regulations.

G. The State Superintendent of Education is authorized to develop and implement such administrative procedures as he or she may deem necessary and appropriate for the purpose of implementing the South Carolina Statewide Assessment Program. Any administrative action taken under this regulation will be presented to the State Board of Education during the next regularly scheduled meeting of the Board.

II. SOUTH CAROLINA HIGH SCHOOL EXIT EXAMINATION

A. The exit examination required by the Education Accountability Act (EAA), S.C. Code Ann. Section 59-18-310 (Supp. 2008) shall be in standard written American English, braille, and signed language and shall consist of tests in English language arts and mathematics based on South Carolina curriculum standards. The requirement for passing the EAA exit examination in mathematics and English language arts shall be in effect for the graduating class of spring 2006.
For the purpose of the High School Assessment Program (HSAP), high school will be considered to include grades 9-12. Students will initially take HSAP in the second spring after their initial enrollment in high school. For purposes of meeting the state testing requirements these students will be considered as tenth graders.

B. Accommodations, if any, for special populations (e.g., Limited English Proficient students and students with documented disabilities) taking the exit examination shall be consistent with state and federal statutes and regulations.

C. To pass the exit examination, each student shall meet the minimum performance standard established by the South Carolina Department of Education on each part.

D. A student who is enrolled in the South Carolina public school system for the entire tenth-grade, eleventh-grade, and twelfth-grade years and remains actively enrolled and in good standing until graduation shall have a minimum of five opportunities to pass the examination.

E. Any student who fails to pass the exit examination and who is actively enrolled in school will take an equivalent form of only the parts on which he or she did not meet the minimum performance standard(s) at the next designated administration. Students will have two opportunities per year (spring and fall) to take the failed part or parts.

All students except students who meet the participation criteria for alternate assessment will take the HSAP in the second spring after initial enrollment in the ninth grade. Students with an IEP may take the HSAP with accommodations determined to be appropriate by the IEP team and allowable by state and federal statutes and regulations. Students who meet the participation criteria for alternate assessment will take the South Carolina Alternate Assessment (SC-Alt) in accordance with guidelines on file with the South Carolina Department of Education.

For students with disabilities who meet all of the following conditions, the IEP team will determine on an annual basis participation in the HSAP.

a. The student failed to pass any part of HSAP during the initial administration, and

b. the student has not earned any Carnegie units in the core curriculum (mathematics, English language arts, social studies, and science), and

c. the student is not enrolled in a course in the core curriculum required for high school graduation.
All students who do not meet these three conditions will take the examination as required by this regulation.

F. An administration of the exit examination may be available during the summer after the twelfth-grade year for students who have met all other requirements for graduation and who were actively enrolled in school.

G. Local school districts shall ensure

1. that the administration and security procedures established by the South Carolina Department of Education for the purpose of the exit examination are implemented;

2. that students and parent(s) or guardian(s) are adequately notified that passage of the exit examination is a requirement for a state high school diploma; notification shall be

a. written,

b. issued through an established procedure, and

c. issued to students and parent(s) or guardian(s) by the seventh grade or upon entry into the system, whichever occurs later;

3. that the HSAP administration schedules are publicized;

4. that students who are recommended for a state high school diploma have passed all parts of the HSAP;

5. that students who do not pass a particular part or parts of the HSAP are provided academic assistance related to the part or parts not passed;

6. that students who have met all other requirements for graduation but have not passed the HSAP are advised that they may elect one of the following alternatives:

a. to accept, in lieu of a state high school diploma, a state certificate indicating the number of credits earned and the grades completed;

b. to continue active enrollment in high school until the age of 21 or enroll in an adult education program until he or she passes the HSAP; or

c. to accept a state certificate and acquire additional opportunities to pass the exit examination by enrolling in high school until age 21 or in an adult education program.

III. NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS (NAEP)

Tests will be administered annually to samples of students as part of the state NAEP assessment. Schools selected for state NAEP will participate in the assessment program as prescribed by NAEP policies.

IV. NORM-REFERENCED TEST

A norm-referenced test selected by the State Board of Education shall be administered annually to a sample of students in at least three grades from grades three to eleven.

V. NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS (NAEP)

Reading and mathematics tests will be administered biannually to samples of students in grades 4 and 8 as part of the state NAEP assessment. Schools selected for state NAEP will participate in the assessment. Schools selected for state NAEP will participate in the assessment program as proscribed by NAEP policies.

Title of Regulation	**Regulation No.:**	**43-262.4**
End-of-Course Tests	**Effective Date:**	**04/27/12**

Constitutional and Statutory Provisions:

Section(s):

59-5-60.	General powers of [State] Board
59-5-65.	Powers and Responsibilities of State Board of Education
59-18-300.	Adoption of educational standards in core academic areas
59-18-310(B).	Development or adoption of statewide assessment program to measure student performance
59-18-320(C).	Review of field test; general administration of test; accommodations for students with disabilities; adoption of new standards

Code of Laws of South Carolina, 1976.

State Board Regulations:

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 1. After completion of Applied Biology 2, students shall be administered the end-of-course assessment for Biology 1.

4. Social Studies: United States History and Constitution

5. A course by any title for which the instructional basis is the academic standards for any of the abovementioned courses will be considered the equivalent of the appropriate abovementioned 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 course 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. An exception is when a student takes two courses based on the same academic standards. The student would take the end-of-course test at the end of the first course, and the test score would count as 20 percent of the final grade. If the student passes the first course, the student would not take an end-of-course test for the second course, and the student's final grade would be calculated without an end-of-course score. The second course would not be a gateway course for that student.

II. Purposes and Uses

The purposes and uses of the end-of-course tests shall be as follows:

A. The tests shall promote instruction in the specific academic standards for the courses, encourage student achievement, and document the level of students' mastery of the academic standards.

B. The tests shall serve as indicators of program, school, and school district effectiveness in the manner prescribed by the Education Oversight Committee in accordance with the provisions of the Education Accountability Act of 1998 (EAA).

C. The tests shall be weighted 20 percent in the determination of students' final grades in the gateway courses.

The test may be used for such other purposes as the State Board of Education may determine to be appropriate and consistent with the Standards for Educational and Psychological Testing (Joint Standards) of the American Psychological Association, the American Educational Research Association, and the National Council on Measurement in Education.

III. Content of the Tests

The content of the subject-area tests that are selected or developed pursuant to the provisions of this policy shall be aligned with the academic standards approved by the State Board of Education.

IV. Student Performance Standards

Student performance standards for the tests shall be established by the South Carolina Department of Education.

V. Review of Academic Standards and End-of-Course Tests

The academic standards for the tests shall be reviewed on a schedule that is consistent with the requirements of the EAA. Following any revisions of the academic standards, the tests will be reviewed and revised as necessary to ensure their continued alignment with the standards.

VI. Notice to Students

Students who are enrolled in the gateway courses shall be provided with paper copies of the academic standards that pertain to those particular courses. Students will be advised that the final examination for each gateway course will be based on the skills and content represented in the academic standards. District personnel shall provide this information to students not later than the first day of instruction in the course.

Title of Regulation: **Regulation No.: R 43-264.1**

HALF-DAY CHILD DEVELOPMENT PROGRAMS **Effective Date**: **6/27/03**

Constitutional and Statutory Provisions:

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

59-5-60(1990)	General powers of [State] Board.
59-5-65 (1990 and Supp. 2002)	Minimum standards for student conduct, attendance, and scholastic achievement; enforcement.
59-20-40(7) (1990)	Determination of annual allocations.
59-63-20(6) (Supp. 2002)	Age of attendance.

Descriptor Code: IDDH

State Board Regulation:

Half-Day Child Development Programs

I. LEGISLATION

In order to comply with the South Carolina Education Improvement Act of 1984 and the Early Childhood Development and Academic Assistance Act of 1993, school districts may establish and provide for the education of three- and four-year-old children who have predicted significant readiness deficiencies. The legislation requires that each district will provide for at least a half-day early childhood development program for four-year-old children. Districts have the option of serving three-year-old children.

Each district shall provide at least one program for four-year-old children and may serve identified three-year-old children who have significant readiness deficiencies.

Districts and schools shall integrate the planning and direction of the half-day program with the Early Childhood Initiative.

II. PLAN FOR ENROLLMENT

A. Public Notification of Program Availability

School districts shall attempt to contact parents or guardians of children who will reach age three or four on or before September 1 and who have potential for later school failure. The district shall make substantial efforts to publicize the availability of the program for four-year-olds, and for three-year-olds if appropriate.

B. Criteria for Enrollment

Each district shall develop criteria for the enrollment of children who have predicted significant readiness deficiencies. These criteria shall include the following:

1. A screening instrument approved by the State Department of Education for use in determining each child's developmental level,

2. An entrance age requirement which specifies a child must be three if the program serves three-year-olds, or four years of age on or before September 1 of the applicable school year,

3. Legal birth certificate issued by the Department of Health and Environmental Control or other appropriate authorized agency,

4. South Carolina Certificate of Immunization,

5. Comprehensive Health Appraisal if deemed necessary or appropriate.

III. COORDINATION

In the event that a local advisory committee exists in a community to coordinate early childhood education and development, school districts shall consult with the committee in planning and developing services to make maximum use of resources and avoid duplication of effort. When a local advisory committee does not exist, the school district shall identify available early childhood development and education resources in order to avoid duplication of public services. This may include Headstart and other Child Development Block Grant Programs.

IV. PROGRAM DESCRIPTION

A. Organization

A developmental educational program in a classroom setting shall be the major component of the program.

B. Program Length

The classroom program shall operate five days a week (or the equivalent) for at least 2 1/2 hours of instructional time, exclusive of breakfast, lunch and transportation.

Program year will include 190 days of operation for staff (180 days service to children) subject to the same conditions for waiver of make-up days as prescribed by state law.

C. Staff Ratio and Group Size

Each classroom shall be staffed with one appropriately certified teacher and one teaching assistant for a maximum of 20 children per each half-day session. Teaching assistants shall have at least a high school diploma or the equivalent.

V. FUNDING

Child development funds will be allocated on an annual basis effective July 1 through June 30. Unobligated funds, which become available during the fiscal year will be redistributed to serve additional eligible children.

A. District Allocation and Distribution of Funds

1. District Allocation

The State Department of Education will annually calculate each district allocation based on the number of kindergarten children who are eligible for free and reduced lunch.

2. Distribution of Funds

School districts will be authorized to expend allocated funds on students meeting the eligibility criteria and being served in approved programs.

B. Extended Day

Any extension of the child development program beyond 2 1/2 hours using funds from other sources such as Chapter 1, Social Services Block Grant funds shall be in compliance with regulations and guidelines governing the half-day program. Before or after school services may be provided by other state or federal programs designed for three-and-four-year-olds if consistent with federal regulations for eligibility.

C. Subcontracting

School districts may contract with appropriate groups and/or agencies to provide part or all of the program. In such cases, the school district is charged with the responsibility of maintaining compliance with the regulations governing this program. An exception to the regulation governing indirect costs may be made when state or federal

regulations require the subcontractor to utilize an indirect cost rate. Subcontracting may be based on a fixed cost rate.

D. Fees

Eligible children may not be charged fees for the 2 1/2 -hour instructional program outlined in these regulations.

VI. FISCAL REQUIREMENTS

A. Allowable Expenditures

Expenditures must adhere to definitions and guidelines established by the Office of Finance, State Department of Education, or the State Procurement Code.

B. A minimum of 10 percent of the total budget shall be utilized in the following categories:

1. Supplies and Materials

a. Instructional
b. Parent information materials
c. Nutritional supplement
d. Evaluation materials

2. Equipment for Instructional Purposes

VII. STAFF DEVELOPMENT

Appropriate ongoing staff development activities shall be described and incorporated in the school or district's comprehensive plan as required by the Early Childhood Development and Academic Assistance Act of 1993 (Act 135), State Board of Education Regulations and guidelines.

VIII. EVALUATION

Districts shall participate in evaluation efforts coordinated by State Department of Education. This will include tracking child development program participants through kindergarten and at least the third grade to determine the program's impact on school success.

IX. Additional information relating to the implementation of this regulation, including but not limited to:

1. Educational program
2. Reporting requirements
3. Staffing
4. Health and Safety Standards

is contained in the "Guidelines for Half-Day Child Development Programs" available at the State Department of Education. The State Board of Education will review and update, "Guidelines" as needed.

Title of Regulation: **Regulation No.:** **R 43-265**

PARENTING/FAMILY LITERACY **Effective Date:** **6/23/00**

Constitutional and Statutory Provisions:

Sections:

59-5-60. General powers of [State] Board.

59-139-10(A)(1). Districts and schools to design plan; what plan must include; early childhood development initiative; …

S.C. Code Ann. Section(s) (1990) and S.C. Code Ann. Section(s) (Supp. 2000)
1980 General Appropriations Act.

Descriptor Code: IDDI

State Board Regulation:

Parenting/Family Literacy

I. Program Goals

A. To strengthen parent involvement in the learning process of preschool children ages birth through five years
B. To promote school readiness of preschool children
C. To offer parents special opportunities to improve their literacy skills and education
D. To identify potential developmental delays in preschool children by offering developmental screening

II. Requirements

A. Each school district must design and implement a parenting or family literacy program to support parents of children ages birth through five years in their role as principal teachers of their preschool children.
B. Intensive and special efforts must be made to recruit parents whose children are at risk for school failure.

III. Program Components

A. Parent Education

Programs must provide parent education that

1. enhances the relationships between parents and children and connects the value of interactions to literacy experiences;
2. provides literacy development of parents and children;
3. promotes interaction of parents with schools and the wider community;
4. develops understanding of child development; and
5. provides support services that address health, nutrition, transportation, childcare, and other related issues.

B. Family Literacy

Family literacy uses a more holistic and integrated approach to serving families. Districts must use this approach for families requiring more intense experiences to change intergenerational patterns associated with low literacy and undereducation. The South Carolina definition is consistent with federal legislation. Family literacy is clearly and consistently defined in the Adult Education and Family Literacy Act of 1998, Even Start, Head Start and the Reading Excellence Acts. These acts define "family literacy services" as services that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

1. Interactive literacy activities between parents and their children
2. Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children
3. Parent literacy training that leads to economic self-sufficiency
4. An age appropriate education to prepare children for success in school and life experiences

C. Evaluation

Districts must participate in evaluation efforts coordinated by the State Department of Education. This will include tracking children of participating parents through first grade to determine the program's impact on school readiness. The evaluation should include a variety of other indicators, such as

1. increased level of school readiness,
2. improved parenting skills,

3. change in the educational level of parent participants,
4. parent satisfaction with the program,
5. number of developmental screenings completed and referrals, and
6. efforts to identify and recruit families of children at risk of school failure.

IV. Service Delivery Methods

The methods for service delivery will vary in specific type, mix, and intensity according to community needs and priorities.

A. Home Visits

Programs must provide instructional home visits that

1. provide individualized parenting or family literacy training for parents and preschool children;
2. build on the strengths that are apparent in a familiar setting;
3. demonstrate that the home is the child's first and most important learning environment; and
4. increase the intensity of program activities as well as increase access to services for some families.

B. Group Meetings

Programs must provide group meetings to
1. encourage parent mentoring,
2. develop support networks, and
3. provide parenting information.

V. Funding

Funding will be allocated as determined by the General Assembly.

VI. Coordination

Collaboration and coordination with other local agencies and community organizations must be integrated into all phases of program development, design, and implementation. School districts must consult with a local advisory committee to plan and develop parenting and family literacy services to maximize resources and avoid duplication of effort. This may include district early childhood, adult education, literacy, Success By 6, Head Start, Department of Social Services, and other community services.

VII. Professional Development

The State Department of Education will provide or coordinate activities to train parent educators in developing and implementing parenting and family literacy initiatives. Nationally validated program and curriculum training, such as Parents As Teachers, Motheread, Parent-Home-Child, etc., must be included. Appropriate ongoing staff development activities must be incorporated in the district's Strategic Plan as required by Act 135.

VIII. Guidelines

Additional information relating to the implementation of this regulation, including service delivery methods, developmental screening instruments, and at-risk factors/criteria is contained in the "Guidelines for Implementing Parenting/Family Literacy Programs," available at the State Department of Education. The State Board of Education will review and update the "Guidelines" as needed.

Title of Regulation:	**Regulation No.:**	**R 43-267**
EARLY CHILDHOOD ASSISTANCE PROGRAMS - GRADES K-3	**Effective Date:**	**06/24/94**

Constitutional and Statutory Provisions:

Section(s):

59-5-60.	General powers of [State] Board.
59-5-65(9).	Minimum standards for student conduct, attendance, and scholastic achievement; enforcement.
59-20-40.	Determination of annual allocation.
59-139-05, et seq.	Early Childhood Development and Academic Assistance

Code of Laws of South Carolina, 1976.

State Board Regulation:

Early Childhood Assistance Programs--Grades K-3.

I. Program Goals

A. To place an emphasis on early childhood education and prevention.

B. To focus the state's resources on academic success and prevention of academic problems.

C. To establish the expectation that by providing extra assistance and learning time, all children will be prepared for the fourth grade.

D. To promote the advancement of developmentally appropriate curriculum.

E. To promote coordinated programs from preschool through grade three which are supportive of the curriculum for grades four through twelve.

F. To allow districts and schools greater flexibility in providing targeted, coordinated programs of student assistance.

G. To plan for accelerating the performance of students performing below their peers.

II. Requirements

A. Districts and schools shall develop and implement a developmentally appropriate curriculum model from pre-school through grade three.

If alternatives to the options listed in the guidelines are chosen for use in the Early Childhood Assistance Programs, they should be based on the needs assessment performed as a part of the district and/or school comprehensive plan and on strategies found to be effective in research.

B. Schools shall establish programs of activities for assisting children and their parents with the transitions between the various levels of schooling.

C. Districts and schools shall integrate the planning and direction of the half-day program for four-year-olds with other early childhood initiatives.

D. Districts and schools shall integrate the planning and direction of the parenting/family literacy program established in Section 59-1-450 with the early childhood initiatives.

E. Districts and schools shall design methods of assessing the efficacy of the early childhood programs or strategies implemented.

F. Districts and schools shall demonstrate coordination of the program or strategies implemented with federally-funded early childhood programs.

G. Districts and schools shall demonstrate the interrelationship of the various components of the early childhood initiatives for grades K-3 and the academic assistance programs for grades 4-12.

H. Districts and schools shall implement a program that expands and improves early child development activities.

I. Districts and schools shall implement an Early Childhood Assistance program that plans for accelerating the performance of students performing below their peers.

III. Funding

The General Assembly shall determine an appropriation level for the funding.

A. The number of students in kindergarten through grade three who are eligible for the federal free and reduced-price lunch program will generate funds at a specified add-on weight.

B. Funds generated shall be used to provide needed academic assistance to any student in these grades.

C. Funds may be used to support other components of the early child development initiative as detailed in each district/school's comprehensive plan.

D. Districts may request a waiver from the State Board of Education to use a portion of the funds generated by students in kindergarten through grade three for students in grades four through twelve, if such a change promotes better coordination of state and federal funds.

E. A portion of the funds may be used to support other components of the early childhood initiatives in order to better prepare children for entering school.

F. Expenditures must adhere to definitions and guidelines established by the Office of Finance, South Carolina Department of Education, or the State Procurement Code.

IV. Professional Development

Appropriate training to prepare teachers and administrators in the teaching techniques and strategies needed to implement the regulations shall be included in the district strategic plan and school renewal plans.

V. Guidelines

Additional information relating to the implementation of this regulation, including but not limited to:

1. definition of terms,

2. explanation of program models,

3. procedures for selecting alternative options for methods of service

is contained in the “Guidelines for Implementing Early Childhood Assistance Programs --Grades K-3” available at the State Department of Education. The State Board of Education will review and update, if required, the “Guidelines” on an as needed basis.

Title of Regulation: **Regulation No.: R 43-268**

ACADEMIC ASSISTANCE PROGRAMS - GRADES 4-12 **Effective Date:** June 1994

Constitutional and Statutory Provisions:

Sections:

59-5-60.	General powers of [State] Board.
59-5-65(9).	Minimum standards for student conduct, attendance, and scholastic achievement; enforcement.
59-20-40.	Determination of annual allocations.

Code of Laws of South Carolina, 1976.

Descriptor Code: IDDB

State Board Regulation:

Academic Assistance Programs - Grades 4-12

I. Program Goals

A. To focus the state's resources on academic success and prevention of academic problems.

B. To establish the expectation that by providing extra assistance and learning time all students will graduate from high school with their peers.

C. To allow districts and schools greater flexibility in providing targeted, coordinated programs of student assistance.

D. To support students with academic difficulties in grades four through twelve so they are able to progress academically and move through school with their peers.

II. Requirements

A. Districts and schools shall develop and implement academic assistance programs which address alternatives to year-long and pull-out remediation methods of service. If alternatives to the options listed in the guidelines are chosen, they should be based on the needs assessment performed as a part of the district and/or school comprehensive plan and on strategies found to be effective in research.

Students

Title of Regulation	**Regulation No.:**	**R 43-272**
SCHOOL ADMISSION	**Effective Date:**	**06/27/14**

Constitutional and Statutory Provisions:

Section(s):

44-29-180.	School pupils shall be vaccinated or immunized.
59-5-60.	General powers of [State] Board.
R 61-8.	Vaccination, Screening and Immunization for Students Regarding Contagious Disease

Code of Laws of South Carolina, 1976.

State Board Regulation:

43-272. School Admission.

A. Kindergarten and Grades 1–12: Each kindergarten and first-grade pupil not previously enrolled shall submit a birth certificate or other documentation to verify a birth record in special situations as allowed by a local board of trustees. All students in grades K–12 must show evidence of compliance with Department of Health and Environmental Control rules and regulations concerning immunization.

B. Preregistration for Grades 9–12: Each high school shall develop a preregistration form outlining the courses in which a student may enroll for their entire high school career.

C. Preregistration for Career Centers: Each career center shall develop a preregistration form in cooperation with participating high schools which outlines the career and technology education courses students may take in Grades 9–12.

Title of Regulation:	**Regulation No.:**	**R 43-272.2**
Review Process for Homeless Children And Unaccompanied Youth	**Effective Date:**	**02/26/2007**

Constitutional and Statutory Provisions:

Section(s):
59-5-60. General powers of [State] Board.
Code of Laws of South Carolina, 1976.

20 U.S.C. § 7844. Stewart B. McKinney Homeless Assistance Act
U.S. Code of Laws

State Board Regulation:

State-Level Resolution Process for Disputes Involving Unaccompanied Youth and Homeless Children.

The federal Stewart B. McKinney Homeless Assistance Act requires that each state implement a state-level process to review district-level decisions regarding the enrollment of a homeless child or an unaccompanied youth. An unaccompanied youth or the parent or guardian of a homeless child may request that the state conduct a review of a school district's final decision regarding an enrollment issue. The contact person at the State Department of Education is the coordinator for the Office of Coordinator for Education of Homeless Children and Youth.

Under no circumstances must resolution of a dispute delay the school enrollment of an unaccompanied youth or a homeless child. That is, during the pendency of any administrative or judicial proceeding regarding a dispute over the enrollment of an unaccompanied youth or homeless child, the student must continuously be enrolled in school, be provided all relevant services, and be allowed to participate fully in all school activities (as consistent with the Stewart B. McKinney Homeless Assistance Act, as amended).

I. Responsibilities of the School District

A.When it is determined that a dispute cannot be settled at the district level, the school district must carry out the following responsibilities in a timely manner:

1. inform the unaccompanied youth or the parent or guardian of the homeless child concerning his or her right to request that the State Department of Education review the decision of the school district,

2. inform the unaccompanied youth or the parent or guardian of the homeless child that this request must be made either on the district-supplied request-for-review form or by a telephone interview with the coordinator in the State Department of Education's Office of Coordinator for Education of Homeless Children and Youth,

3. give the unaccompanied youth or the parent or guardian of the homeless child a copy of the State Department of Education's request-for-review form and the contact information for the Office of Coordinator for Education of Homeless Children and Youth, and

4. inform the unaccompanied youth or the parent or guardian of the homeless child that he or she may seek the assistance of advocates or attorneys for the review.

B. Once the Office of Coordinator for Education of Homeless Children and Youth has received either the completed request-for-review form or has conducted a full telephone interview with the youth or the parent or guardian, the coordinator will send a copy of the completed form and any other relevant material to the school district.

The school district must send a written response to the state and to the person filing the state review request within five business days from the date it receives the request-for-review form.

II. Responsibilities of the Youth or the Parent or Guardian

A. The unaccompanied youth or the parent or guardian of the homeless child must complete and return the request-for-review form to the address designated on the form or must telephone the coordinator in the Office of Coordinator for Education of Homeless Children and Youth and make an oral report on the circumstances surrounding the request for review.

B. The youth or the parent or guardian either may attach to the form any additional information he or she thinks is relevant or may telephone the coordinator and provide the information orally.

III. Responsibilities of the Coordinator

A. The coordinator for the education of homeless children and youths will conduct all state reviews requested by unaccompanied youths or the parents or guardians of homeless children.

B. The coordinator will review all written documents submitted concerning the particular dispute. The coordinator may request additional information from the parties in making his or her determination.

C. The coordinator will make a final decision within ten business days of receiving the written response from the school district. The decision of the coordinator is binding and will be effective immediately.

Title of Regulation:	**Regulation No.:**	**R 43-273**
TRANSFERS AND WITHDRAWALS	**Effective Date:**	**06/28/13**

Constitutional and Statutory Provisions:

Section(s):

59-19-90(10).	General powers and duties of school trustees.
59-63-30.	Qualifications for attendance.
59-63-420.	Effect of transfer on enrollment lists.
59-63-470.	Transfer of pupils when enrollment of such pupil threatens to disturb peace.
59-63-480.	Attendance in schools in adjacent county.
59-63-490.	Transfer to adjoining school district.
59-63-500.	Transfer without consent of school district of residence.
59-63-510.	County board of education authorized to order transfer.
59-63-520	Consent required for transfer.
59-63-530.	Credit on tuition for taxes paid.
59-65-30.	Exceptions [to Compulsory Attendance].
59-65-90.	Rules and regulations

Code of Laws of South Carolina, 1976.

20 U.S.C. 7165 (2002)	Transfer of school disciplinary records.

U. S. Code of Laws

State Board Regulation:

Transfers and Withdrawals.

Kindergarten; Grades 1–6; 7–8:

Transfer of Students

Each student transferring shall be given a transfer form showing name, date of birth, grade placement, and attendance record to present to the appropriate school official where he or she is enrolling. Appropriate additional data shall be furnished by the sending school when requested in writing by the receiving school, as soon as possible but no later than ten business days upon receiving the written request, excluding weekends and recognized state holidays.

A school must transfer a student's disciplinary record of suspensions and expulsions to the public or private school to which the student is transferring when requested in writing by the receiving school, as soon as possible but no later than ten business days upon receiving the written request, excluding weekends and recognized state holidays.

Schools must transfer these records within ten business days upon receiving the written request from the public or private school to which the student is transferring. Schools may not withhold the transfer of records to a public or private school for fees owed by the student.

Grades 9–12:

Transfer of Students

Each student transferring shall be given a transfer form showing name, date of birth, grade placement, and attendance record to present to the appropriate school official where he or she is enrolling. Appropriate additional data shall be furnished by the sending school when requested in writing by the receiving school, as soon as possible but no later than ten business days upon receiving the written request, excluding weekends and recognized state holidays.

A. Accurate accounting records shall be developed and maintained for student transfers and withdrawals. Comprehensive transcripts shall be submitted directly to the receiving school when requested in writing, as soon as possible, but no later than ten business days upon receiving the written request, excluding weekends and recognized state holidays. A permanent record of the transferred student shall be retained in the school from which the student is transferred. The school of record must transfer a student's disciplinary record of suspensions and expulsions to the public or private school to which the student is transferring as soon as possible, but no later than ten business days upon receiving the written request, excluding weekends and recognized state holidays. Schools may not withhold the transfer of records to a public or private school for fees owed by the student.

B. Units earned by a student in an accredited high school of this state or in a school of another state which is accredited under the regulations of the board of education of that state, or the appropriate regional accrediting agency (New England Association of Colleges and Schools, Middle States Association of Colleges and Schools, Southern Association of Colleges and Schools, North Central Association of Colleges and Schools, Western Association of Colleges and Schools, and the Northwest Association of Colleges and Schools), will be accepted under the same value which would apply to students in the school to which they transferred.

C. If a student transfers from a school, which is not accredited, he or she shall be given tests to evaluate prior academic work and/or be given a tentative assignment in classes for a probationary period.

Title of Regulation:	**Regulation No.:**	**R 43-274**
STUDENT ATTENDANCE	**Effective Date:**	**06/27/14**

Constitutional and Statutory Provisions:

Section(s):

59-5-65.	Powers and responsibilities of State Board of Education
59-65-90.	Rules and regulations

Code of Laws of South Carolina, 1976.

20 U.S.C. § 7112.	No Child Left Behind Act of 2001
42 U.S.C. § 5601 et seq.	Juvenile Justice and Delinquency Prevention Act of 1974

U.S. Code of Laws

State Board Regulation:

43-274. Student Attendance.

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. The district plan for improving students’ attendance must be in accordance with any applicable statutes.

(B) Once a child is determined to be truant as defined in Section II(A), school officials must make every reasonable effort to meet with the parent(s) or guardian(s) to identify the reasons for the student’s continued absence. These efforts should include telephone calls and home visits, both during and after normal business hours, as well as written messages and e-mails. School officials must develop a written “intervention plan” to address the student’s continued absence in conjunction with the student and parent(s) or guardian(s).

(C) The intervention plan must include but is not limited to

(1) Designation of a person to lead the intervention team. The team leader may be someone from another agency.

(2) Reasons for the unlawful absences.

(3) Actions to be taken by the parent(s) or guardian(s) and student to resolve the causes of the unlawful absences.

(4) Documentation of referrals to appropriate service providers and, if available, alternative school and community-based programs.

(5) Actions to be taken by intervention team members.

(6) Actions to be taken in the event unlawful absences continue.

(7) Signature of the parent(s) or guardian(s) or evidence that attempts were made to involve the parents(s) or guardian(s).

(8) Documentation of involvement of team members.

(9) Guidelines for making revisions to the plan.

(D) School officials may utilize a team intervention approach. Team members may include representatives from social services, community mental health, substance abuse, and prevention, and other persons the district deems appropriate to formulate the written intervention plans.

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. A consent order must not be used as an intervention plan from any local school or school district. Should the parent(s) or guardian(s) refuse to cooperate with the intervention planning to remedy the attendance problem, the school district has the authority to refer the student to Family Court in accordance with S.C. Code Ann. Section 59-65-50 (2004), and a report shall be filed against the parent(s) or guardian(s) with the Department of Social Services in compliance with S.C. Code Ann. Section 20-7-490(2)(c)(Supp. 2002).

(A) Petition for a School Attendance Order

If the intervention plan is not successful and further inquiry by school officials fails to cause the truant student and/or parent(s) or guardian(s) to comply with the written intervention plan or if the student and/or parent(s) or guardian(s) refuses to participate in intervention and the student accumulates two or more additional unlawful absences, the student is considered an “habitual” truant. Each referral must include a copy of the plan and specify any corrective action regarding the student and/or the parent(s) or guardian(s) that the district recommends that the court adopt as well as any other available programs or alternatives identified by the school district. The intervention plan must be attached to the petition to the Family Court and served on the student and the parent(s) or guardian(s).

(B) Petition for Contempt of Court

Once a school attendance order has been issued by the Family Court and the student continues to accumulate unlawful absences, the student is considered to be a “chronic” truant and school officials may refer the case back to Family Court. The school and district must exhaust all reasonable alternatives prior to petitioning the Family Court to hold the student and/or the parent(s) or guardian(s) in contempt of court. Any petition for contempt of court must include a written report indicating the corrective actions that were attempted by the school district and what graduated sanctions or alternatives to incarceration are available to the court in the community. The school district must include in the written report its recommendation to the court should the student and/or parent(s) or guardian(s) be found in contempt of court.

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. 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, or must demonstrate proficiency as determined by the local school district. This exception to the 120-hour requirement is to be administered by local school districts on a case-by-case basis and only for students who have excessive absences that have been approved by the local school board. General request for proficiency-based credit must be made through the process described in Regulation 43-234. Students whose absences are approved should be allowed to make up any work missed in order to satisfy this 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 1 of this section, to make-up work missed to satisfy this 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 that include but are not limited to the student's medical condition, family emergencies, and other student academic requirements that are considered to be a maximum load. Make-up requirements that extend beyond thirty days due to extenuating circumstances must be completed prior to the beginning of the subsequent new year.

VIII. Reporting Requirements

The South Carolina 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 South Carolina Department of Education Guidelines. The South Carolina Department of Education will review and update these guidelines as needed.

SBE approved 5/11/05

Guideline for Extenuating Circumstances R 43-274

Local school boards or their designee may extend the number of days allowed for a student's completion of academic and time requirements for a course to more than thirty days due to extenuating circumstances. Extenuating circumstances include but are not limited to the student's medical condition, family emergencies, and other student academic requirements that are considered to be a maximum load. Extending make-up requirements beyond thirty days because of extenuating circumstances must be completed prior to the beginning of the subsequent school year.

Title of Regulation:	**Regulation No.:**	**R 43-274.1**
AT-RISK STUDENTS	**Effective Date:**	**04/27/12**

Constitutional and Statutory Provisions:

Section(s):

59-5-60.	General powers of [State] Board
59-5-65.	Powers and responsibilities of State Board of Education
59-59-10 et seq.	South Carolina Education and Economic Development Act

Code of Laws of South Carolina, 1976.

State Board Regulation:

At-Risk Students.

I. At-Risk Student Definition

A. A student at risk of dropping out of school is any student who, because of his or her individual needs, requires temporary or ongoing intervention in order to achieve in school and to graduate with meaningful options for his or her future.

B. Students--depending on their degree of resiliency and connectedness to caring adults in the home, in the community, and/or at school--may respond differently to those things frequently cited as barriers, predictors, or indicators of being "at risk." Therefore, educators and other responsible adults working with students should consider the whole child, who might have both short-term and long-term needs requiring intervention.

II. At-Risk Student Indicators, Predictors, and Barriers

The South Carolina Education and Economic Development Act mandates the promulgation of State Board of Education regulations outlining specific objective criteria for districts to use in identifying students who may be poorly prepared for the next level of study or who are at risk of dropping out of school. The Act calls for these criteria to include diagnostic assessments for districts to use in order to identify the strengths and weaknesses of individual students in the core academic areas.

A. Poor academic performance--generally, a grade point average of 2.0 or lower on a 4.0 scale--in the core content areas is a significant predictor that districts must consider in identifying at-risk students. Careful consideration should be given to students demonstrating declining academic performance. School districts are encouraged to carefully review a variety of assessments, including the following, in diagnosing students' academic difficulties and selecting appropriate short-term and long-term interventions:

1. Palmetto Assessment of State Standards (PASS) test results,

2. High School Assessment Program (HSAP) test results,

3. Preliminary Scholastic Assessment Test (PSAT) or PLAN test results,

4. district- or school-adopted CAI (computer-aided instruction) assessments,

5. end-of-course examination results,

6. classroom-level assessments related to the state's academic standards, and

7. other district-approved diagnostic assessments.

B. The following are among the specific behaviors and characteristics that school districts must consider as indicators, predictors, and barriers in identifying at-risk students:

1. being overage for their grade level due to retention attributable to risk factors such as a high rate of absences and truancy;

2. showing a lack of effort or interest in their academic work;

3. working an excessive number of hours per day or week;

4. having a history of discipline problems leading to suspension, expulsion, and/or probation;

5. showing or expressing feelings of being disconnected from the school environment;

6. showing evidence of physical and/or emotional abuse;

7. coming from and/or living in a disadvantaged socioeconomic environment;

8. living in a home situation that does not include at least one parent;

9. being a single parent; and

10. having limited proficiency in the English language.

III. At-Risk Student Model, Initiative, and Program Selection

By the 2007-08 school year each high school of the state must implement one or more model programs approved by the South Carolina Department of Education (SCDE).

Schools must select at-risk student models, initiatives, and programs that meet the needs of the at-risk populations to be served and must ensure that models, initiatives, and programs selected provide students with the opportunity to graduate with a high school diploma. The SCDE will provide an implementation document that will include a tiered matrix of approved evidence-based models, initiatives, and programs to facilitate the selection process in accordance with the Education and Economic Development Act requirements for implementing evidence-based models, initiatives, and programs. The document will also contain a more extensive list of indicators, predictors, and barriers as well as one-page descriptions for each evidence-based model, initiative, and program included in the matrix.

IV. Population and Model, Initiative, and Program Identification Parameters

Each high school either must implement a model, initiative, or program that is chosen from a list provided by the SCDE or must submit to the SCDE for approval a specific dropout prevention model, comprehensive initiative, or multifaceted program that it wants to use. High schools may explore and implement newly developed models with approval from the SCDE. One criterion for SCDE approval of any newly developed model will be evidence presented by the district and/or school that the model is centered in research-based dropout-prevention strategies.

A. Implementation efforts related to any model, initiative, or program (or combination of models, initiatives, and programs) must ensure that students are properly identified and provided timely, appropriate guidance and assistance and must ensure that no group is disproportionately represented.

B. When subpopulations are identified, high schools must ensure that these groups reflect the demographics of populations identified as at risk of dropping out of school.

C. When no subpopulations are identified, high schools implementing comprehensive initiatives will not have to address the disproportionate representation of any one group of students. In such cases, methods of determining the effectiveness of the at-risk initiative must be given careful consideration with regard to collecting data and preparing necessary reports.

D. Parental involvement must be part of final placement decisions in any model, initiative, or program where small groups of students are identified for services in a particular school or district.

E. The target population must reflect the demographics of the population identified in Section II, above, as being at risk of dropping out of school.

F. High schools must provide relevant data related to identifying the at-risk student population and to addressing the needs of these at-risk students as required for SCDE reports.

V. Building-Level Program Evaluation

A. Evaluation Criteria

All high schools must annually evaluate their dropout-prevention models, initiatives, and/or programs using, at a minimum, the following criteria:

1. an identification process, including (where appropriate and based on the particular model, initiative, or program) the number of at-risk students identified and the specific risk factors identified;

2. the extent of parental involvement in the school's dropout-prevention efforts;

3. the number of students served;

4. a formative assessment of strengths and weaknesses of the model, initiative, and/or program; and

5. a qualitative assessment of desired outcomes (see item B, immediately below).

B. Desired Outcomes

Schools should establish desired outcomes or performance criteria based on the specific needs of the at-risk population identified and on the nature and structure of the particular model, initiative, and/or program they are implementing. Examples of desired outcomes among the target population include, but are not limited to, the following:

1. decreased percentages of truancy, absenteeism, discipline problems, and retentions;

2. increases in students' grade point averages; and

3. increased percentages of students who are on grade level and students who graduate on time.

Model-, initiative-, and/or program-specific data and PowerSchool™ data elements should be used to assess desired outcomes on the basis of specific evaluation criteria. The state's PowerSchool™ data management system can be used to collect, sort, and report data related to each student's attendance record; age and grade level; gender; ethnicity; grade point average; and retention, truancy, and dropout status.

C. Teacher and/or counselor assessments may be used to provide supplemental anecdotal documentation and insights related to the effectiveness of the model, initiative, and/or program implemented. A district or school checklist may be beneficial in the evaluation process.

VI. Model, Initiative, and/or Program Evaluation and Assessment Reporting

All high schools must annually provide reports requested by the SCDE that relate to the implementation and effectiveness of models, initiatives, and/or programs addressing the needs of students at risk of dropping out of school. District and school report card contents must contain information on the disciplinary climate, promotion and retention ratios, dropout ratios, dropout reduction data, and attendance data. Districts and schools must be prepared to provide accurate and relevant data to the SCDE.

Title of Regulation:	**Regulation No.:**	**R 43-279**
MINIMUM STANDARDS OF STUDENT CONDUCT AND DISCIPLINARY ENFORCEMENT PROCEDURES TO BE IMPLEMENTED BY LOCAL SCHOOL DISTRICTS	**Effective Date:**	**06/27/14**

Constitutional and Statutory Provisions:

Section(s):

59-5-60.	General powers of [State] Board.
59-5-65.	Minimum Standards for student conduct, attendance, and scholastic achievement; enforcement.
59-63-210, et seq.	Discipline

Code of Laws of South Carolina, 1976.

State Board Regulation:

43-279. Minimum Standards of Student Conduct and Disciplinary Enforcement Procedures to be Implemented by Local School Districts.

I. Expectations for Student Conduct in South Carolina Public Schools

Students in the public schools of South Carolina enjoy the same basic rights of United States citizenship as do other United States citizens. The rights of students are supported by the responsibility to insure that the rights of others are respected. This regulation is adopted with the intent to better assure that the opportunity to enjoy the benefits of public education is available to all those attending the public schools of the state of South Carolina.

II. Previously Adopted School District Discipline Policies

This regulation is established as a uniform system of minimum disciplinary enforcement for the school districts of South Carolina. School districts, which previously have adopted discipline policies that are consistent with and contain the elements included in this regulation, may retain their local policies as adopted.

III. Levels of Student Misconduct

A. The levels of student misconduct considered in this regulation are arranged by degrees of seriousness. The levels are arranged from the least serious to the most serious.

B. Three levels of student misconduct are identified: disorderly conduct, disruptive conduct, and criminal conduct. The levels are defined in this regulation.

C. This regulation includes a listing of possible sanctions for the three levels of student misconduct. As the levels increase in seriousness, the severity of possible disciplinary sanctions increases.

D. Suggested sanctions within the Level I misconduct category range from verbal reprimand to in-school suspension. Level II misconduct includes sanctions ranging from temporary removal from class

to expulsion, while Level III misconduct includes sanctions ranging from out-of-school suspension to appropriate action within the criminal justice system.

E. A local school board, in its discretion, may authorize more stringent standards than those contained in this regulation.

IV. Minimum Standards

A. Disorderly Conduct-Level I

1. Disorderly conduct is defined as those activities engaged in by student(s) which tend to impede orderly classroom procedures or instructional activities, orderly operation of the school, or the frequency or seriousness of which disturb the classroom or school. The provisions of this regulation apply not only to within-school activities, but also to student conduct on school bus transportation vehicles, and other school sponsored activities.

2. Acts of disorderly conduct may include, but are not limited to:

a. Classroom tardiness;

b. Cheating on examinations or classroom assignments;

c. Lying;

d. Acting in a manner so as to interfere with the instructional process;

e. Abusive language between or among students;

f. Failure to complete assignments or carry out directions;

g. Use of forged notes or excuses;

h. Cutting class;

i. School tardiness;

j. Truancy;

k. Other disorderly acts as determined by local school authorities.

3. The basic enforcement procedures to be followed in instances of disorderly conduct are:

a. Upon observation or notification and verification of an offense, the staff member should take immediate action to rectify the misconduct. The staff member should apply an appropriate sanction, and should maintain a record of the misconduct and the sanction.

b. If, either in the opinion of the staff member or according to local school board policy, a certain misconduct is not immediately rectifiable, the problem should be referred to the appropriate administrator for action specified by local school board policy.

c. The administrator should meet with the reporting staff member, and, if necessary, the student and the parent or guardian, and should effect the appropriate disciplinary action.

d. A complete record of the procedures should be maintained.

4. Possible sanctions to be applied in cases of disorderly conduct may include, but are not limited to:

a. Verbal reprimand;

b. Withdrawal of privileges;

c. Demerits;

d. Detention;

e. Corporal punishment;

f. In-school suspension;

g. Other sanctions as approved by local school authorities.

B. Disruptive Conduct-Level II

1. Disruptive conduct is defined as those activities engaged in by student(s) which are directed against persons or property, and the consequences of which tend to endanger the health or safety of oneself or others in the school. Some instances of disruptive conduct may overlap certain criminal offenses, justifying both administrative sanctions and court proceedings. Disorderly conduct (Level I) may be reclassified as disruptive conduct (Level II) if it occurs three or more times. The provisions of this regulation apply not only to within school activities, but also to student conduct on school bus transportation vehicles, and other school sponsored activities.

2. Acts of disruptive conduct may include, but are not limited to:

a. Use of an intoxicant;

b. Fighting;

c. Vandalism (minor);

d. Stealing;

e. Threats against others;

f. Trespass;

g. Abusive language to staff;

h. Refusal to obey school personnel or agents (such as volunteer aides or chaperones) whose responsibilities include supervision of students;

i. Possession or use of unauthorized substances, as defined by law or local school board policy;

j. Illegally occupying or blocking in any way school property with the intent to deprive others of its use;

k. Unlawful assembly;

l. Disrupting lawful assembly;

m. Other acts as determined by local school authorities.

3. The basic enforcement procedures to be followed in instances of disruptive conduct are:

a. Upon observation or notification and verification of an offense, the administrator should investigate the circumstances of the misconduct and should confer with staff on the extent of the consequences.

b. The administrator should notify the parent or guardian of the student's misconduct and related proceedings. The administrator should meet with the student and, if necessary, the parent or guardian, confer with them about the student's misconduct, and effect the appropriate disciplinary action.

c. A complete record of the procedures should be maintained.

4. Possible sanctions to be applied in cases of disruptive conduct may include, but are not limited to:

a. Temporary removal from class;

b. Alternative education program;

c. In-school suspension;

d. Out-of-school suspension;

e. Transfer;

f. Referral to outside agency;

g. Expulsion;

h. Restitution of property and damages, where appropriate, should be sought by local school authorities;

i. Other sanctions as approved by local school authorities.

C. Criminal Conduct-Level III

1. Criminal conduct is defined as those activities engaged in by student(s) which result in violence to oneself or another's person or property or which pose a direct and serious threat to the safety of oneself or others in the school. These activities usually require administrative actions which result in the immediate removal of the student from the school, the intervention of law enforcement authorities, and/or action by the local school board. The provisions of this regulation apply not only to within-school activities, but also to student conduct on school bus transportation vehicles, and other school sponsored activities.

2. Acts of criminal conduct may include, but are not limited to:

a. Assault and battery;

b. Extortion;

c. Bomb threat;

d. Possession, use, or transfer of dangerous weapons;

e. Sexual offenses;

f. Vandalism (major);

g. Theft, possession, or sale of stolen property;

h. Arson;

i. Furnishing or selling unauthorized substances, as defined by local school board policy;

j. Furnishing, selling, or possession of controlled substances (drugs, narcotics, or poisons).

3. The basic enforcement procedures to be followed in instances of criminal conduct are:

a. Upon observation or notification and verification of an offense, the administrator should confer with the staff involved, should effect the appropriate disciplinary action, and, if appropriate, should meet with the student.

b. If warranted, the student should be removed immediately from the school environment. A parent or guardian should be notified as soon as possible.

c. If appropriate, school officials should contact law enforcement authorities.

d. Established due process procedures shall be followed when applicable.

e. A complete record of the procedures should be maintained.

4. Possible sanctions to be applied in cases of criminal conduct may include, but are not limited to:

a. Out-of-school suspension;

b. Assignment to alternative schools;

c. Expulsion;

d. Restitution of property and damages, where appropriate, should be sought by local school authorities;

e. Other sanctions as approved by local school authorities.

D. Extenuating, Mitigating or Aggravating Circumstances

A local school board may confer upon the appropriate administrator the authority to consider extenuating, mitigating or aggravating circumstances which may exist in a particular case of misconduct. Such circumstances should be considered in determining the most appropriate sanction to be used.

V. Discipline of Students with Disabilities

For additional information regarding Disciplinary Procedures for students with disabilities, see R 43-243.

VI. Other Areas of Student Conduct Which May Be Regulated by Local School Board Policy

A. Other areas of student conduct which are subject to regulation by local school boards include, but are not limited to:

1. School attendance;

2. Use of and access to public school property;

3. Student dress and personal appearance;

4. Use of tobacco in the public schools;

5. Speech and assembly within the public schools;

6. Publications produced and/or distributed in the public schools;

7. The existence, scope and conditions of availability of student privileges, including extracurricular activities and rules governing participation;

8. Other activities not in conflict with existing state statutes or regulations.

B. Other areas of student conduct may be regulated within legal limits by local school boards as they deem appropriate to local conditions. The term “legal limits” signifies the requirements of the federal and state constitutions and governing statutes, standards and regulations, the fundamental common-law requirement that rules of student conduct be reasonable exercises of the school’s authority in pursuance of legitimate educational and related functions, and special limitations arising from constitutional guarantees.

Finance

Title of Regulation: **Regulation No.: R 43-171.1**

DISBURSEMENT OF FUNDS FOR PRESSING REPAIRS, RENOVATIONS AND CONSTRUCTION

Effective Date: June 1985

Constitutional and Statutory Provisions:

Sections:

59-21-320. Annual grant for financing needed capital improvements.
59-21-420. Funds for renovation, capital improvement, or repair of classrooms, etc., or reduction of millage as to bonds.
59-21-430. Use of funds within specified time.

Code of Laws of South Carolina, 1976.

Descriptor Code: None

State Board Regulation:

Disbursement of Funds for Pressing Repairs, Renovations and Construction

I. ALLOCATION OF FUNDS

Funds will be allocated to the district annually on a per pupil basis, based on the districts' 135-day cumulative average daily membership for the previous fiscal year. These funds are to be kept in an account separate from all other funds allocated from the State General Fund.

II. QUALIFICATION CRITERIA

1. In order to qualify for allocation of the funds, the district board of trustees shall:

   a. Maintain at least the level of financial effort per pupil for non-capital programs as in prior years as set forth under Division V of the Education Improvement Act; and

   b. By June 30, 1985, adopt and file with the Division of General Services a procurement code modeled after the South Carolina Consolidated Procurement Code or the model set forth in the Report of the Local Government Task Force on procurement code or the model set forth in the Report of the Local Government Task Force on procurement as set forth under Division V, Section 6 of the Education Improvement Act.

III. PURPOSE OF FUNDS

Funds are available for two purposes pursuant to Subdivision G, Section 1:

1. For the renovation, capital improvement, or repair of school classrooms, libraries, laboratories, and other institutional facilities including music rooms as set forth in the Education Improvement Act.

2. For the reduction of millage required to pay principal and interest on bonds issued for any capital improvement programs.

IV. STIPULATIONS REGARDING EXPENDITURE OF FUNDS

1. If a school district has issued bonds or otherwise undertaken any capital improvement programs during any of the most recent five fiscal years, at least fifty percent of the funds allocated from the Education Improvement Act funds must be used to reduce the millage required to pay debt service on such outstanding bonds unless a waiver is granted by the State Board of Education. [See V. WAIVERS, and Subdivision G, Section 1(b).]

   A Capital Improvement Program for purposes of this funding is defined as incurring debt for school building purposes or levying and collecting school taxes for school building purposes over the district's last five fiscal years averaged at least one half the amount of Education Improvement Act Funds the district is entitled to receive during Fiscal Year 1984-85.

   If the district has fiscal autonomy to any degree, it shall provide for the manner in which the school millage must be reduced. If the district does not have fiscal autonomy, the governing body of the county wherein the district is located shall provide for the manner in which the school millage must be reduced. [Subdivision G, Section 1(c)]

2. Funds must be expended, in accordance with the rules set forth in the "South Carolina School Facilities Planning and Construction Guide."

3. The funds authorized herein for reduction in millage for debt service may not be expended in conjunction with the authorization of bonds that increase a school district's bonded indebtedness above the limit provided for in Article X of the South Carolina Constitution or expended to pay debt service on bond anticipation notes authorized which would put the total bonded indebtedness of the school district (general obligation and bond anticipation) above the constitutionally mandated limit. [Subdivision G, Section 1(d)]

4. Any funds received pursuant to the Education Improvement Act must be expended or contractually committed within forty-eight months of the appropriation provided for school buildings under this act. No school district may use the funds allocated for school building purposes for operational, instructional, or any purposes other than those enumerated in these regulations.

   Any school district using these funds as herein prohibited is prohibited from receiving any other funds under this act until the school district has reimbursed the Education Improvement Act of 1984 Funds for the funds allocated for school building purposes it has received pursuant to this Act. [Subdivision G, Section 3]

V. WAIVERS

Waivers of the requirement that fifty percent of the Education Improvement Act Funds must be expended to reduce millage may be granted by the State Board of Education. A school district may request a waiver provided:

1. That the district anticipates a significant increase in need for additional classroom space or

2. In the event that a school district sold bonds or secured a loan at an interest rate less than prevailing rates and has an identified need for funds in excess of fifty percent of the funds allocated to the district from the Education Improvement Act Funds.

If a school district is eligible and wishes to request a waiver under 1. or 2. above, the school district must submit a waiver request form to the State Department of Education along with substantiating evidence for the waiver. The Department will review the waiver request, request any necessary review from the State Treasurer and make its recommendations for approval or disapproval to the State Board of Education. [Subdivision G, Section 1(b)]

If a waiver is granted, the remaining sums may be used either to reduce millage to pay debt service or to pay for capital improvements, repairs, or renovations otherwise authorized during the then current fiscal year. If, on the occasion when the annual millage would otherwise be increased to provide for capital improvements, repairs, or renovations there is on hand with the county treasurer sums from the appropriation herein authorized, sufficient to meet all or a portion of the payments of principal and interest on bonds to be outstanding in the ensuing fiscal year, such portion of the millage required to pay such debt service need not be imposed. [Subdivision G, Section 1(b)]

VI. APPLICATION PROCEDURES

1. Districts shall apply for Education Improvement Act Funds to the State Board of Education utilizing forms designed by the State Department of Education.

2. Projects must be submitted to the State Board of Education in accordance with the "South Carolina School Facilities Planning and Construction Guide."

Title of Regulation:	**Regulation No.:**	**R 43-172**
ACCOUNTING AND REPORTING	**Effective Date:**	**04/25/97**

Constitutional and Statutory Provisions:

Section(s):

30-4-10 et seq.	Freedom of Information Act.
59-13-60.	General duties of county and district superintendents.
59-13-70.	Superintendent shall keep record.
59-13-80.	Superintendent shall keep register of claims and other matters.
59-13-90.	Annual report to county treasurer of claims approved.
59-13-140.	Annual reports to State Board of Education.
59-17-100.	School districts to provide State Department of Education with copies of annual budgets and audit reports.
59-20-10, et seq.	Education Finance Act of 1977.
59-21-510, et seq.	Education of Physically and Mentally Handicapped Children.
59-25-140.	Record of teacher's certificates.
59-25-141.	Fee for duplicate certificate; use of resulting fund.
59-33-10, et seq.	Special Education for the Handicapped.

Code of Laws of South Carolina, 1976.

State Board Regulation:

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

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.

Title of Regulation:

SECTION 4(1)(c) PUPILS TO BE COUNTED IN ONLY ONE PUPIL CLASSIFICATION

Regulation No.: R 43-176

Effective Date: January 1984

Constitutional and Statutory Provisions:

Descriptor Code: None

State Board Regulation:

Section 4(1)(c) Pupils to be Counted in Only One Pupil Classification

[Material transferred to R 43-171]

Educational Agency Relations

Title of Regulation:	**Regulation No.:**	**43-300**
ACCREDITATION CRITERIA	**Effective Date:**	**06/27/14**

Constitutional and Statutory Provisions:

Section(s):

59-5-60(1).	General powers of [State] Board.
59-25-110.	System for examination and certification of teachers.
59-26-10, *et seq*.	Training, Certification and Evaluation of Public Educators

Code of Laws of South Carolina, 1976.

20 U.S.C. 6301 *et seq*.	No Child Left Behind Act of 2001

US Code of Laws

State Board Regulation:

43-300. Accreditation Criteria.

I. Each school district shall provide the defined program approved by the State Board of Education that complies with standards prescribed for the boards of trustees; district operations; elementary grades; middle grades; secondary grades; career and technology education centers; summer school programs; and adult education. If a school district's defined program is evaluated as failing to comply with prescribed standards, it shall be considered as offering a program that is deficient in meeting local educational needs and such failure shall be indicated in the status of the accreditation classification.

II. State Board of Education Approval Procedures: To be accredited by the State Board of Education, a school district or school shall obtain approval for the school district's or school's educational program by one of the following procedures.

A. Option 1. Accreditation through the South Carolina Department of Education (SCDE). Meet the standards in the defined program and all current statutes and regulations as prescribed by the State Board of Education and General Assembly determined by the SCDE through the procedures described below. With regard to special schools, the following documents contain the full text of accreditation standards adopted by the State Board of Education. The documents are on file in the Offices of the South Carolina Department of Education and the South Carolina Legislative Council:

Defined Minimum Program for the John de la Howe School
Defined Minimum Program for the South Carolina School for the Deaf and the Blind
Defined Minimum Program for the South Carolina Wil Lou Gray Opportunity School
Defined Minimum Program for the South Carolina Department of Juvenile Justice

B. Option 2. Accreditation through an Accrediting Entity Accepted by Higher Education. Submit documentation to the State Board of Education that the district and schools meet all accreditation standards and are considered fully accredited by an accrediting entity accepted by higher education (i.e., AdvancED/Southern Association of Colleges and Schools (SACS)). Use of an accrediting entity other than AdvancED will require approval by the State Board of Education. All deficiencies identified through desk or on-site monitoring must be resolved prior to the district or school utilizing Option 2. If district's or school's accreditation rating becomes less than fully accredited when utilizing Option 2, the district or school will automatically be reviewed by the South Carolina Department of Education's Option 1 procedures. A list of schools and/or districts selecting Option 2 for accreditation will be included in the

SCDE's Annual Report of the Accreditation of School Districts in South Carolina to the State Board of Education.

III. Option 1 accreditation procedures for each school district or school not submitting documentation of Option 2 accreditation:

A. On or before October 15, data assurances documenting the compliance of standards for boards of trustees; district operations; elementary grades; middle grades; secondary grades; career and technology education; summer school programs; and adult education will be submitted to the South Carolina Department of Education.

B. The South Carolina Department of Education will process the accreditation data and identify existing deficiencies for the following educational units: (1) Boards of Trustees, (2) District Operations, (3) Elementary Grades, (4) Middle Grades, (5) Secondary Grades, (6) Summer School Programs, (7) Career and Technology Education, and (8) Adult Education. Accreditation data will also be collected annually through desk and on-site monitoring of selected schools and districts. The listings of deficiencies will be reviewed by South Carolina Department of Education staff and results of the preliminary analysis indicating existing deficiencies will be provided to districts and schools for verification.

C. The preliminary analysis data shall result in the SCDE assigning one of the following accreditation preliminary classifications no later than February 1:

Accredited/All Clear indicates that a district or school is in compliance with the standards for a defined program and with all current statutes and regulations as prescribed by the State Board of Education and General Assembly.

Accredited/Advised indicates that a district or school is not in compliance with the standards for a defined program and with all current statutes and regulations as prescribed by the State Board of Education and General Assembly, but the deficiencies may be easily corrected and/or substantial progress can be made in removing existing deficiencies.

Accredited/Warned indicates that a district or school is not in compliance with the standards for a defined program and with all current statutes and regulations as prescribed by the State Board of Education and General Assembly for a second year. Districts that have a Warned accreditation classification are required to make substantial progress toward removal of deficiencies before submitting accreditation data the subsequent school year or the district's accreditation will be placed on Probation.

Accredited/Probation indicates that a district or school is not in compliance with the standards for a defined program and with all current statutes and regulations as prescribed by the State Board of Education and General Assembly for a third year. Serious deficiencies exist and the district, school, or program will lose its accreditation unless satisfactory progress is made toward the removal of the deficiencies before the next school year.

Accreditation Denied indicates that the district or school is not in compliance with the standards for a defined program and with all current statutes and regulations as prescribed by the State Board of Education and General Assembly for a fourth year and does not merit accreditation. If the accreditation of a high school is denied, that school cannot issue State high school diplomas subsequent to the school year in which the accreditation is denied. Schools which have been classified as Accreditation Denied by the defined program accreditation procedures shall not be 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.

D. Each district and school is required to reply to the preliminary accreditation classification in writing to the South Carolina Department of Education, no later than February 22 and to provide written documentation to request removal of deficiencies prior to the South Carolina Department of Education assigning a final accreditation classification.

E. A copy of the final accreditation classification report for all Option 1 schools and districts will be provided to district superintendents, school principals, directors of career and technology education, directors of adult education, and members of the boards of trustees. The State Board of Education will receive the accreditation classification of all districts and schools utilizing Option 1 in the SCDE's Annual Report of the Accreditation of School Districts in South Carolina.

IV. Additional Requirement for Career and Technical Education:

In addition to the policies of the State Board of Education, programs under the jurisdiction of other state accrediting, certifying, or licensing boards shall meet requirements established by these boards.

V. On-Site Verification Visits by State Accountability Team

In addition to annual recommendation of a district's or school's accreditation classification, the SCDE's state accountability team will conduct desk audits and on-site verification visits on all districts and schools following a five-year cycle and yearly on those which have an accreditation status of accredited/ warned, accredited/probation, or those districts and schools whose previous visit violations are still unresolved for the current year. The state accountability team will facilitate and conduct on-site verification visits within thirty days to districts and schools as directed by the State Board of Education or the State Superintendent of Education. The results of the verification visit will be reported to the State Board of Education.

Title of Regulation:	**Regulation No.:**	**R 43-302**
PALMETTO GOLD AND SILVER AWARDS PROGRAM	**Effective Date:**	**03/28/03**

Constitutional and Statutory Provisions:

Section(s):

59-18-1100. Palmetto Gold and Silver Awards Program established; criteria; eligibility of schools for academically talented.

Code of Laws of South Carolina, 1976.

State Board Regulation:

Palmetto Gold and Silver Awards Program.

A. Program Implementation

The Palmetto Gold and Silver Awards Program is established to recognize and reward schools for academic achievement. Awards will be established for schools attaining high levels of absolute performance and for schools attaining high rates of improvement. The program shall be operated by the State Department of Education in accordance with program criteria established by the Division of Accountability of the Education Oversight Committee.

B. Expenditure of Award Funds

Award funds are to be used to improve and/or maintain exceptional student academic performance according to the school's renewal plan. Funds may be utilized for professional development support. Allowable costs include equipment, materials and supplies, contractual services, substitutes, and travel. Specific guidelines for the expenditure of award funds will be provided to each school receiving an award. An expenditure report specifying the manner in which those monies were expended must be submitted to the Department of Education at the conclusion of the grant period.

Title of Policy:	**Policy No.:**	**R 43-303**
FLEXIBILITY THROUGH DEREGULATION PROGRAM	**Effective Date:**	**06/25/04**

Constitutional and Statutory Provisions:

Section(s):

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

Code of Laws of South Carolina, 1976.

State Board Policy:

Flexibility Through Deregulation Program.

I. Program Implementation

The Education Accountability Act, S.C. Code Ann. Sections 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. Section 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 are met:

a. The statutes or regulations exempted must deal with the core academic areas.

b. The External Review Team (ERT) recommends specific regulations and statutes for flexibility to the SBE in the ERT report.

c. If recommended by the ERT, the school plan must be amended to explain how the exemption will improve school and student performance.

3. Criteria for Schools through School Plans

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

a. The school has met annual improvement standards for subgroups of students in reading and mathematics.

b. Amendments to the school renewal plan must explain why exemptions are expected to improve the academic performance of the students.

c. The plan meets the approval by the SBE.

III. Stability of School Grade Organization

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 an 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. Section 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.

Title of Policy:	**Regulation No.:**	**R 43-307**
ALIGNMENT OF ASSESSMENT AND ACCOUNTABILITY WITH THE NO CHILD LEFT BEHIND ACT	**Effective Date**	**06/27/03**

Constitutional and Statutory Provisions:

Section(s):
59-5-60. General powers of [State] Board
Code of Laws of South Carolina, 1976.

20 U.S.C. §107, et seq. No Child Left Behind Act 2002
U.S. Code of Laws

State Board Policy:

Alignment of Assessment and Accountability Elements with the No Child Left Behind Act.

I. The reauthorization of the Elementary and Secondary Education Act of 2001, Public Law 107-110, also known as the No Child Left Behind Act, requires each state to align its assessment and accountability elements with the measures mandated by federal law. The following steps are taken to align the elements of the Education Accountability Act of 1998 with those of the No Child Left Behind Act.

A. Assessment System

1. The assessment system, as mandated by the Education Accountability Act and further specified in the State Accountability Workbook, required by the No Child Left Behind Act, applies to all public schools and districts in the state and holds all students to the same academic achievement criteria and performance standards.

2. The annual school, district, and state report cards, as mandated by the Education Accountability Act and as further specified in the State Accountability Workbook, will include the data required by the No Child Left Behind Act.

B. Accountability System

1. Adequate Yearly Progress. This measure is calculated as specified in the State Accountability Workbook and is included as a measure of accountability and progress of the public schools. Adequate yearly progress will be reported on the front of the Education Accountability Act mandated report card.

2. Subgroups for Accountability. The subgroups identified for measuring the progress on adequate yearly progress are: economically disadvantaged students, major racial and ethnic groups, students with disabilities, and students with limited English proficiency. All students in the school are considered to be an additional subgroup. The definitions of the subgroups are specified in the South Carolina Department of Education Test Administration Manual and the No Child Left Behind Act.

3. Other Indicators of Performance. Attendance is the additional required indicator for elementary and middle schools. This indicator's threshold and adequate yearly progress criteria are specified in the State Accountability Workbook. For high school, the additional indicator is required to be graduation rate. This indicator's threshold and adequate yearly progress criteria are specified in the State Accountability Workbook.

II. The Elementary and Secondary Education Act of 2001, Public Law 107-110, also known as the No Child Left Behind Act, requires schools and districts not meeting adequate yearly progress for two consecutive years to move into needs improvement status and for Title I schools missing adequate yearly progress more than two consecutive years to progress through the levels of consequences specified in federal law.

III. The State Board of Education authorizes the South Carolina Department of Education to develop and amend the State Accountability Workbook as necessary to meet USDE approval.

Appendices

Required Credentials for Professional Staff Members in the Instructional Programs of South Carolina's Public Schools

SOUTH CAROLINA
STATE DEPARTMENT OF EDUCATION

Effective for the 2014–15 School Year

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NOTICE

The activity/course codes specified in this document are generated from the coding system that is detailed in the document *South Carolina Department of Education Activity Coding System for Student Information Systems (SIS),* issued by the Office of Technology Services. When course titles are changed, titles/codes are deactivated, or new titles/codes are created, those changes are indicated in purple type in table 3 of that coding manual. Three South Carolina Department of Education (SCDE) documents that contain course titles and codes—*Activity Coding System for SIS*, *CATE Student Reporting Procedures*, and *Required Credentials for Professional Staff Members in the Instructional Programs of South Carolina's Public Schools*—will be updated and reissued each year. Changes will go into effect the following school year.

Modifications to the acceptable areas of certification and to the mandatory attendant training requirements that appear in this document are reviewed and approved by the SCDE.

Introduction

District and school professional staff members must hold appropriate credentials for the positions they occupy in order to meet accreditation standards mandated by State Board of Education Regulation 43-300.

All district office professional staff members who are required to hold certification must hold a master's degree and must be certified in their area of primary responsibility. All teachers must be properly certified. "Teachers of credit-bearing courses in grades seven and eight must either hold middle-level certification in the content area, secondary certification in the content area, or hold middle school certification. Additionally, ALL teachers of credit-bearing courses in grades seven and eight must have passed either the middle-level or secondary Praxis II exam in the content area or the National Teacher's Examination in the content area." **Effective July 1, 2013, the appropriate middle level certificate will be required for all teaching core content areas in grades 7–8.**

Since grades 5–6 are included in both elementary and middle certification, school districts have flexibility to determine which certification is most appropriate. The South Carolina Department of Education will continue to honor elementary certification for grades 5–6 beyond 2013–14, for teachers who teach in those grade levels, but whose schools use the elementary model.

Teachers of the core academic subjects must not only be properly certified, but must also meet the "highly qualified" teacher requirements of the federal No Child Left Behind Act of 2001 (Pub. L. No. 107-110). The law requires public school elementary and secondary teachers to meet their state's definition of highly qualified teacher for each **core academic subject** they teach. According to No Child Left Behind, these subjects are **English, reading or language arts, math, science, history, civics and government, geography, economics, the arts and foreign language**. Special education teachers and teachers of English language learners must be highly qualified if they teach core academic subjects to their students.

Out-of-field permits may be issued for administrators, eligible teachers, library media specialists, and guidance counselors. Please contact the South Carolina Office of Certification to determine what subject area teachers are eligible for out-of-field permits.

What follows in this document is a tabular listing of most district office and school positions, along with the required credentials for each of those positions. Regardless of whether a specific position is listed in this document, all professional instructional staff must hold South Carolina educator certificates. If the credential requirement is an area of certification only, then the certification code for that specific area appears in a separate column. If the credential includes attendant training, as well as acceptable certification, the abbreviation NC ("no code") appears in parentheses in the code column.

All credit-bearing courses are listed in the "Grades 9–12" section of this document. To assist districts in identifying those teaching positions for which the credential requirements include training beyond acceptable certification, instructional activity codes (course codes) are provided. Credit-bearing courses carry the same activity codes if they are taught in grades seven and eight. This document makes no recommendations with regard to course sequencing.

A credit-bearing course that is not listed in the “Grades 9–12” section of this document is either a locally designed elective course approved by the local board of trustees or a locally designed subject-area course approved by the SCDE. The required credentials for teachers of locally designed elective courses are determined by the local board of trustees. All teachers of locally designed subject-area courses must be “highly qualified” in the subject area of the particular course they are teaching.

Certificates marked with an asterisk have been discontinued by the SCDE. Teachers holding these certificates with current effective dates may continue to serve or teach in the positions as listed.

District Professional Staff

DISTRICT ADMINISTRATORS

REQUIRED CREDENTIALS: MASTER'S DEGREE *and* CERTIFICATION IN THE AREA OF PRIMARY RESPONSIBILITY		
Position	**Certif. Code**	**Acceptable Certification**
Area/County/District Superintendent	70	Superintendent
Deputy/Assistant/Associate Superintendent	71 73 72 74 7B 7D 7C 7E 70	Elementary Principal* Elementary Supervisor* Secondary Principal* Secondary Supervisor* Elementary Principal Tier I Elementary Principal Tier II Secondary Principal Tier I Secondary Principal Tier II Superintendent
Director of Instruction	71 73 72 74 7B 7D 7C 7E 70 NC	Elementary Principal* Elementary Supervisor* Secondary Principal* Secondary Supervisor* Elementary Principal Tier I Elementary Principal Tier II Secondary Principal Tier I Secondary Principal Tier II Superintendent *or* **Appropriate subject area certification *plus* successful completion of the SCDE – Office of School Leadership's Institute for District Administrators within two years of hiring.**
Director, Career and Technology Education	72 74 76 7C 7E	Secondary Principal* Secondary Supervisor* Vocational Center Director Secondary Principal Tier I Secondary Principal Tier II

* =This certification is no longer issued. Teachers holding these certificates with current effective dates may continue to serve or teach in the positions as listed.

DISTRICT ADMINISTRATORS

REQUIRED CREDENTIALS: MASTER'S DEGREE *and* CERTIFICATION IN THE AREA OF PRIMARY RESPONSIBILITY		
Position	**Certif. Code**	**Acceptable Certification**
Director, Child Development Director, Early Childhood Education	85+ 71 73 7B 7D 70 NC	Early Childhood ***plus* one of the following:** Elementary Principal* *or* Elementary Supervisor* *or* Elementary Principal Tier I *or* Elementary Principal Tier II *or* Superintendent *or* **Successful completion of the SCDE Office of School Leadership Institute for District Administrators within two years of hiring**
Director, Special Education	71 73 7B 7D 90 84 78 72 74 7C 7E 70 NC	Elementary Principal* Elementary Supervisor* Elementary Principal Tier I Elementary Principal Tier II Guidance—Secondary Advanced* School Psychologist II School Psychologist III Secondary Principal* Secondary Supervisor* Secondary Principal Tier I Secondary Principal Tier II Superintendent *or* Any certification area ***plus* an advanced degree in the field of Special Education**

* =This certification is no longer issued. Teachers holding these certificates with current effective dates may continue to serve or teach in the positions as listed.

DISTRICT ADMINISTRATORS

REQUIRED CREDENTIALS: MASTER'S DEGREE *and* CERTIFICATION IN THE AREA OF PRIMARY RESPONSIBILITY		
Position	**Certif. Code**	**Acceptable Certification**
Director, Adult Education	71 73 72 74 7B 7D 7C 7E 70 NC	Elementary Principal* Elementary Supervisor* Secondary Principal* Secondary Supervisor* Elementary Principal Tier I Elementary Principal Tier II Secondary Principal Tier I Secondary Principal Tier II Superintendent *or* Any certification area ***plus*** **an advanced degree in the field of Adult Education**
Other Directors at District Office (except finance, human resources, and transportation)	71 73 72 74 7B 7D 7C 7E 70	Elementary Principal* Elementary Supervisor* Secondary Principal* Secondary Supervisor* Elementary Principal Tier I Elementary Principal Tier II Secondary Principal Tier I Secondary Principal Tier II Superintendent *or* **Appropriate subject area certification *plus* successful completion of the SCDE – Office of School Leadership's Institute for District Administrators within two years of hiring.**
Supervisor, Elementary Education	71 73 7B 7D 70	Elementary Principal* Elementary Supervisor* Elementary Principal Tier I Elementary Principal Tier II Superintendent *or* **Appropriate subject area certification *plus* successful completion of the SCDE – Office of School Leadership's Institute for District Administrators within two years of hiring.**
Supervisor, Secondary Education	72 74 7C	Secondary Principal* Secondary Supervisor* Secondary Principal Tier I

* =This certification is no longer issued. Teachers holding these certificates with current effective dates may continue to serve or teach in the positions as listed.

DISTRICT ADMINISTRATORS

REQUIRED CREDENTIALS: MASTER'S DEGREE *and* CERTIFICATION IN THE AREA OF PRIMARY RESPONSIBILITY		
Position	**Certif. Code**	**Acceptable Certification**
	7E 70	Secondary Principal Tier II Superintendent *or* **Appropriate subject area certification *plus* successful completion of the SCDE – Office of School Leadership's Institute for District Administrators within two years of hiring.**

* =This certification is no longer issued. Teachers holding these certificates with current effective dates may continue to serve or teach in the positions as listed.

ALL DISTRICT CONSULTANTS, CURRICULUM SPECIALISTS, AND COORDINATORS

REQUIRED CREDENTIALS: MASTER'S DEGREE *and* CERTIFICATION IN THE AREA OF PRIMARY RESPONSIBILITY

Program	Certif. Code	Acceptable Certification
Agriculture	30	Agriculture
Business, Marketing, and Computer Technology Education	43 44 48 4B 47 40 46 32 45 41 42	Accounting* Accounting and Related Business* Accounting and Related Economics* Business/Marketing/Computer Technology (Business and Marketing Technology) Business Education* Commerce* Data/Information Processing* Distributive Education* Secretarial Science* Shorthand* Typing*
Driver Education	63	Driver Training
Early Childhood	85	Early Childhood
Elementary	01	Elementary
Engineering/Industrial Technology Education	36 29	Industrial Arts* Industrial Technology Education
English Language Arts	01 04 1E 1A 83	Elementary English Middle-Level Language Arts Middle School Language Arts* Reading Clinician*

* =This certification is no longer issued. Teachers holding these certificates with current effective dates may continue to serve or teach in the positions as listed.

ALL DISTRICT CONSULTANTS, CURRICULUM SPECIALISTS, AND COORDINATORS

REQUIRED CREDENTIALS: MASTER'S DEGREE *and* CERTIFICATION IN THE AREA OF PRIMARY RESPONSIBILITY

Program	Certif. Code	Acceptable Certification
	81 82 80 5E 5G 5F	Reading Consultant* Reading Coordinator or Director* Reading Teacher* Literacy Coach Literacy Teacher Literacy Specialist
Gifted and Talented	8A GT	Gifted and Talented Certification Gifted and Talented Endorsement
Guidance	88 86 89 90	Associate Guidance—Secondary* Guidance—Elementary Guidance—Secondary Guidance—Secondary Advanced*
Health, Safety, Physical Education	64 65 67	Health Health and Physical Education* Physical Education
Health Science Technology/Health Services	AC	Health Science Technology
Mathematics	11 10 1F 1B	General Mathematics* Mathematics Middle-Level Mathematics Middle School Mathematics*
Media Services	60 59	Media Specialist Media Supervisor*
Reading Coordinator	01 85 5E 5F 5G 83 81 82 80	Elementary Early Childhood Literacy Coach Literacy Specialist Literacy Teacher Reading Clinician* Reading Consultant* Reading Coordinator or Director* Reading Teacher*

* =This certification is no longer issued. Teachers holding these certificates with current effective dates may continue to serve or teach in the positions as listed.

ALL DISTRICT CONSULTANTS, CURRICULUM SPECIALISTS, AND COORDINATORS

REQUIRED CREDENTIALS: MASTER'S DEGREE *and* CERTIFICATION IN THE AREA OF PRIMARY RESPONSIBILITY

Program	Certif. Code	Acceptable Certification
Science	14	Biology
	15	Chemistry
	17	Earth Science*
	13	General Science*
	1G	Middle-Level Science
	1C	Middle School Science*
	16	Physics
	12	Science
Social Studies	23	Economics
	24	Geography
	25	Government
	21	History
	1H	Middle-Level Social Studies
	1D	Middle School Social Studies*
	26	Psychology
	20	Social Studies
	27	Sociology
Special Education	69	School Psychologist I
	84	School Psychologist II
	78	School Psychologist III
	2A	Special Education—Educable Mentally Disabled*
	2D	Special Education—Deaf and Hard of Hearing
	2E	Special Education—Emotional Disabilities
	02	Special Education—Generic Special Education*
	2G	Special Education—Learning Disabilities
	2H	Special Education—Mental Disabilities
	2I	Special Education—Multicategorical
	2F	Special Education—Orthopedically Impaired*
	2J	Special Education—Severe Disabilities
	2C	Special Education—Trainable Mentally Disabled*
	2B	Special Education—Education of the Blind and Visually Impaired
	03	Speech-Language Therapist
Visual and Performing Arts	49	Advanced Fine Arts
	50	Art
	58	Dance
	51	Music Education—Choral

* =This certification is no longer issued. Teachers holding these certificates with current effective dates may continue to serve or teach in the positions as listed.

ALL DISTRICT CONSULTANTS, CURRICULUM SPECIALISTS, AND COORDINATORS

REQUIRED CREDENTIALS: MASTER'S DEGREE *and* CERTIFICATION IN THE AREA OF PRIMARY RESPONSIBILITY		
Program	**Certif. Code**	**Acceptable Certification**
	54 52 56 53 57 5C	Music Education—Instrumental Music Education—Piano Music Education—Violin Music Education—Voice Speech and Drama* Theatre
World Languages	94 5D 05 08 5B 06 09 07	American Sign language Chinese French German Japanese Latin Russian Spanish

* =This certification is no longer issued. Teachers holding these certificates with current effective dates may continue to serve or teach in the positions as listed.

SCHOOL ADMINISTRATORS AND PROFESSIONAL SUPPORT STAFF

REQUIRED CREDENTIALS: MASTER'S DEGREE *and* CERTIFICATION IN THE AREA OF PRIMARY RESPONSIBILITY

Position	Certif. Code	Acceptable Certification
Kindergarten–Grade 6		
Principal Assistant Principal Curriculum Coordinator Administrative Assistant	71 73 7B 7D	Elementary Principal* Elementary Supervisor* Elementary Principal Tier I Elementary Principal Tier II
Guidance Counselor	86	Guidance—Elementary
Library Media Specialist, full-time	60	Media Specialist
Library Media Specialist, part-time	60 61	Media Specialist Teacher-Librarian*
Instructional Coach (In effect 2014–2015)	01 85	Early Childhood Elementary Elementary Principal* Elementary Supervisor* Elementary Principal Tier I Elementary Principal Tier II Any Certification that encompasses PreK/K-12
Kindergarten–Grade 8		
Principal Assistant Principal Administrative Assistant	71 73 7B 7D	Elementary Principal* Elementary Supervisor* Elementary Principal Tier I Elementary Principal Tier II
Grades 7–8		
Principal Assistant Principal Curriculum Coordinator Administrative Assistant	71 73 72 74 7B 7D 7C 7E	Elementary Principal* Elementary Supervisor* Secondary Principal* Secondary Supervisor* Elementary Principal Tier I Elementary Principal Tier II Secondary Principal Tier I Secondary Principal Tier II
Guidance Counselor	88 86 89 90	Associate Guidance—Secondary* Guidance—Elementary Guidance—Secondary Guidance—Secondary Advanced*
Library Media Specialist	60	Media Specialist

* =This certification is no longer issued. Teachers holding these certificates with current effective dates may continue to serve or teach in the positions as listed.

Instructional Coach (In effect 2014–2015)		Middle School/Level certification in appropriate subject area Elementary Principal* Elementary Supervisor* Elementary Principal Tier I Elementary Principal Tier II Secondary Principal* Secondary Supervisor* Secondary Principal Tier I Secondary Principal Tier II Any Certification that encompasses PreK/K-12
Grades 9–12		
Principal Assistant Principal Curriculum Coordinator Administrative Assistant	72 74 7C 7E	Secondary Principal* Secondary Supervisor* Secondary Principal Tier I Secondary Principal Tier II
Director, Career and Technology Education Assistant Director, Career and Technology Education	72 74 76 7C 7E	Secondary Principal* Secondary Supervisor* Vocational Center Director Secondary Principal Tier I Secondary Principal Tier II
Guidance Counselor	88 89 90	Associate Guidance—Secondary* Guidance—Secondary Guidance—Secondary Advanced*
Library Media Specialist	60	Media Specialist
Instructional Coach (In effect 2014–2015)		Secondary certification in appropriate subject area Secondary Principal* Secondary Supervisor* Secondary Principal Tier I Secondary Principal Tier II Any Certification that encompasses K-12

* =This certification is no longer issued. Teachers holding these certificates with current effective dates may continue to serve or teach in the positions as listed.

Teachers

SPECIAL EDUCATION

REQUIRED CREDENTIAL: ACCEPTABLE CERTIFICATION

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

Acceptable certification for a teacher of a *self-contained* special education class is determined by the area of disability in which all or the majority of the teacher's students are classified. Acceptable certification for a *resource or itinerant* special education teacher is determined by the area of disability in which the majority of the teacher's students in each class are classified.

Prekindergarten—Grade 12 Program	Certif. Code	Acceptable Certification
Autism	2A	Special Education—Educable Mentally Disabled*
	2C	Special Education—Trainable Mentally Disabled*
	2E	Special Education—Emotional Disabilities
	2H	Special Education—Mental Disabilities
	2I	Special Education—Multicategorical
	2J	Special Education—Severe Disabilities
	2G	Special Education—Learning Disabilities
	02	Special Education—Generic Special Education*
Developmentally Delayed (Ages 3–9)	2K	ECE Special Education (ages 3-6 only)
	85	Early Childhood (ages 3-5 only)
	2D	Special Education—Deaf and Hard of Hearing
	2A	Special Education—Educable Mentally Disabled*
	2E	Special Education—Emotional Disabilities
	02	Special Education—Generic Special Education*
	2G	Special Education—Learning Disabilities
	2H	Special Education—Mental Disabilities (See Intellectual Disabilities)
	2I	Special Education—Multicategorical
	2J	Special Education—Severe Disabilities
	2C	Special Education—Trainable Mentally Disabled*
	03	Speech-Language Therapist
Deaf and Hard of Hearing	2D	Special Education—Education of Deaf and Hard of Hearing

* =This certification is no longer issued. Teachers holding these certificates with current effective dates may continue to serve or teach in the positions as listed.

† = For more information, please call the Office of Federal and State Accountability at 803-734-3454.

SPECIAL EDUCATION

REQUIRED CREDENTIAL: ACCEPTABLE CERTIFICATION

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

Acceptable certification for a teacher of a *self-contained* special education class is determined by the area of disability in which all or the majority of the teacher's students are classified. Acceptable certification for a *resource or itinerant* special education teacher is determined by the area of disability in which the majority of the teacher's students in each class are classified.

Prekindergarten—Grade 12 Program	Certif. Code	Acceptable Certification
Emotional Disabilities	2E	Special Education—Emotional Disabilities
	02	Special Education—Generic Special Education*
	2I	Special Education—Multicategorical
Intellectual Disabilities	2A	Special Education—Educable Mentally Disabled*
	02	Special Education—Generic Special Education*
	2H	Special Education—Mental Disabilities
	2I	Special Education—Multicategorical
	2J	Special Education—Severe Disabilities
	2C	Special Education—Trainable Mentally Disabled*
Specific Learning Disabilities	02	Special Education—Generic Special Education*
	2G	Special Education—Learning Disabilities
	2I	Special Education—Multicategorical
Orthopedically Impaired	2F	Special Education—Orthopedically Impaired*
	2H	Special Education—Mental Disabilities
	2I	Special Education—Multicategorical
	2J	Special Education—Severe Disabilities
Speech-Language Impaired	03	Speech-Language Therapist
Visually Impaired	2B	Special Education—Blind and Visually Impaired
Other Health Impaired	2K	ECE Special Education (ages 3-6 only)
	85	Early Childhood (ages 3-5 only)
	02	Special Education—Generic Special Education*
	2E	Special Education—Emotional Disabilities
	2G	Special Education—Learning Disabilities
	2I	Special Education—Multicategorical

* =This certification is no longer issued. Teachers holding these certificates with current effective dates may continue to serve or teach in the positions as listed.

† = For more information, please call the Office of Federal and State Accountability at 803-734-3454.

SPECIAL EDUCATION

REQUIRED CREDENTIAL: ACCEPTABLE CERTIFICATION

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

Acceptable certification for a teacher of a *self-contained* special education class is determined by the area of disability in which all or the majority of the teacher's students are classified. Acceptable certification for a *resource or itinerant* special education teacher is determined by the area of disability in which the majority of the teacher's students in each class are classified.

Prekindergarten—Grade 12 Program	Certif. Code	Acceptable Certification
Traumatic Brain Injury	2K 85 02 2A 2C 2E 2G 2H 2I 2J	ECE Special Education (ages 3-6 only) Early Childhood (ages 3-5 only) Special Education—Generic Special Education* Special Education—Educable Mentally Disabled* Special Education—Trainable Mentally Disabled* Special Education—Learning Disabilities Special Education—Mental Disabilities (See Intellectual Disabilities) Special Education—Multicategorical Special Education—Severe Disabilities
Early Childhood Special Education (ages 3 -5) Until July 1, 2016, all of the listed certifications are applicable. Effective July 1, 2016, all individuals working as Early Childhood Special Education teachers will be required to hold certification in Early Childhood Special Education. If the student is not enrolled in an early childhood program, but is enrolled in a Kindergarten program, the other special education categories for certification requirements listed in this document are applicable.	2K 85 2D 2A 2E 02 2G 2H 2I 2J 2C	ECE Special Education Early Childhood Special Education—Deaf and Hard of Hearing Special Education—Educable Mentally Disabled* Special Education—Emotional Disabilities Special Education—Generic Special Education* Special Education—Learning Disabilities Special Education—Mental Disabilities (See Intellectual Disabilities) Special Education—Multicategorical Special Education—Severe Disabilities Special Education—Trainable Mentally Disabled*

NOTE: Special Education teachers who provide the primary instruction in a core academic subject for which any student is earning Carnegie units toward state graduation requirements must hold appropriate South Carolina certification to teach students as outlined in this document and must demonstrate appropriate content knowledge in each core academic subject they teach. Special Education teachers who teach self-contained classes and give students their core academic subject instruction must either hold elementary certification or have passed the elementary curriculum content Praxis II.

* =This certification is no longer issued. Teachers holding these certificates with current effective dates may continue to serve or teach in the positions as listed.

† = For more information, please call the Office of Federal and State Accountability at 803-734-3454.

PREKINDERGARTEN–GRADE 6

REQUIRED CREDENTIAL: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

Program Area	Certif. Code	Acceptable Certification and Mandatory Attendant Training
Prekindergarten–Grade 3		
Prekindergarten, Kindergarten, and Grade 1	85	Early Childhood
Self-Contained/Departmentalized, Grades 2–3	85 01	Early Childhood Elementary
PreK to 5-K, Montessori	85 8B NC	Early Childhood (Montessori Primary Level training is encouraged by the SEA and LEAs.) *or* Montessori—Early Childhood Education *or* A Bachelor's degree *plus* a certificate of completion from a MACTE accredited Montessori teacher training program at the Primary Level *and* minimum qualifying score(s) on examinations required by the SCDE *or* PreK-12 certification *plus* a certificate of completion from a MACTE accredited Montessori teacher training program at the Primary Level *and* minimum qualifying score(s) on examinations required by the SCDE

‡Effective July 1, 2013, the appropriate middle level certificate will be required for all teaching core content areas in grades 7–8.

Since grades 5–6 are included in both elementary and middle certification, school districts have flexibility to determine which certification is most appropriate. The South Carolina Department of Education will continue to honor elementary certification for grades 5–6 beyond 2013–14, for teachers who teach in those grade levels, but whose schools use the elementary model.

* =This certification is no longer issued. Teachers holding these certificates with current effective dates may continue to serve or teach in the positions as listed.
†= For more information, please call the Office of Federal and State Accountability at 803-734-3454.

PREKINDERGARTEN–GRADE 6

REQUIRED CREDENTIAL: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

Program Area	Certif. Code	Acceptable Certification and Mandatory Attendant Training
Grades 1 –3, Montessori	85 01 8C NC NC	Early Childhood Elementary (Montessori Lower Elementary Level training is encouraged by the SEA and LEAs.) Montessori—Elementary I (Grades 1-3) *or* A Bachelor's degree plus a certificate of completion from a MACTE accredited Montessori teacher training program at the Lower Elementary Level *and* minimum qualifying score(s) on examinations required by the SCDE *or* PreK-12 certification plus a certificate of completion from a MACTE accredited Montessori teacher training program at the Lower Elementary Level *and* minimum qualifying score(s) on examinations required by the SCDE

‡Effective July 1, 2013, the appropriate middle level certificate will be required for all teaching core content areas in grades 7–8.

Since grades 5–6 are included in both elementary and middle certification, school districts have flexibility to determine which certification is most appropriate. The South Carolina Department of Education will continue to honor elementary certification for grades 5–6 beyond 2013–14, for teachers who teach in those grade levels, but whose schools use the elementary model.

* =This certification is no longer issued. Teachers holding these certificates with current effective dates may continue to serve or teach in the positions as listed.
†= For more information, please call the Office of Federal and State Accountability at 803-734-3454.

PREKINDERGARTEN–GRADE 6

REQUIRED CREDENTIAL: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

Program Area	Certif. Code	Acceptable Certification and Mandatory Attendant Training
World Language Immersion Programs, PreK-Grade 1	85 NC NC	Early Childhood certification *plus* one of the following: • a passing score on the Praxis examination for a World Language area • Native Speakers with degrees earned abroad in their native language may take the American Council on the Teaching of Foreign Languages Oral Proficiency Interview (OP1) and the Writing Proficiency Test (WPT) *or* A valid SC certificate in an appropriate World Language area ***plus* a passing score on the Praxis examination for Early Childhood Education**

‡Effective July 1, 2013, the appropriate middle level certificate will be required for all teaching core content areas in grades 7–8.

Since grades 5–6 are included in both elementary and middle certification, school districts have flexibility to determine which certification is most appropriate. The South Carolina Department of Education will continue to honor elementary certification for grades 5–6 beyond 2013–14, for teachers who teach in those grade levels, but whose schools use the elementary model.

* =This certification is no longer issued. Teachers holding these certificates with current effective dates may continue to serve or teach in the positions as listed.
†= For more information, please call the Office of Federal and State Accountability at 803-734-3454.

PREKINDERGARTEN–GRADE 6

REQUIRED CREDENTIAL: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

Program Area	Certif. Code	Acceptable Certification and Mandatory Attendant Training
World Language Immersion Programs, Grades 2–3	01 NC NC	Elementary certification ***plus* one of the following:** • **a passing score on the Praxis examination for a World Language area** • **Native Speakers with degrees earned abroad in their native language may take the American Council on the Teaching of Foreign Languages Oral Proficiency Interview (OP1) and the Writing Proficiency Test (WPT).** *or* A valid SC certificate in an appropriate World Language area ***plus* a passing score on the Praxis examination Elementary Education** *or*

‡Effective July 1, 2013, the appropriate middle level certificate will be required for all teaching core content areas in grades 7–8.

Since grades 5–6 are included in both elementary and middle certification, school districts have flexibility to determine which certification is most appropriate. The South Carolina Department of Education will continue to honor elementary certification for grades 5–6 beyond 2013–14, for teachers who teach in those grade levels, but whose schools use the elementary model.

* =This certification is no longer issued. Teachers holding these certificates with current effective dates may continue to serve or teach in the positions as listed.
†= For more information, please call the Office of Federal and State Accountability at 803-734-3454.

PREKINDERGARTEN–GRADE 6

REQUIRED CREDENTIAL: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

Program Area	Certif. Code	Acceptable Certification and Mandatory Attendant Training
Grades 4–6		
Self-Contained	01	Elementary

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PREKINDERGARTEN–GRADE 6

REQUIRED CREDENTIAL: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

Program Area	Certif. Code	Acceptable Certification and Mandatory Attendant Training
Grades 4 – 6, Montessori, Self-Contained	01	Elementary (Montessori Upper Elementary Level training is encouraged by the SEA and LEAs.)
		or
	8D	Montessori—Elementary II (Grades 4-6)
		or
	NC	A Bachelor's degree plus a certificate of completion from a MACTE accredited Montessori teacher training program at the Upper Elementary Level *and* minimum qualifying score(s) on examinations required by the SCDE
		or
	NC	PreK-12 certification plus a certificate of completion from a MACTE accredited Montessori teacher training program at the Upper Elementary Level *and* minimum qualifying score(s) on examinations required by the SCDE

‡Effective July 1, 2013, the appropriate middle level certificate will be required for all teaching core content areas in grades 7–8.

Since grades 5–6 are included in both elementary and middle certification, school districts have flexibility to determine which certification is most appropriate. The South Carolina Department of Education will continue to honor elementary certification for grades 5–6 beyond 2013–14, for teachers who teach in those grade levels, but whose schools use the elementary model.

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PREKINDERGARTEN–GRADE 6

REQUIRED CREDENTIAL: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

Program Area	Certif. Code	Acceptable Certification and Mandatory Attendant Training
Departmentalized Grades 2–6		
Grade 6, Montessori, Departmentalized	NC 8D

PREKINDERGARTEN–GRADE 6

REQUIRED CREDENTIAL: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

Program Area	Certif. Code	Acceptable Certification and Mandatory Attendant Training
Science	01 1G 1C	Elementary Middle-Level Science Middle School Science*
Social Studies	01 1H 1D	Elementary Middle-Level Social Studies Middle School Social Studies*
World Language Immersion Programs, Grades 4 – 6 for all content areas except for language arts in a world language	01 NC NC	Elementary certification ***plus* one of the following:** • **a passing score on the Praxis examination for a World Language area** • **Native Speakers with degrees earned abroad in their native language may take the American Council on the Teaching of Foreign Languages Oral Proficiency Interview (OP1) and the Writing Proficiency Test (WPT).** *or* A valid SC certificate in an appropriate World Language area ***plus* a passing score on the Praxis examination Elementary Education**

‡Effective July 1, 2013, the appropriate middle level certificate will be required for all teaching core content areas in grades 7–8.

Since grades 5–6 are included in both elementary and middle certification, school districts have flexibility to determine which certification is most appropriate. The South Carolina Department of Education will continue to honor elementary certification for grades 5–6 beyond 2013–14, for teachers who teach in those grade levels, but whose schools use the elementary model.

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PREKINDERGARTEN–GRADE 6

REQUIRED CREDENTIAL: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

Program Area	Certif. Code	Acceptable Certification and Mandatory Attendant Training
Special Areas, Kindergarten-Grade 6		
English for Speakers of Other Languages (ESOL)	NC	Certification in any teaching area at the appropriate grade level (elementary). Or 5A English for Speakers of Other Languages (ESOL) add-on Certification is encouraged by the SEA and required by some LEAs.
Elementary Literacy Reading Reading Assistance Student Support Reading	01 85 5E 5F 5G 83 81 82 80	Elementary Early Childhood Literacy Coach Literacy Specialist Literacy Teacher Reading Clinician* Reading Consultant* Reading Coordinator or Director* Reading Teacher*
Gifted and Talented	8A GT	Gifted and Talented Gifted and Talented Endorsement
World Languages		
American Sign Language	94	American Sign Language
Chinese	5D	Chinese
French	05	French
German	08	German
Japanese	5B	Japanese
Latin	06	Latin
Russian	09	Russian

‡Effective July 1, 2013, the appropriate middle level certificate will be required for all teaching core content areas in grades 7–8.

Since grades 5–6 are included in both elementary and middle certification, school districts have flexibility to determine which certification is most appropriate. The South Carolina Department of Education will continue to honor elementary certification for grades 5–6 beyond 2013–14, for teachers who teach in those grade levels, but whose schools use the elementary model.

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PREKINDERGARTEN–GRADE 6

REQUIRED CREDENTIAL: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

Program Area	Certif. Code	Acceptable Certification and Mandatory Attendant Training
Spanish	07	Spanish
Visual and Performing Arts		
Art	49 50	Advanced Fine Arts **in course title area** Art
Dance	49 58	Advanced Fine Arts **in course title area** Dance
Drama	49 04 57 5C	Advanced Fine Arts **in course title area** English Speech and Drama* Theatre
Media Arts	49+ 51+ 54+ 52+ 56+ 53+ 50+ 58+ 5C+	Advanced Fine Arts ***plus* coursework in title area** Music Education—Choral ***plus* coursework in title area** Music Education—Instrumental ***plus* coursework in title area** Music Education—Piano ***plus* coursework in title area** Music Education—Violin ***plus* coursework in title area** Music Education—Voice ***plus* coursework in title area** Art ***plus* coursework in title area** Dance ***plus* coursework in title area** Theatre ***plus* coursework in title area**

‡Effective July 1, 2013, the appropriate middle level certificate will be required for all teaching core content areas in grades 7–8.

Since grades 5–6 are included in both elementary and middle certification, school districts have flexibility to determine which certification is most appropriate. The South Carolina Department of Education will continue to honor elementary certification for grades 5–6 beyond 2013–14, for teachers who teach in those grade levels, but whose schools use the elementary model.

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PREKINDERGARTEN–GRADE 6

REQUIRED CREDENTIAL: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

Program Area	Certif. Code	Acceptable Certification and Mandatory Attendant Training
General Music	49+	Advanced Fine **Arts *plus* coursework in the title area**
	51	Music Education—Choral
	54	Music Education—Instrumental
	52	Music Education—Piano
	56	Music Education—Violin
	53	Music Education—Voice
Choral Music	49+	Advanced Fine Arts ***plus* coursework in the title area**
	51	Music Education—Choral
	54+	Music Education—Instrumental ***plus* coursework in the title area**
	52+	Music Education—Piano ***plus* coursework in the title area**
	56+	Music Education—Violin ***plus* coursework in the title area**
	53	Music Education—Voice
Instrumental Music: Band	49+	Advanced Fine Arts *plus* **coursework in the title area**
	51+	Music Education—Choral ***plus* coursework in the title area**
	54	Music Education—Instrumental
	52+	Music Education—Piano ***plus* coursework in the title area**
	56	Music Education—Violin
	53+	Music Education—**Voice *plus* coursework in the title area**

‡Effective July 1, 2013, the appropriate middle level certificate will be required for all teaching core content areas in grades 7–8.

Since grades 5–6 are included in both elementary and middle certification, school districts have flexibility to determine which certification is most appropriate. The South Carolina Department of Education will continue to honor elementary certification for grades 5–6 beyond 2013–14, for teachers who teach in those grade levels, but whose schools use the elementary model.

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PREKINDERGARTEN–GRADE 6

REQUIRED CREDENTIAL: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

Program Area	Certif. Code	Acceptable Certification and Mandatory Attendant Training
Instrumental Music: Orchestra	49+	Advanced Fine Arts ***plus* coursework in the title area**
	51+	Music Education—Choral ***plus* coursework in the title area**
	54	Music Education—Instrumental
	52+	Music Education—Piano ***plus* coursework in the title area**
	56	Music Education—Violin
	53+	Music Education—Voice ***plus* coursework in the title area**
Health		
Health	01	Elementary
	13	General Science*
	64	Health
	65	Health and Physical Education*
	66	Health and Physical Education, Part-Time*
	1G	Middle-Level Science
	1C	Middle School Science*
	67	Physical Education
Physical Education		
Physical Education	65	Health and Physical Education*
	66	Health and Physical Education, Part-Time*
	67	Physical Education
Special Areas, Grade 6		

‡Effective July 1, 2013, the appropriate middle level certificate will be required for all teaching core content areas in grades 7–8.

Since grades 5–6 are included in both elementary and middle certification, school districts have flexibility to determine which certification is most appropriate. The South Carolina Department of Education will continue to honor elementary certification for grades 5–6 beyond 2013–14, for teachers who teach in those grade levels, but whose schools use the elementary model.

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PREKINDERGARTEN–GRADE 6

REQUIRED CREDENTIAL: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

Program Area	Certif. Code	Acceptable Certification and Mandatory Attendant Training
Career Clusters, Introduction to	NC	Middle-level certification or any CATE certification ***with guidance from*** **the Office of Career and Technology Education (OCTE)** *Or* GCDF licensure (Acceptable for the school 2014–15 year only. Beginning with the 2015–16 school year, GCDF licensure as an appropriate certification will not be allowed.)
Industrial Technology Education	29	Industrial Technology Education
Exploratory Family and Consumer Sciences	35	Family and Consumer Science (Home Economics)
Keyboarding General Technology	43 44 48 47 4B 40 46 45 41 42	Accounting* Accounting and Related Business* Accounting and Related Economics* Business Education* Business/Marketing/Computer Technology (Business and Marketing Technology) Commerce* Data/Information Processing* Secretarial Science* Shorthand* Typing*

‡Effective July 1, 2013, the appropriate middle level certificate will be required for all teaching core content areas in grades 7–8.

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GRADES 7–8

REQUIRED CREDENTIAL: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

"Teachers of credit-bearing courses in grades seven and eight must either hold middle-level certification in the content area, secondary certification in the content area, or hold middle school certification. Additionally, ALL teachers of credit-bearing courses in grades seven and eight must have passed either the middle-level or secondary Praxis II exam in the content area or the National Teacher's Examination in the content area."

Subject Area	Certif. Code	Acceptable Certification and Mandatory Attendant Training
Fine Arts		
Art	49+ 50	Advanced Fine Arts ***plus* coursework in course title area** Art
Dance	49+ 58	Advanced Fine Arts ***plus* coursework in course title area** Dance
Drama	49+ 04 57 5C	Advanced Fine Arts ***plus* coursework in course title area** English Speech and Drama* Theatre
Music	49+ 51 54 52 56 53	Advanced Fine Arts ***plus* coursework in course title area** Music Education—Choral Music Education—Instrumental Music Education—Piano Music Education—Violin Music Education—Voice
Musical Theatre	51 53 5C+	Music Education—Choral Music Education—Voice Theatre **plus coursework in course title area**

Effective July 1, 2013, the appropriate middle level certificate will be required for all teaching core content areas in grades 7–8.

Since grades 5–6 are included in both elementary and middle certification, school districts have flexibility to determine which certification is most appropriate. The South Carolina Department of Education will continue to honor elementary certification for grades 5–6 beyond 2013–14.

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GRADES 7–8

REQUIRED CREDENTIAL: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

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Subject Area	Certif. Code	Acceptable Certification and Mandatory Attendant Training
Media Arts	49+	Advanced Fine Arts ***plus* coursework in course title area**
	51+	Music Education—Choral ***plus* coursework in the title area**
	54+	Music Education—Instrumental ***plus* coursework in the title area**
	52+	Music Education—Piano ***plus* coursework in title area**
	56+	Music Education—Violin ***plus* coursework in the title area**
	53+	Music Education—Voice ***plus* coursework in the title area**
	50+	Art ***plus* coursework in the title area**
	58+	Dance ***plus* coursework in the title area**
	5C+	Theatre ***plus* coursework in the title area**

Effective July 1, 2013, the appropriate middle level certificate will be required for all teaching core content areas in grades 7–8.

Since grades 5–6 are included in both elementary and middle certification, school districts have flexibility to determine which certification is most appropriate. The South Carolina Department of Education will continue to honor elementary certification for grades 5–6 beyond 2013–14.

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GRADES 7–8

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Subject Area	Certif. Code	Acceptable Certification and Mandatory Attendant Training
Health		
Health	13 64 65 66 1G 1C 67	General Science* Health Health and Physical Education* Health and Physical Education, Part-Time* Middle-Level Science Middle School Science* Physical Education
Physical Education		
Physical Education	65 66 67	Health and Physical Education* Health and Physical Education, Part-Time* Physical Education
Language Arts		
English Language Arts Transitional English ELA Assistance	1E 1A 83 81 82 80 5E 5G 5F	Middle-Level Language Arts Middle School Language Arts* Reading Clinician* Reading Consultant* Reading Coordinator or Director* Reading Teacher* Literacy Coach Literacy Teacher Literacy Specialist

Effective July 1, 2013, the appropriate middle level certificate will be required for all teaching core content areas in grades 7–8.

Since grades 5–6 are included in both elementary and middle certification, school districts have flexibility to determine which certification is most appropriate. The South Carolina Department of Education will continue to honor elementary certification for grades 5–6 beyond 2013–14.

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GRADES 7–8

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Subject Area	Certif. Code	Acceptable Certification and Mandatory Attendant Training
Mathematics		
Mathematics Transitional Mathematics	1F 1B	Middle-Level Mathematics Middle School Mathematics*
Science		
Science	1G 1C	Middle-Level Science Middle School Science*
Social Studies		
Social Studies South Carolina Studies	1H 1D	Middle-Level Social Studies Middle School Social Studies*
World Languages		
American Sign Language	94	American Sign Language
Chinese	5D	Chinese
French	05	French
German	08	German
Japanese	5B	Japanese
Latin	06	Latin
Russian	09	Russian
Spanish	07	Spanish

Effective July 1, 2013, the appropriate middle level certificate will be required for all teaching core content areas in grades 7–8.

Since grades 5–6 are included in both elementary and middle certification, school districts have flexibility to determine which certification is most appropriate. The South Carolina Department of Education will continue to honor elementary certification for grades 5–6 beyond 2013–14.

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GRADES 7–8

REQUIRED CREDENTIAL: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

"Teachers of credit-bearing courses in grades seven and eight must either hold middle-level certification in the content area, secondary certification in the content area, or hold middle school certification. Additionally, ALL teachers of credit-bearing courses in grades seven and eight must have passed either the middle-level or secondary Praxis II exam in the content area or the National Teacher's Examination in the content area."

Subject Area	Certif. Code	Acceptable Certification and Mandatory Attendant Training
World Language Immersion Programs, Grades 7–8, for all content areas except language arts in a world language	NC NC	Middle-level subject area certification plus one of the following: • a passing score on the Praxis examination for a World Language area • Native Speakers with degrees earned abroad in their native language may take the American Council on the Teaching of Foreign Languages Oral Proficiency Interview (OP1) and the Writing Proficiency Test (WPT). *or* A valid SC certificate in an appropriate World Language area plus a passing score on the subject area Praxis examination

Effective July 1, 2013, the appropriate middle level certificate will be required for all teaching core content areas in grades 7–8.

Since grades 5–6 are included in both elementary and middle certification, school districts have flexibility to determine which certification is most appropriate. The South Carolina Department of Education will continue to honor elementary certification for grades 5–6 beyond 2013–14.

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GRADES 7–8

REQUIRED CREDENTIAL: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

"Teachers of credit-bearing courses in grades seven and eight must either hold middle-level certification in the content area, secondary certification in the content area, or hold middle school certification. Additionally, ALL teachers of credit-bearing courses in grades seven and eight must have passed either the middle-level or secondary Praxis II exam in the content area or the National Teacher's Examination in the content area."

Subject Area	Certif. Code	Acceptable Certification and Mandatory Attendant Training
World Language Immersion Programs, Grades 7–8, for language arts in a world language	NC	Middle-level subject area certification plus one of the following: • a passing score on the Praxis examination for a World Language area • Native Speakers with degrees earned abroad in their native language may take the American Council on the Teaching of Foreign Languages Oral Proficiency Interview (OP1) and the Writing Proficiency Test (WPT). *or* A valid SC certificate in an appropriate World Language area plus a passing score on the subject area Praxis examination *or*
Special Areas		
Middle Level Literacy Reading Developmental Reading Student Support Reading	01 1E 1A 5E 5G 5F 83 81 82 80	Elementary Middle-Level Language Arts Middle School Language Arts* Literacy Coach Literacy Teacher Literacy Specialist Reading Clinician* Reading Consultant* Reading Coordinator or Director* Reading Teacher*

Effective July 1, 2013, the appropriate middle level certificate will be required for all teaching core content areas in grades 7–8.

Since grades 5–6 are included in both elementary and middle certification, school districts have flexibility to determine which certification is most appropriate. The South Carolina Department of Education will continue to honor elementary certification for grades 5–6 beyond 2013–14.

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GRADES 7–8

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Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

"Teachers of credit-bearing courses in grades seven and eight must either hold middle-level certification in the content area, secondary certification in the content area, or hold middle school certification. Additionally, ALL teachers of credit-bearing courses in grades seven and eight must have passed either the middle-level or secondary Praxis II exam in the content area or the National Teacher's Examination in the content area."

Subject Area	Certif. Code	Acceptable Certification and Mandatory Attendant Training
English for Speakers of Other Languages (ESOL)	NC	Certification in any teaching area in the appropriate grade level (middle). Or 5A English for Speakers of Other Languages (ESOL) add-on Certification is encouraged by the SEA and required by some LEAs.

Effective July 1, 2013, the appropriate middle level certificate will be required for all teaching core content areas in grades 7–8.

Since grades 5–6 are included in both elementary and middle certification, school districts have flexibility to determine which certification is most appropriate. The South Carolina Department of Education will continue to honor elementary certification for grades 5–6 beyond 2013–14.

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GRADES 7–8

REQUIRED CREDENTIAL: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

"Teachers of credit-bearing courses in grades seven and eight must either hold middle-level certification in the content area, secondary certification in the content area, or hold middle school certification. Additionally, ALL teachers of credit-bearing courses in grades seven and eight must have passed either the middle-level or secondary Praxis II exam in the content area or the National Teacher's Examination in the content area."

Subject Area	Certif. Code	Acceptable Certification and Mandatory Attendant Training
Grade 7-8, Montessori, Departmentalized	NC	Certification in content area (Montessori Middle training is encouraged by the SEA and LEAs.)
		or
	8D	Montessori—Middle Level (Grades 7-8) or a Bachelor's degree ***plus* a certificate of completion from a MACTE accredited Montessori teacher training program at the Middle Level *and* minimum qualifying score(s) on examinations required by the SCDE**
		or
	NC	PreK-12 certification ***plus* a certificate of completion from a MACTE accredited Montessori teacher training program at the Middle Level *and* minimum qualifying score(s) on examinations required by the SCDE**

Effective July 1, 2013, the appropriate middle level certificate will be required for all teaching core content areas in grades 7–8.

Since grades 5–6 are included in both elementary and middle certification, school districts have flexibility to determine which certification is most appropriate. The South Carolina Department of Education will continue to honor elementary certification for grades 5–6 beyond 2013–14.

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GRADES 7–8

REQUIRED CREDENTIAL: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

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Subject Area	Certif. Code	Acceptable Certification and Mandatory Attendant Training
Special Areas, Exploratory Programs		
Agriculture, Introduction to	30	Agriculture
Career Clusters, Introduction to	NC	Middle-level certification or any CATE certification with guidance from **the Office of Career and Technology Education (OCTE)** *Or* GCDF licensure (Acceptable for the school 2014–15 year only. Beginning with the 2015–16 school year, GCDF licensure as an appropriate certification will not be allowed.)
Gateway to Technology	NC	Certification in any area ***plus*** **Project Lead the Way certification.** Special approval by the State Department of Education's Office of Career and Technology Education is required for certified teachers without a bachelor's degree.
Industrial Technology Education	29	Industrial Technology Education
Introduction to FACS 1 Introduction to FACS 2	35	Family and Consumer Science (Home Economics)

Effective July 1, 2013, the appropriate middle level certificate will be required for all teaching core content areas in grades 7–8.

Since grades 5–6 are included in both elementary and middle certification, school districts have flexibility to determine which certification is most appropriate. The South Carolina Department of Education will continue to honor elementary certification for grades 5–6 beyond 2013–14.

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GRADES 7–8

REQUIRED CREDENTIAL: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

"Teachers of credit-bearing courses in grades seven and eight must either hold middle-level certification in the content area, secondary certification in the content area, or hold middle school certification. Additionally, ALL teachers of credit-bearing courses in grades seven and eight must have passed either the middle-level or secondary Praxis II exam in the content area or the National Teacher's Examination in the content area."

Subject Area	Certif. Code	Acceptable Certification and Mandatory Attendant Training
Keyboarding (not for HS credit)	43	Accounting*
	44	Accounting and Related Business*
	48	Accounting and Related Economics*
	47	Business Education*
	4B	Business/Marketing/Computer Technology (Business and Marketing Technology)
	40	Commerce*
	46	Data/Information Processing*
	45	Secretarial Science*
	41	Shorthand*
	42	Typing*
General Technology (not for HS credit)	43	Accounting*
	44	Accounting and Related Business*
	48	Accounting and Related Economics*
	47	Business Education*
	4B	Business/Marketing/Computer Technology (Business and Marketing Technology)
	40	Commerce*
	46	Data/Information Processing*
	NC	Middle School/Level certification in any area
	45	Secretarial Science*
	41	Shorthand*
	42	Typing*

Effective July 1, 2013, the appropriate middle level certificate will be required for all teaching core content areas in grades 7–8.

Since grades 5–6 are included in both elementary and middle certification, school districts have flexibility to determine which certification is most appropriate. The South Carolina Department of Education will continue to honor elementary certification for grades 5–6 beyond 2013–14.

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GRADES 9–12

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
Computer Science			
4771	AP Computer Science A	43+ 44+ 48+ 47+ 4B+ 40+ 46+ 10+ 45+ 41+ 42+	Accounting* Accounting and Related Business* Accounting and Related Economics* Business Education* Business/Marketing/Computer Technology (Business and Marketing Technology) Commerce* Data/Information Processing* Mathematics Secretarial Science* Shorthand* Typing* ***plus* AP endorsement in the particular course**
473A	Information Technology in a Global Society	NC+	Certification in any secondary-level subject area ***plus* IB training in the specific subject**
Driver Training			
3701	Driver Education	63	Driver Training
English Language Arts			
3030	Advanced Composition	04	English
3071 3070 3029	AP English Language and Composition AP English Literature and Composition AP Prep Lab (Honors credit)	04+	English ***plus* AP endorsement in the particular course**

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GRADES 9–12

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
3032 3024 3025 3026 3027	Creative Writing SCCC English 1 SCCC English 2 SCCC English 3 SCCC English 4	04	English
301A 301B 301C 301D 301E 301F 301J 301K 301L	English A1 SL English A1 HL-1 English A1 HL-2 English A2 SL English A2 HL-1 English A2 HL-2 IB Seminars (Honors credit) IB Seminars (Honors credit) IB Seminars (Honors credit)	04+	English ***plus* IB training in the specific subject**
3050 3051	Journalism 1 Journalism 2	04	English
3053 3054 3055 3056	Newspaper Production 1 Newspaper Production 2 Yearbook Production 1 Yearbook Production 2	04	English
4011	SAT Preparation Verbal	04	English
3040	Speech	04 57	English Speech and Drama*
3060	Vocabulary	04	English
Special Areas 9–12			
3090	Secondary Literacy	01 1E 1A 04 83 81 82 80 5E	Elementary Middle-Level Language Arts Middle School Language Arts* English Reading Clinician* Reading Consultant* Reading Coordinator or Director* Reading Teacher* Literacy Coach

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GRADES 9–12

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

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Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
		5G 5F	Literacy Teacher Literacy Specialist
3084 4080 4081 4082	English for Speakers of Other Languages 1(ESOL) ESOL 2 ESOL 3 ESOL 4	NC	Certification in any teaching area in the appropriate grade level (secondary). Or 5A. English for Speakers of Other Languages (ESOL add-on Certification is encouraged by the SEA and required by some LEAs.)
(NC)	Gifted and Talented	8A GT	Gifted and Talented Gifted and Talented Endorsement
World Languages			
4615	AP Chinese Language and Culture	5-D+	Chinese ***plus* AP endorsement in the particular course**
3671 3672	AP French Language AP French Literature	05+	French ***plus* AP endorsement in the particular course**
366J	AP Japanese Language and Culture	5-B+	Japanese ***plus* AP endorsement in the particular course**
3673	AP German Language	08+	German ***plus* AP endorsement in the particular course**
3674	AP Latin—Vergil	06+	Latin ***plus* AP endorsement in the particular course**
3675 3676	AP Spanish Language AP Spanish Literature	07+	Spanish ***plus* AP endorsement in the particular course**

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GRADES 9–12

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

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Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
3681 3682 3683 3684	American Sign Language 1 American Sign Language 2 American Sign Language 3 American Sign Language 4	94	American Sign Language
461A 461B 461C	Chinese A1 SL Chinese A1 HL-1 Chinese A1 HL-2	5-D+	Chinese ***plus* IB training in the specific subject**
3611 3612 3613 3614 3615	French 1 French 2 French 3 French 4 French 5	05	French
361A 361B 361C 361D 361E 361F 361G 361H 361I	French A1 SL French A1 HL-1 French A1 HL-2 French A2 HL-1 French A2 HL-2 French Ab initio SL French B SL French B HL-1 French B HL-2	05+	French ***plus* IB training in the specific subject**
3621 3622 3623 3624 3625	German 1 German 2 German 3 German 4 German 5	08	German

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GRADES 9–12

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Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
362A 362B 362C 362D 362E 362F 362G 362H 362I	German A1 SL German A1 HL-1 German A1 HL-2 German A2 HL-1 German A2 HL-2 German Ab initio SL German B SL German B HL-1 German B HL-2	08+	German ***plus* IB training in the specific subject**
3661 3662 3663 3664 3667	Japanese 1 Japanese 2 Japanese 3 Japanese 4 Japanese 5	5B	Japanese
366A 366B 366C 366D 366E 366F 366G 366H 366I	Japanese A1 SL Japanese A1 HL-1 Japanese A1 HL-2 Japanese A2 HL-1 Japanese A2 HL-2 Japanese Ab initio SL Japanese B SL Japanese B HL-1 Japanese B HL-2	5B+	Japanese ***plus* IB training in the specific subject**
3631 3632 3633 3634 3636	Latin 1 Latin 2 Latin 3 Latin 4 Latin 5	06	Latin

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GRADES 9–12

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

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Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
363A 363B 363C	Latin SL Latin HL-1 Latin HL-2	06+	Latin ***plus* IB training in the specific subject**
365A 365B 365C 365D 365E 365F 365G 365H 365I	Spanish A1 SL Spanish A1 HL-1 Spanish A1 HL-2 Spanish A2 HL-1 Spanish A2 HL-2 Spanish Ab initio SL Spanish B SL Spanish B HL-1 Spanish B HL-2	07+	Spanish ***plus* IB training in the specific subject**
3641 3642 3643 3644 3647	Russian 1 Russian 2 Russian 3 Russian 4 Russian 5	09	Russian
3651 3652 3653 3654 3655	Spanish 1 Spanish 2 Spanish 3 Spanish 4 Spanish 5	07	Spanish
	World Language Immersion Programs Grades 9 – 12, for all content areas except language arts in a world language		A valid SC certificate in an appropriate World Language area plus one of the following: • a passing score on the subject area Praxis examination

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GRADES 9–12

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

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Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
		NC NC	• Native Speakers with degrees earned abroad in their native language may take the American Council on the Teaching of Foreign Languages Oral Proficiency Interview (OP1) and the Writing Proficiency Test (WPT). *or* Secondary subject area certification plus one of the following: • a passing score on the Praxis examination for a World Language area • Native Speakers with degrees earned abroad in their native language may take the American Council on the Teaching of Foreign Languages Oral Proficiency Interview (OP1) and the Writing Proficiency Test (WPT).
		NC	A valid SC certificate in an appropriate World Language area plus one of the following: • a passing score on the subject area Praxis examination • Native Speakers with degrees earned abroad in their native language may take the American Council on the Teaching of Foreign Languages Oral Proficiency

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GRADES 9–12

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Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
	World Language Immersion Programs Grades 9-12, for language arts in a world language	NC	Interview (OP1) and the Writing Proficiency Test (WPT). *or* Secondary subject area certification plus one of the following: • a passing score on the Praxis examination for a World Language area • Native Speakers with degrees earned abroad in their native language may take the American Council on the Teaching of Foreign Languages Oral Proficiency Interview (OP1) and the Writing Proficiency Test (WPT).
Health			
3401	Family and Community Health	13 64 65 66 12 67	General Science* Health Health and Physical Education* Health and Physical Education, Part-Time* Science Physical Education
3403	Human Growth and Development	14 35 64 65 66	Biology Family and Consumer Science (Home Economics) Health Health and Physical Education* Health and Physical Education, Part-

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GRADES 9–12

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Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
			Time*
		67	Physical Education
3402	Personal Health and Wellness	13	General Science*
		64	Health
		65	Health and Physical Education*
		66	Health and Physical Education, Part-Time*
		12	Science
		67	Physical Education

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GRADES 9–12

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Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
Physical Education			
3445	Adaptive Physical Education	65 66 67	Health and Physical Education* Health and Physical Education, Part-Time* Physical Education
3441 3442 3443 3444	Physical Education 1 Physical Education 2 Physical Education 3 Physical Education 4	65 66 67	Health and Physical Education* Health and Physical Education, Part-Time* Physical Education
Junior ROTC			
3751 3752 3753 3754	Junior ROTC 1 Junior ROTC 2 Junior ROTC 3 Junior ROTC 4	NC	Endorsement by service branch (state teacher certification *not* required)
Mathematics			
4114 4115 4113	SCCC Algebra 1 SCCC Algebra 2 Algebra 3	10	Mathematics
4170 4172 4171	AP Calculus AB AP Calculus BC AP Statistics	10+	Mathematics ***plus* AP endorsement in the particular course**
4135 4142	Calculus Discrete Mathematics	10	Mathematics
3155 3156 3157	Accelerated Mathematics 1 Accelerated Mathematics 2 Accelerated Mathematics 3	10	Mathematics
3149 3150 3152 3153 3154	Fundamentals of Mathematics 1 Fundamentals of Mathematics 2 Fundamentals of Mathematics 3 Fundamentals of Mathematics 1A Fundamentals of Mathematics 1B	10	Mathematics

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GRADES 9–12

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Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
311C 311J 311K 311H	Further Mathematics SL Further Mathematics HL-1 Further Mathematics HL-2 Further Mathematics Seminar SC	10+	Mathematics ***plus* IB training in the specific subject**
4122	SCCC Geometry	10	Mathematics
311B 311D 311E 311F 311G 311I	Mathematical Studies SL Mathematics HL-1 Mathematics HL-2 Mathematics SL Mathematics Studies Seminar Mathematics SL Seminar	10+	Mathematics ***plus* IB training in the specific subject**
3141 3142 3143 3144	Mathematics for the Technologies 1 Mathematics for the Technologies 2 Mathematics for the Technologies 3 Mathematics for the Technologies 4	10+	Mathematics ***plus* contextual methodology training in the subject area**
4141 4131	Probability and Statistics Precalculus	10	Mathematics
Natural Sciences			
3263	Anatomy and Physiology	14 12	Biology Science
3272	AP Biology	14+ 12+	Biology Science ***plus* AP endorsement in the particular course**
3273	AP Chemistry	15 12+	Chemistry Science ***plus* AP endorsement in the particular course**

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GRADES 9–12

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Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
3277	AP Environmental Science	30+ 14+ 37+ 13+ 12+	Agriculture Biology Environmental Science and Natural Resources General Science* Science ***plus* AP endorsement in the particular course**
3274 3276 3275	AP Physics B AP Physics C: Electricity and Magnetism AP Physics C: Mechanics	16+ 12+	Physics Science ***plus* AP endorsement in the particular course**
3226 3227	Applied Biology 1 Applied Biology 2	14+ 15+ 12+	Biology Chemistry Science ***plus* contextual methodology training in the subject area**
3251	Astronomy	17 13 16 12	Earth Science* General Science* Physics Science
3221	Biology 1	14 3A 12	Biology Marine Biology* Science
3222	Biology 2	14 12	Biology Science
322A 322B 322C	Biology SL Biology HL-1 Biology HL-2	14+ 12+	Biology Science ***plus* IB training in the specific subject**

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GRADES 9–12

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Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
3231 3232	Chemistry 1 Chemistry 2	15 12	Chemistry Science
323A 323B 323C	Chemistry SL Chemistry HL-1 Chemistry HL-2	15+ 12+	Chemistry Science ***plus* IB training in the specific subject**
3236	Chemistry for the Technologies	15+ 12+	Chemistry Science ***plus* contextual methodology training in the subject area**
3265	Earth Science	17 13 12	Earth Science* General Science* Science
3261	Environmental Studies	30 14 37 13 12	Agriculture Biology Environmental Science and Natural Resources General Science* Science
326A 326B	Environmental Systems SL Environmental Systems SL Seminar	37+ 12+	Environmental Science and Natural Resources Science ***plus* IB training in the specific subject**
3210	Integrated Science	14 15 13 16 12	Biology Chemistry General Science* Physics Science
3225	Marine Science	14 3A 12	Biology Marine Biology* Science

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GRADES 9–12

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Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
3211	Physical Science	15 13 16 12	Chemistry General Science* Physics Science
3241 3242	Physics Physics SERC	16 12	Physics Science
324A 324B 324C	Physics SL Physics HL-1 Physics HL-2	16+ 12+	Physics Science ***plus* IB training in the specific subject**
3243 3244	Physics for the Technologies 1 Physics for the Technologies 2	16+ 12+	16 Physics 12 Science ***plus* contextual methodology training in the subject area**
322E	Sports, Exercise, and Health	12+	12 Science ***plus* IB training in the specific subject**

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GRADES 9–12

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Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
Social Studies			
3378	AP Comparative Government	25+ 20+	Government Social Studies ***plus* AP endorsement in the particular course**
3376	AP European History	21+ 20+	History Social Studies ***plus* AP endorsement in the particular course**
3379	AP Human Geography	24+ 21+ 20+	Geography History Social Studies ***plus* AP endorsement in the particular course**
3374 3375	AP Macroeconomics AP Microeconomics	23+ 20+ 44+ 48+ 4B+ 47+ 40+	Economics Social Studies Accounting and Related Business* Accounting and Related Economics* Business/Marketing/Computer Technology (Business and Marketing Technology) Business Education* Commerce* ***plus* AP endorsement in the particular course**
4371	AP Psychology	26+ 20+	Psychology Social Studies ***plus* AP endorsement in the particular course**

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GRADES 9–12

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Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
3373	AP U.S. Government	25+ 20+	Government Social Studies ***plus* AP endorsement in the particular course**
3372 3377	AP U.S. History AP World History	21+ 20+	History Social Studies ***plus* AP endorsement in the particular course**
3335 3337	Civics Current Events/Foreign Policy	25 21 20	Government History Social Studies
3350 3355 3356	Economics Macroeconomics Microeconomics	23 20 44 48 4B 47 40	Economics Social Studies Accounting and Related Business* Accounting and Related Economics* Business/Marketing/Computer Technology (Business and Marketing Technology) Business Education* Commerce*
335A 335B 335C	Economics SL Economics HL-1 Economics HL-2	23+ 20+ 44+ 48+ 4B+ 47+ 40+	Economics Social Studies Accounting and Related Business* Accounting and Related Economics* Business/Marketing/Computer Technology (Business and Marketing Technology) Business Education* Commerce* ***plus* IB training in the specific subject**
3349	Environmental Studies	20	Social Studies

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GRADES 9–12

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Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
331A 331B 331C	Geography SL Geography HL-1 Geography HL-2	24+ 20+	Geography Social Studies ***plus* IB training in the specific subject**
3310 3360	Global Studies—World Geography Global Studies—World History	24 21 20	Geography History Social Studies
336A 336B 336C 336D 336E 336F 336G 336H 336I 336J 336K	History: Africa HL-1 History: Africa HL-2 History of Americas HL-1 History of Americas HL-2 History: S Asian and the Middle East HL-1 History: S Asian and the Middle East HL-2 History: E and SE Asia and Oceania HL-1 History: E and SE Asia and Oceania HL-2 History of Europe HL-1 History of Europe HL-2 History SL	24+ 21+ 20+	Geography History Social Studies ***plus* IB training in the specific subject**
3336	Law Education	25 20	Government Social Studies
338A 338B 338C 338G	Philosophy SL Philosophy HL-1 Philosophy HL-2 Philosophy SL Seminar	20	Social Studies ***plus* IB training in the specific subject**

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GRADES 9–12

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Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
3340	Psychology	26 20	Psychology Social Studies
334A 334B 334C	Psychology SL Psychology HL-1 Psychology HL-2	26+ 20+	Psychology Social Studies ***plus* IB training in the specific subject**
338D 338E 338F	Social Anthropology SL Social Anthropology HL-1 Social Anthropology HL-2	20+	Social Studies ***plus* IB training in the specific subject**
3345	Sociology	20 27	Social Studies Sociology
3330	U.S. Government	25 20	Government Social Studies
3320	U.S. History and Constitution	21 20	History Social Studies
3365	Western Civilization	24 21 20	Geography History Social Studies
Visual and Performing Arts			
3571	AP Art History	49+ 50+ 21+ 20+	Advanced Fine Arts ***plus* coursework in course title area** Art History Social Studies ***plus* AP endorsement in the particular course**
3575 3574 3572	AP Studio Art: Three-Dimensional Design AP Studio Art: Two-Dimensional Design AP Studio Art: Drawing	50+	Art ***plus* AP endorsement in the particular course**

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GRADES 9–12

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Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
3576	AP Music Theory	49+ 51+ 54+ 52+ 56+ 53+	Advanced Fine Arts ***plus*** **coursework in course title area** Music Education—Choral Music Education—Instrumental Music Education—Piano Music Education—Violin Music Education—Voice ***plus*** **AP endorsement in the particular course**
3501 3502 3503 3504 3511 3512 3513 3514	Art 1 Art 2 Art 3 Art 4 Art Appreciation 1 Art Appreciation 2 Art Appreciation 3 Art Appreciation 4	49+ 50	Advanced Fine Arts ***plus*** **coursework in course title area** Art
3505 3506 3507 3508	Art:3-D Design 1 Art 3-D Design 2 Art 3-D Design 3 Art 3-D Design 4	49+ 50	Advanced Fine Arts ***plus*** **coursework in course title area** Art
3521 3522 3523 3524	Art: Drawing 1 Art: Drawing 2 Art: Drawing 3 Art: Drawing 4	49+ 50	Advanced Fine Arts ***plus*** **coursework in course title area** Art
3525 3526 3527 3528	Art: Painting 1 Art: Painting 2 Art: Painting 3 Art: Painting 4	49+ 50	Advanced Fine Arts ***plus*** **coursework in course title area** Art

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GRADES 9–12

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Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
4561 4562 4563 4564	Ceramics 1 Ceramics 2 Ceramics 3 Ceramics 4	49+ 50	Advanced Fine Arts ***plus* coursework in course title area** Art
4566 4567 4568 4569	Photography 1 Photography 2 Photography 3 Photography 4	49+ 50	Advanced Fine ***plus* coursework in course title area** Art
4571 4572 4573 4574	Printmaking 1 Printmaking 2 Printmaking 3 Printmaking 4	49+ 50	Advanced Fine Arts ***plus* coursework in course title area** Art
4576 4577 4578 4579	Stained Glass 1 Stained Glass 2 Stained Glass 3 Stained Glass 4	49+ 50	Advanced Fine ***plus* coursework in course title area** Art
4506 4508 4509 4510	Ballet 1 Ballet 2 Ballet 3 Ballet 4	49+ 58	Advanced Fine Arts ***plus* coursework in course title area** Dance
453A 453B 453C	Film SL Film HL 1 Film HL2	49+	Advanced Fine Arts ***plus* IB training in the specific subject**

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GRADES 9–12

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Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
3531 3532 3533 3534 3530	Band 1 Band2 Band 3 Band 4 Band Rehearsal	49+	Advanced Fine Arts ***plus*** **coursework in course title area**
		54	Music Education—Instrumental
		51+	Music Education—Choral ***plus*** **coursework in course title area**
		52+	Music Education—Piano ***plus*** **coursework in course title area**
		56	Music Education—Violin ***plus*** **coursework in course title area**
		53+	Music Education—Voice ***plus*** **coursework in course title area**
		49+	Advanced Fine Arts ***plus*** **coursework in course title area**
3541 3542 3543 3544 3540	Chorus 1 Chorus 2 Chorus 3 Chorus 4 Chorus Rehearsal	51	Music Education—Choral
		54+	Music Education—Instrumental ***plus*** **coursework in title area**
		52+	Music Education—Piano ***plus*** **coursework in title area**
		56+	Music Education—Violin ***plus*** **coursework in title area**
		53	Music Education—Voice
3594	Musical Theatre	51 53 5C+	Music Education—Choral Music Education—Voice Theatre

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GRADES 9–12

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Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
4501 4502 4503 4504 4505	Dance 1 Dance 2 Dance 3 Dance 4 Dance (modern)	49+ 58	Advanced Fine Arts ***plus*** **coursework in course title area** Dance
450A	Dance SL	49+ 58+	Advanced Fine Arts ***plus*** **coursework in course title area** Dance ***plus*** **IB training in the specific subject**
4521	Theatre 1 Theatre 2 Theatre 2 Theatre 4	49+ 04 57 5C	Advanced Fine Arts ***plus*** **coursework in course title area** English Speech and Drama* Theatre
4507	Dance with Physical Education (Does not count as PE)	49+ 58+	Advanced Fine Arts plus coursework in course title area Dance

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GRADES 9–12

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
		49+	Advanced Fine Arts ***plus* coursework in title area**
		51+	Music Education—Choral ***plus* coursework in title area**
		54+	Music Education—Instrumental ***plus* coursework in title area**
		52+	Music Education—Piano ***plus* coursework in title area**
3515	Media Arts 1		
3516	Media Arts 2		
3517	Media Arts 3	56+	Music Education—Violin ***plus* coursework in title area**
3518	Media Arts 4		
		53+	Music Education—Voice ***plus* coursework in title area**
		50+	Art ***plus* coursework in title area**
		58+	Dance ***plus* coursework in title area**
		5C+	Theatre ***plus* coursework in title area**

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GRADES 9–12

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
3560	General Music	49+	Advanced Fine Arts ***plus* coursework in title area**
		51	Music Education—Choral
		54	Music Education—Instrumental
		52	Music Education—Piano
		56	Music Education—Violin
		53	Music Education—Voice
3568	Instrumental Music: Guitar	49+	Advanced Fine Arts ***plus* coursework in title area**
		51+	Music Education—Choral ***plus* coursework in title area**
		54+	Music Education—Instrumental ***plus* coursework in title area**
		52+	Music Education—Piano ***plus* coursework in title area**
		56+	Music Education—Violin ***plus* coursework in title area**
		53+	Music Education—Voice ***plus* coursework in title area**

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GRADES 9–12

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
3569	Instrumental Music: Marching Band	49+	Advanced Fine Arts ***plus coursework in title area***
		51+	Music Education—Choral ***plus* coursework in title area**
		54	Music Education—Instrumental
		52+	Music Education—Piano ***plus* coursework in title area**
		56+	Music Education—Violin ***plus* coursework in title area**
		53+	Music Education—Voice ***plus* coursework in title area**
3570	Instrumental Music: Jazz Band	49+	Advanced Fine Arts ***plus coursework in title area***
		51+	Music Education—Choral ***plus* coursework in title area**
		54	Music Education—Instrumental
		52+	Music Education—Piano ***plus* coursework in title area**
		56+	Music Education—Violin ***plus* coursework in title area**
		53+	Music Education—Voice ***plus* coursework in title area**

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GRADES 9–12

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
3551	Instrumental Music: Orchestra—Strings 1	49+	Advanced Fine Arts ***plus coursework in title area***
3552	Instrumental Music: Orchestra—Strings 2	51+	Music Education—Choral ***plus* coursework in title area**
3553	Instrumental Music: Orchestra—Strings 3	52+	Music Education—Piano ***plus* coursework in title area**
3554	Instrumental Music: Orchestra—Strings 4	54	Music Education—Instrumental
3550	Instrumental Music: Orchestra—Strings Rehearsal	56	Music Education—Violin
		53+	Music Education—Voice ***plus* coursework in title area**
		49+	Advanced Fine Arts ***plus coursework in title area***
		51+	Music Education—Choral
356A	Music SL	54+	Music Education—Instrumental
356B	Music HL-1	52+	Music Education—Piano
356C	Music HL-2	56+	Music Education—Violin
		53+	Music Education—Voice
			***plus* IB training in the specific subject**
		49+	Advanced Fine Arts ***plus coursework in title area***
3561	Music Appreciation 1	51	Music Education—Choral
3562	Music Appreciation 2	54	Music Education—Instrumental
3563	Music Appreciation 3	52	Music Education—Piano
3564	Music Appreciation 4	56	Music Education—Violin
		53	Music Education—Voice

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GRADES 9–12

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Note: Teachers of core academic subjects must also meet No Child Left Behind requirements. †

Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
4511 4512 4513 4514	Music Composition 1 Music Composition 2 Music Composition 3 Music Composition 4	49 51 54 52 56 53	Advanced Fine Arts ***plus coursework in title area*** Music Education—Choral Music Education—Instrumental Music Education—Piano Music Education—Violin Music Education—Voice
452A 452B 452C	Theatre Arts SL Theatre Arts HL-1 Theatre Arts HL-2	49+ 5C+	Advanced Fine Arts ***plus coursework in title area*** Theatre ***plus* IB training in the specific subject**
351A 351B 351C 351D	Visual Arts A SL Visual Arts B SL Visual Arts HL-1 Visual Arts HL-2	49+ 50+	Advanced Fine Arts ***plus* coursework in course title area** Art ***plus* IB training in the specific subject**
Other Academic Electives			
373A 373B 373C 373D	IB Theory of Knowledge (TOK) I IB TOK II IB Extended Essay IB Creativity, Action, Service	NC	Any High School Certification ***plus* IB training in the specific subject**

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CAREER AND TECHNOLOGY EDUCATION

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
Agriculture, Food and Natural Resources			
5691	Agricultural and Biosystems Science		
5600	Agribusiness and Marketing		
5614	Agricultural Crop Production and Management		
5660	Agricultural Mechanics and Technology		
5604	Agricultural Mechanics and Technology for the Workplace 1		
5605	Agricultural Mechanics and Technology for the Workplace 2		
5620	Agricultural Science and Technology for the Workplace		
5663	Aquaculture		
5603	Animal Science		
5608	Animal Science for the Workplace 1		
5609	Animal Science for the Workplace 2		
5692	Biosystems Mechanics and Engineering	30	Agriculture
5695	Biosystems Technology 1		
5696	Biosystems Technology 2		
5693	Biosystems Technology Career Development 1		
5694	Biosystems Technology Career Development 2		
5628	Environmental and Natural Resources Management for the Workplace 1		
5629	Environmental and Natural Resources Management for the Workplace 2		
5621	Equipment Operation and Maintenance		
5657	Food Processing		
5652	Horticulture for the Workplace 1		
5653	Horticulture for the Workplace 2		
5602	Outdoor Recreation		
5630	Soils and Soilless Research		
5610 5611	Agricultural Power Mechanics Agricultural Structural Mechanics	AA 30 31	Agricultural Mechanics* Agriculture Agriculture Mechanics
5624 5626 5627	Agricultural Science and Technology Environmental and Natural Resources Management Soil and Water Conservation	30 37	Agriculture Environmental Science and Natural Resources

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CAREER AND TECHNOLOGY EDUCATION

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING			
Activity Code	**Course Title**	**Certif. Code**	**Acceptable Certification and Mandatory Attendant Training**
5690	Agriculture, Food and Natural Resources, work-based credit	AA 30 31 34 37 38 39	Agricultural Mechanics* Agriculture Agriculture Mechanics Animal Science Environmental Science and Natural Resources Forestry Horticulture
5646 5679 5647 5612 5613	Cattle Production Equine Science Farm Animal Production Small Animal Care Veterinary Science, Introduction to	30 34	Agriculture Animal Science
5634 5667 5650 5670 5672 5655 5654 5674	Floriculture Golf Course Technology Horticulture, Introduction to Landscape Technology Nursery, Greenhouse, and Garden Center Technology Sports Turf Management Turf and Lawn Management Wildlife Management	30 39	Agriculture Horticulture
5642	Forestry	30 38	Agriculture Forestry
Architecture and Construction			
6003 6004 6005 6006	HVAC Technology 1 HVAC Technology 2 HVAC Technology 3 HVAC Technology 4	AG	Environmental Control Systems (HVAC)

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CAREER AND TECHNOLOGY EDUCATION

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING			
Activity Code	**Course Title**	**Certif. Code**	**Acceptable Certification and Mandatory Attendant Training**
6690	Architecture and Construction, work-based credit	AL AP AM AV AG BC	Brick Masonry Cabinetmaking Carpentry Electricity Environmental Control Systems (HVAC) Plumbing
6060 6061 6062 6063 6091 6092 6093 6094	Building Construction Cluster 1 Building Construction Cluster 2 Building Construction Cluster 3 Building Construction Cluster 4 Carpentry 1 Carpentry 2 Carpentry 3 Carpentry 4	AM	Carpentry
6080 6081 6082 6083	Cabinetmaking 1 Cabinetmaking 2 Cabinetmaking 3 Cabinetmaking 4	AM AP	Carpentry Cabinetmaking*
6001	Construction, Introduction to	AL AP AM AV AG 29 BC	Brick Masonry Cabinetmaking Carpentry Electricity Environmental Control Systems (HVAC) Industrial Technology Education Plumbing
6287 6288 6289 6290	Electricity 1 Electricity 2 Electricity 3 Electricity 4	AV	Electricity
6250 6251 6252 6253	Masonry 1 Masonry 2 Masonry 3 Masonry 4	AL	Brick Masonry

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CAREER AND TECHNOLOGY EDUCATION

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING			
Activity Code	**Course Title**	**Certif. Code**	**Acceptable Certification and Mandatory Attendant Training**
6280 6281 6282 6283	Plumbing 1 Plumbing 2 Plumbing 3 Plumbing 4	BC	Plumbing
5330	Digital Home Integrated Technology	AV AW EE	Electricity Electronics Information Technology—Networking
Arts, Audio-Video Technology and Communications			
6120 6121 6122 6123	Digital Art and Design 1 Digital Art and Design 2 Digital Art and Design 3 Digital Art and Design 4	BN AX	Digital Art and Design Graphic Communications
6170 6171	Architectural Design 1 Architectural Design 2	AU	Drafting
6124 6125	Media Technology 1 Media Technology 2	DC	Media Technology
5290	Arts, Audio-Video Technology and Communications, work-based credit	BN AU AX	Digital Art and Design Drafting Graphic Communications
6200 6201 6202 6203	Graphic Communications 1 Graphic Communications 2 Graphic Communications 3 Graphic Communications 4	AX	Graphic Communications
5205	Graphic Communications, Introduction to	BN AU AX 29	Digital Art and Design Drafting Graphic Communications Industrial Technology Education
5710 5711	Fashion Design and Apparel Construction 1 Fashion Design and Apparel Construction 2	35 50+	Family and Consumer Science (Home Economics) Art ***plus* additional courses or training approved by the Office of Career and Technology Education.**

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CAREER AND TECHNOLOGY EDUCATION

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
5455 5456 5290	Interior Design 1 Interior Design 2 Arts, Audio-Video Technology and Communications, work-based credit	35 50+ AF+ 32+	Family and Consumer Science (Home Economics) Art Mechanical Drawing* Distributive Education* plus additional courses or training approved by the Office of Career and Technology Education
6172 6173	Mechanical Design 1 Mechanical Design 2	AU	Drafting
Business Management and Administration			
5122 5044 5490 5092 5008 5180 5181 5030 5041 5090 5480 5007 5011 5093 5020 5021 5032 5100 5482 5131	Administrative Support Technology Business Law Business, Management, and Administration, work-based credit Business Principles and Management Computer Applications Digital Input Technologies Digital Literacy Digital Multimedia Essential Communications Fundamentals of Business, Marketing and Finance Fundamentals of Project Management Google Applications Google Basics Human Resource Management Integrated Business Applications 1 Integrated Business Applications 2 International Business and Marketing Keyboarding Logistics and Business Processes Personal Finance	43 44 48 4B 47 40 46 32 45 41 42	Accounting* Accounting and Related Business* Accounting and Related Economics* Business/Marketing/Computer Technology (Business and Marketing Technology) Business Education* Commerce* Data/Information Processing* Distributive Education* Secretarial Science* Shorthand* Typing*

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CAREER AND TECHNOLOGY EDUCATION

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
5010 5178 5034 5150 5151 5152 5153	Multimedia Basics Professional and Leadership Development Social Media in Business Virtual Enterprise 1 Virtual Enterprise 2 Virtual Enterprise 3 Virtual Enterprise 4	43 44 48 4B 47 40 46 32 45 41 42	Accounting* Accounting and Related Business* Accounting and Related Economics* Business/Marketing/Computer Technology (Business and Marketing Technology) Business Education* Commerce* Data/Information Processing* Distributive Education* Secretarial Science* Shorthand* Typing*
5400	Entrepreneurship	43 44 48 47 4B 40 46 32 45 41 42 NC+	Accounting* Accounting and Related Business* Accounting and Related Economics* Business Education* Business/Marketing/Computer Technology (Business and Marketing Technology) Commerce* Data/Information Processing* Distributive Education* Secretarial Science* Shorthand* Typing* *or* Certification in any content area ***plus* Network for Teaching Entrepreneurship (NFTE) certification**

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CAREER AND TECHNOLOGY EDUCATION

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING			
Activity Code	**Course Title**	**Certif. Code**	**Acceptable Certification and Mandatory Attendant Training**
5031 5033	Web Page Design and Development 1 Web Page Design and Development 2	43 44 48 4B 47 40 46 32 45 41 42 ED+ NC+	Accounting* Accounting and Related Business* Accounting and Related Economics* Business/Marketing/Computer Technology (Business and Marketing Technology) Business Education* Commerce* Data/Information Processing* Distributive Education* Secretarial Science* Shorthand* Typing* *or* Information Technology ***plus* industry certification (e.g., CIW [Certified Internet Webmaster]) *or* ACA (Adobe Certified Associate-Educator)** Certification in any content area ***plus* industry certification (e.g., CIW [Certified Internet Webmaster]) *or* ACA (Adobe Certified Associate-Educator)**

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CAREER AND TECHNOLOGY EDUCATION

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
Education and Training			
5800 5801 5702 5700 5701 6390	Child Development 1 Child Development 2 Early Childhood Education, Introduction to Early Childhood Education 1 Early Childhood Education 2 Education and Training, work-based credit	35 85+	Family and Consumer Science (Home Economics) Early Childhood ***plus 12* additional semester hours approved by the Office of Career and Technology Education**
5703 5704 6390	Introduction to Teaching 1 Introduction to Teaching 2 Education and Training, work-based credit	4B 35 47 29+ 30+	Business/Marketing/Computer Technology (Business and Marketing Technology) Family and Consumer Science (Home Economics) Business Education* Industrial Technology Education ***plus* additional courses or training approved by the Office of Career and Technology Education.** Agriculture ***plus* additional courses or training approved by the Office of Career and Technology Education.**
5705	Teacher Cadet – CATE	NC+	Certification in any secondary-level subject area **plus Center for Educator Recruitment Retention and Advancement (CERRA) requirements**

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CAREER AND TECHNOLOGY EDUCATION

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING

Activity Code	Course Title	Certif. Code	Acceptable Certification and Mandatory Attendant Training
Finance			
5001 5005 5271 5273 5282 5281 6190 5275 5277	Accounting 1 Accounting 2 Banking Services Business Finance Financial Literacy Financial Math Finance, work-based credit Insurance Securities and Investments	43 44 48 4B 47 40 46 32 45 41 42	Accounting* Accounting and Related Business* Accounting and Related Economics* Business/Marketing/Computer Technology (Business and Marketing Technology) Business Education* Commerce* Data/Information Processing* Distributive Education* Secretarial Science* Shorthand* Typing*
Health Science			
5530 5531 5532 5550 5551	Introduction to Emergency Medical Services Emergency Medical Services 1 Emergency Medical Services 2 Health Science 1 Health Science 2	AC	Health Science Technology
5533	Emergency Medical Services 3	AC+	Health Science Technology ***plus* DHEC paramedic certification**
5552	Health Science 3	AC 12+ 13+	Health Science Technology Science Biology **Plus training or mentoring approved by the Office of Career and Technology**
5560	Health Science Clinical Study	AC+	Health Science Technology ***plus* S.C. Board of Nursing registered nurse (RN) licensure if teaching the Nurse Aide Program**

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CAREER AND TECHNOLOGY EDUCATION

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING			
Activity Code	**Course Title**	**Certif. Code**	**Acceptable Certification and Mandatory Attendant Training**
5590	Health Science, work-based credit	AC NC+	Health Science Technology *or* Certification in any area ***plus* either state athletic trainer certification or any American Red Cross instructor certification**
5554	Health Science, Introduction to (Phasing out 2014-15)	AC 12+ 14+ 15+	Health Science Technology *or* Science Biology Chemistry ***plus* training and/or mentoring approved by the Office of Career and Technology Education**
5580 5581 5582 5583	Principles of Biomedical Sciences Human Body Systems Medical Interventions Biomedical Innovation	AC 12+ 14+ 15+	Health Science Technology *or* Science Biology Chemistry ***plus* satisfactory completion of required Summer Training Institute by Project Lead the Way Biomedical Sciences program.**
5540	Medical Terminology	AC 12+	Health Science Technology *or* Science ***plus* training and/or mentoring approved by the Office of Career and Technology Education**
5570	Pharmacy for Medical Careers	AC NC+	Health Science Technology *or* Secondary certification in any area ***plus* PassAssured pharmacy technician teacher training**
5520	Practical Nursing, Phase 1	AC NC+	Health Science Technology ***plus* S.C. Board of Nursing registered nurse (RN) licensure**

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CAREER AND TECHNOLOGY EDUCATION

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING			
Activity Code	**Course Title**	**Certif. Code**	**Acceptable Certification and Mandatory Attendant Training**
5555 5556 5591	Sports Medicine 1 Sports Medicine 2 Sports Medicine, work-based credit	AC NC+	Health Science Technology *or* Secondary certification in any area ***plus* state athletic trainer certification**
Hospitality and Tourism			
5723 5720 5721 5722 5190	Baking and Pastry Culinary Arts 1 Culinary Arts 2 Culinary Arts, Introduction to Hospitality and Tourism, work-based credit	AQ 35+	Culinary Arts *or* Family and Consumer Science (Home Economics) ***plus* additional courses or training approved by the Office of Career and Technology Education.**
5190 5476 5477 5478	Hospitality and Tourism, work-based credit Hospitality Management and Operations 1 Hospitality Management and Operations 2 Hospitality Management and Operations, Introduction to	43 44 48 4B 47 40 AQ 46 32 35 EC 45 41 42	Accounting* Accounting and Related Business* Accounting and Related Economics* Business/Marketing/Computer Technology (Business and Marketing Technology) Business Education* Commerce* Culinary Arts Data/Information Processing* Distributive Education* Family and Consumer Science (Home Economics) Hospitality and Tourism* Secretarial Science* Shorthand* Typing*
Human Services/Family and Consumer Sciences			
6150 6151 6152 6153	Cosmetology 1 Cosmetology 2 Cosmetology 3 Cosmetology 4	 AT BP+	 Cosmetology Barbering *plus* Cosmetology License

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CAREER AND TECHNOLOGY EDUCATION

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Activity Code	**Course Title**	**Certif. Code**	**Acceptable Certification and Mandatory Attendant Training**
6158 6159 6160 6161	Barber/Master Hair Care 1 Barber/Master Hair Care 2 Barber/Master Hair Care 3 Barber/Master Hair Care 4	BP AT+	Barbering Cosmetology plus Barbering License
5808 5809 5890 5820 5821 5804 5805 5812 5813 5824 5825 5830 5831 5834 5835 5816 5817 5759 5760	Family and Consumer Sciences 1 Family and Consumer Sciences 2 Family and Consumer Sciences, work-based credit Family Life Education 1 Family Life Education 2 Fashion, Fabric, and Design 1 Fashion, Fabric, and Design 2 Financial Fitness 1 Financial Fitness 2 Foods and Nutrition 1 Foods and Nutrition 2 Housing and Interiors 1 Housing and Interiors 2 Human Development: Responsible Life Choices 1 Human Development: Responsible Life Choices 2 Parenting Education 1 Parenting Education 2 Sports Nutrition 1 Sports Nutrition 2	35	Family and Consumer Science (Home Economics)
5790	Human Services, work-based credit	AT BP EG	Cosmetology Barbering Nail Technology
6154 6155 6156 6157	Nail Technology 1 Nail Technology 2 Nail Technology 3 Nail Technology 4	EG AT BP+	Nail Technology Cosmetology Barbering plus Nail Technology License

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CAREER AND TECHNOLOGY EDUCATION

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING			
Activity Code	**Course Title**	**Certif. Code**	**Acceptable Certification and Mandatory Attendant Training**
6162 6163 6164 6165	Esthetics 1 Esthetics 2 Esthetics 3 Esthetics 4	AT BP+	Cosmetology Barbering plus Cosmetology License
Information Technology			
		43 44 48 4B 47	Accounting* Accounting and Related Business* Accounting and Related Economics* Business/Marketing/Computer Technology (Business and Marketing Technology) Business Education*
5350 5176 5422 5350 5340 5341	Advanced Animation Digital Desktop Publishing Digital Media Marketing Foundations of Animation Image Editing 1 Image Editing 2	40 46 32 45 41 42 ED+ NC+	Commerce* Data/Information Processing* Distributive Education* Secretarial Science* Shorthand* Typing* *or* Information Technology ***plus* industry certification (e.g., ACA (Adobe Certified Associate-Educator)** Certification in any content area ***plus* industry certification (e.g., ACA (Adobe Certified Associate-Educator)**

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CAREER AND TECHNOLOGY EDUCATION

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING			
Activity Code	**Course Title**	**Certif. Code**	**Acceptable Certification and Mandatory Attendant Training**
5023	Exploring Computer Science	43	Accounting*
		44	Accounting and Related Business*
		48	Accounting and Related Economics*
		4B	Business/Marketing/Computer Technology (Business and Marketing Technology)
		47	Business Education*
		40	Commerce*
		46	Data/Information Processing*
		32	Distributive Education*
		45	Secretarial Science*
		41	Shorthand*
		42	Typing*
		11	General Mathematics*
		10	Mathematics
		AW	Electronics
		EE+	Information Technology-Networking ***plus* appropriate training as approved by the Office of Career and Technology Education**
		ED+	Information Technology ***plus* appropriate training as approved by the Office of Career and Technology Education**
		NC+	Certification in any area ***plus* appropriate training as approved by the Office of Career and Technology Education**

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CAREER AND TECHNOLOGY EDUCATION

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING			
5025	IT Fundamentals	AW ED+ NC+	Electronics *or* Information Technology ***plus*** **appropriate training as approved by the Office of Career and Technology Education** *or* Certification in any area ***plus*** **appropriate training approved by the Office of Career and Technology Education**
5050 5051 5052 5053 5054 5055 5056 5057	Computer Programming 1 Computer Programming 2 Computer Programming with Java 1 Computer Programming with Java 2 Computer Programming with Visual Basics 1 Computer Programming with Visual Basics 2 Computer Programming with C++ 1 Computer Programming with C++ 2	43 44 48 47 4B 40 46 32 ED+ 10 45 41 42 NC+	Accounting* Accounting and Related Business* Accounting and Related Economics* Business Education* Business/Marketing/Computer Technology (Business and Marketing Technology) Commerce* Data/Information Processing* Distributive Education* Information Technology ***plus*** **appropriate training as approved by the Office of Career and Technology Education** Mathematics Secretarial Science* Shorthand* Typing* *or* **Certification in any area *plus* appropriate training approved by the Office of Career and Technology Education.**

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CAREER AND TECHNOLOGY EDUCATION

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING			
Activity Code	**Course Title**	**Certif. Code**	**Acceptable Certification and Mandatory Attendant Training**
5320 5321 5322 5323	Computer Service Technology 1 Computer Service Technology 2 Computer Service Technology 3 Computer Service Technology 4	AW ED+ NC+	Electronics Information Technology ***plus*** **appropriate training approved by the Office of Career and Technology Education** *or* Certification in any area ***plus*** **appropriate training approved by the Office of Career and Technology Education**
5327 5328	SAS Programming 1 SAS Programming 2	43 44 48 4B 47 40 46 32 ED+ 45 41 42 NC+	Accounting* Accounting and Related Business* Accounting and Related Economics* Business/Marketing/Computer Technology (Business and Marketing Technology) Business Education* Commerce* Data/Information Processing* Distributive Education* Information Technology ***plus*** **appropriate training approved by the Office of Career and Technology Education and/or training by SAS** Secretarial Science* Shorthand* Typing* *or* **Certification in any area *plus* appropriate training approved by the Office of Career and Technology Education** *or* **Certification in any area *plus* training by SAS**

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† = For more information, please call the Office of Federal and State Accountability at 803-734-3454.

CAREER AND TECHNOLOGY EDUCATION

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING			
Activity Code	**Course Title**	**Certif. Code**	**Acceptable Certification and Mandatory Attendant Training**
5270	Information Technology Foundations	43	Accounting*
		44	Accounting and Related Business*
		48	Accounting and Related Economics*
		4B	Business/Marketing/Computer Technology (Business and Marketing Technology)
		47	Business Education*
		40	Commerce*
		46	Data/Information Processing*
		32	Distributive Education*
		AW	Electronics
		EE+	Information Technology—Networking ***plus* appropriate training as approved by the Office of Career and Technology Education**
		ED+	Information Technology ***plus* appropriate training as approved by the Office of Career and Technology Education**
		45	Secretarial Science*
		41	Shorthand*
		42	Typing*

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CAREER AND TECHNOLOGY EDUCATION

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING			
Activity Code	**Course Title**	**Certif. Code**	**Acceptable Certification and Mandatory Attendant Training**
5361 5362	GIS Technology 1 GIS Technology 2	43 44 48 4B 47 40 46 32 ED+ 45 41 42 NC	Accounting* Accounting and Related Business* Accounting and Related Economics* Business/Marketing/Computer Technology (Business and Marketing Technology) Business Education* Commerce* Data/Information Processing* Distributive Education* Information Technology –***plus*** **appropriate training approved by the Office of Career and Technology Education** Secretarial Science* Shorthand* Typing* *or* Certification in any area ***plus*** **appropriate training approved by the Office of Career and Technology Education**

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CAREER AND TECHNOLOGY EDUCATION

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING			
Activity Code	**Course Title**	**Certif. Code**	**Acceptable Certification and Mandatory Attendant Training**
5390	Information Technology, work-based credit	43 44 48 4B 47 40 46 32 AW EE ED 10 45 41 42	Accounting* Accounting and Related Business* Accounting and Related Economics* Business/Marketing/Computer Technology (Business and Marketing Technology) Business Education* Commerce* Data/Information Processing* Distributive Education Electronics Information Technology—Networking Information Technology Mathematics Secretarial Science* Shorthand* Typing*
5310 5311 5312 5313	Networking 1 Networking 2 Networking 3 Networking 4	EE+ NC+	Information Technology—Networking ***plus* appropriate training as approved by the Office of Career and Technology Education** *or* Certification in any area ***plus* appropriate training approved by the Office of Career and Technology Education**
5324 5326 5058	Database Design and Programming with SQL Database Programming with PL/SQL Java Fundamentals and Java Programming	ED+ NC+	Information Technology ***plus* training through Oracle Academy** *or* Certification in any area ***plus* training thru Oracle Academy**

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5370 5372	Cyber Security Fundamentals Advanced Cyber Security	ED+ EE+ NC+	Information Technology ***plus*** **appropriate training approved by the Office of Career and Technology Education** Information Technology—Networking ***plus*** **appropriate training as approved by the Office of Career and Technology Education** *or* Certification in any area ***plus*** **appropriate training approved by the Office of Career and Technology Education**
5374	Computer Forensics	AW ED+ NC+	Electronics *or* Information Technology area ***plus*** **appropriate training approved by the Office of Career and Technology Education** *or* Certification in any area plus appropriate training approved by the Office of Career and Technology Education
5352	Game Design and Development	43 44 48 4B 47 40 46 32 45 41 42 ED+ NC+	Accounting* Accounting and Related Business* Accounting and Related Economics* Business/Marketing/Computer Technology (Business and Marketing Technology) Business Education* Commerce* Data/Information Processing* Distributive Education* Secretarial Science* Shorthand* Typing* *or* Information Technology ***plus*** **appropriate training as approved by the Office of Career and Technology Education** *or* Certification in any area plus appropriate training as approved by the Office of Career and Technology Education

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CAREER AND TECHNOLOGY EDUCATION

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING			
Activity Code	**Course Title**	**Certif. Code**	**Acceptable Certification and Mandatory Attendant Training**
Law, Public Safety, Corrections and Security			
6512 6513 6510 6511 6505 6590	Emergency and Fire Management Services 1 Emergency and Fire Management Services 2 Law Enforcement Services 1 Law Enforcement Services 2 Law, Public Safety, Corrections and Security, Introduction to Law, Public Safety, Corrections and Security, work-based credit	DA DB DD	Criminal Justice* Law Enforcement Services Emergency and Fire Management Services
Manufacturing			
6133 6134 6135 6136	Electronics Technology 1 Electronics Technology 2 Electronics Technology 3 Electronics Technology 4	AW	Electronics
6045	Manufacturing Technology, Introduction to	AW CB 29 BA BE BK	Electronics Industrial Maintenance Mechanics Industrial Technology Education Machine Tool Technology Sheet Metal Welding
6230 6231 6232 6233	Machine Technology 1 Machine Technology 2 Machine Technology 3 Machine Technology 4	BA	Machine Tool Technology
6490	Manufacturing, work-based credit	AW BA CB BE BK	Electronics Machine Tool Technology Industrial Maintenance Mechanics Sheet Metal Welding

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CAREER AND TECHNOLOGY EDUCATION

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING			
Activity Code	**Course Title**	**Certif. Code**	**Acceptable Certification and Mandatory Attendant Training**
6210 6211 6212 6213	Mechatronics 1-Industrial Safety Mechatronics 2-Hand & Power Tool Op. Mechatronics 3-Hydraulics & Pneumatics Mechatronics 4-AC-DC Circuits	CB NC	Industrial Maintenance Mechanics *or* Certification in any secondary level subject area, ***plus* (1) approval by the Office of Career and Technology Education, (2) Mechatronics summer training (two summer sessions required), (3) Mechatronics teacher industry certification**
6260 6261 6262 6263	Metal Fabrication 1 Metal Fabrication 2 Metal Fabrication 3 Metal Fabrication 4	BE BK	Sheet Metal Welding
6340 6341 6342 6343	Welding Technology 1 Welding Technology 2 Welding Technology 3 Welding Technology 4	BK	Welding
Marketing			
5470 5410 5440 5421 5431 5423 5430 5471 5426 5427	Advertising Fashion Merchandising Global Business Marketing Marketing Management Marketing Research Merchandising Professional Sales Sports and Entertainment Marketing 1 Sports and Entertainment Management	43 44 48 4B 47 40 46 32 45 41 42	Accounting* Accounting and Related Business* Accounting and Related Economics* Business/Marketing/Computer Technology (Business and Marketing Technology) Business Education* Commerce* Data/Information Processing* Distributive Education* Secretarial Science* Shorthand* Typing*

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CAREER AND TECHNOLOGY EDUCATION

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING			
Activity Code	**Course Title**	**Certif. Code**	**Acceptable Certification and Mandatory Attendant Training**
5091	Marketing work-based credit	43 44 48 4B 47 40 46 32 45 41 42	Accounting* Accounting and Related Business* Accounting and Related Economics* Business/Marketing/Computer Technology (Business and Marketing Technology) Business Education* Commerce* Data/Information Processing* Distributive Education* Secretarial Science* Shorthand* Typing*
Science, Technology, Engineering and Mathematics			
5757 5758 6090	Food Science and Dietetics 1 Food Science and Dietetics 2 Pre-Engineering/Engineering & Industrial Technology Education, work-based credit	35	Family and Consumer Science (Home Economics)

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CAREER AND TECHNOLOGY EDUCATION

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING			
Activity Code	**Course Title**	**Certif. Code**	**Acceptable Certification and Mandatory Attendant Training**
6056 6057 6058 6053 6052 6054 6051 6050 6095 6090	Aerospace Engineering Biotechnical Engineering Civil Engineering and Architecture Computer Integrated Manufacturing Digital Electronics Engineering Design and Development Engineering Design, Introduction to Principles of Engineering Pre-Engineering Technology, Introduction to Pre-Engineering/Engineering & Industrial Technology Education, work-based credit	NC+	Baccalaureate and certification in any area, ***plus*** **Project Lead the Way certification. Special approval by the Office of Career and Technology Education is required for certified teachers without a bachelor's degree**.
6040 6041	Industrial Technology Education (Exploratory) 1 Industrial Technology Education (Exploratory) 2	29	Industrial Technology Education
Transportation, Distribution and Logistics			
6020 6021 6022 6023	Automotive Collision Repair Technology 1 Automotive Collision Repair Technology 2 Automotive Collision Repair Technology 3 Automotive Collision Repair Technology 4	AJ	Automotive Collision Repair
6030 6031 6032 6033	Automotive Technology 1 Automotive Technology 2 Automotive Technology 3 Automotive Technology 4	AK	Automotive Technology
6310 6311 6312 6313	Diesel Engine Technology 1 Diesel Engine Technology 2 Diesel Engine Technology 3 Diesel Engine Technology 4	AK CA	Automotive Technology Diesel Technology
6300 6301 6302 6303	Power Equipment Technology 1 Power Equipment Technology 2 Power Equipment Technology 3 Power Equipment Technology 4	AA AK BF	Agricultural Mechanics* Automotive Technology Power Equipment

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CAREER AND TECHNOLOGY EDUCATION

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING			
Activity Code	**Course Title**	**Certif. Code**	**Acceptable Certification and Mandatory Attendant Training**
6015	Transportation, Distribution and Logistics, Introduction to	AJ AK CA 29 BF	Automotive Collision Repair Automotive Technology Diesel Engine Mechanics Industrial Technology Education Small Engine Repair
6790	Transportation, Distribution and Logistics, work-based credit	AA 31 AJ AK CA BF	Agricultural Mechanics* Agriculture Mechanics Automotive Collision Repair Automotive Technology Diesel Engine Mechanics Small Engine Repair

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ADULT EDUCATION

REQUIRED CREDENTIALS: ACCEPTABLE CERTIFICATION *and* ALL MANDATORY ATTENDANT TRAINING	
Course Title	**Acceptable Certification and Mandatory Attendant Training**
High school credit bearing courses	Appropriate certification in area in which credit will be awarded
GED Basic Skills English as a Second Language Literacy	Must hold valid South Carolina teaching certificate

The South Carolina Department of Education does not discriminate on the basis of race, color, national origin, sex, or disability in admission to, treatment in, or employment in its programs and activities. Inquiries regarding the nondiscrimination policies should be made to the director of the Office of Human Resources, 1429 Senate Street, Columbia, South Carolina 29201, 803-734-8505.

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DISTRICT STRATEGIC PLAN COVER PAGE

(Mandated Component)

DISTRICT INFORMATION AND REQUIRED SIGNATURES

_____SCHOOL DISTRICT

DISTRICT STRATEGIC PLAN FOR YEARS _____ *(five years)*

DISTRICT STRATEGIC ANNUAL UPDATE FOR _____ *(one year)*

Assurances
The district strategic plan, or annual update of the district strategic plan, includes elements required by the Early Childhood Development and Academic Assistance Act of 1993 (Act 135) and the Education Accountability Act of 1998 (EAA) (S.C. Code Ann. §§ 59-18-1300 and 59-139-10 *et seq*. (Supp. 2004)). The signatures of the chairperson of the board of trustees, the superintendent, the principal, and the chairperson of the school improvement council are affirmation of active participation of key stakeholders and alignment with Act 135 and EAA requirements.

CHAIRPERSON, BOARD OF TRUSTEES

PRINTED NAME	**SIGNATURE**	**DATE**

SUPERINTENDENT

PRINTED NAME	**SIGNATURE**	**DATE**

TITLE II COORDINATOR

PRINTED NAME	**SIGNATURE**	**DATE**

DISTRICT STRATEGIC PLANNING COORDINATOR

PRINTED NAME	**SIGNATURE**	**DATE**

SCHOOL _____

ADDRESS: _____

_____

SCHOOL'S TELEPHONE: (___)_____

SUPERINTENDENT'S E-MAIL ADDRESS:_____

STAKEHOLDER INVOLVEMENT FOR DISTRICT PLAN

(Mandated Component)

List the name of persons who were involved in the development of the district strategic plan. A participant for each numbered category is required.

POSITION ***NAME***

1. Superintendent_____
2. Principal _____
3. Teacher_____
4. Parent/Guardian _____
5. Community Member _____
6. Private School Representative(s)_____
   (Title II Requirement)
7. District Level Administrators(s)_____
   (Title II Requirement)
8. Paraprofessional(s) _____
   (Title II Requirement)
9. **OTHERS*** (May include school board members, administrators, School Improvement Council members, students, PTO members, agency representatives, university partners, etc.)

POSITION ***NAME***

_____

_____

_____

_____

_____

_____

_____

***REMINDER:** If state or federal grant applications require representation by other stakeholder groups, it is appropriate to include additional stakeholders to meet those requirements and to ensure that the plans are aligned.

ASSURANCES FOR SCHOOL PLAN

(Mandated Component)

Act 135 Assurances

Assurances, checked, and signed by the district superintendent, attest that the school/district complies with all applicable Act 135 requirements.

_____ **Academic Assistance, PreK–3**
The district makes special efforts to assist children in PreK–3 who demonstrate a need for extra or alternative instructional attention (e.g., after-school homework help centers, individual tutoring, and group remediation).

_____ **Academic Assistance, Grades 4–12**
The district makes special efforts to assist children in grades 4–12 who demonstrate a need for extra or alternative instructional attention (e.g., after-school homework help centers, individual tutoring, and group remediation).

_____ **Parent Involvement**
The district encourages and assists parents in becoming more involved in their children's education. Some examples of parent involvement initiatives include making special efforts to meet with parents at times more convenient for them, providing parents with their child's individual test results and an interpretation of the results, providing parents with information on the district's curriculum and assessment program, providing frequent, two-way communication between home and school, providing parents an opportunity to participate on decision-making groups, designating space in schools for parents to access educational resource materials, including parent involvement expectations as part of the principal's and superintendent's evaluations, and providing parents with information pertaining to expectations held for them by the school system, such as ensuring attendance and punctuality of their children.

_____ **Staff Development**
The district provides staff development training for teachers and administrators in the teaching techniques and strategies needed to implement the school/district plan for the improvement of student academic performance. The staff development program reflects requirements of Act 135, the EAA, and the National Staff Development Council's revised *Standards for Staff Development*.

_____ **Technology**
The district integrates technology into professional development, curriculum development, and classroom instruction to improve teaching and learning.

_____ **Innovation**
The district uses innovation funds for innovative activities to improve student learning and accelerate the performance of all students. Provide a good example of the use of innovation funds.

_____ **Recruitment**
The district makes special and intensive efforts to **recruit** and give **priority** to serving those parents or guardians of children, ages birth through five years, who are considered at-risk of school failure. "At-risk children are defined as those whose school readiness is jeopardized by any of, but no limited to, the following personal or family situation(s): Educational level of parent below high school graduation, poverty, limited English proficiency, significant developmental delays, instability or inadequate basic capacity within the home and/or family, poor health (physical, mental, emotional) and/or child abuse and neglect.

_____ **Collaboration**
The district (regardless of the grades served) collaborates with health and human services agencies (e.g., county health departments, social services departments, mental health departments, First Steps, and the family court system).

____ **Developmental Screening**

The district ensures that the young child receives all services necessary for growth and development. Instruments are used to assess physical, social, emotional, linguistic, and cognitive developmental levels. This program normally is appropriate at primary and elementary schools, although screening efforts could take place at any location.

____ **Half-Day Child Development**

The district provides half-day child development programs for **four-year-olds** (some districts fund full-day programs). The programs usually function at primary and elementary schools, although they may be housed at locations with other grade levels or completely separate from schools.

____ **Developmentally Appropriate Curriculum for PreK–3**

The district ensures that the scope and sequence of the curriculum for PreK–3 are appropriate for the maturation levels of students. Instructional practices accommodate individual differences in maturation level and take into account the student's social and cultural context.

____ **Parenting and Family Literacy**

The district provides a four component program that integrates all of the following activities: interactive literacy activities between parents and their children (Interactive Literacy Activities); training for parents regarding how to be the primary teachers for their children and full partners in the education of their children (parenting skills for adults, parent education); parent literacy training that leads to economic self-sufficiency (adult education); and an age-appropriated education to prepare children for success in school and life experiences (early childhood education). Family Literacy is not grade specific, but generally is most appropriate for parents of children at the primary and elementary school levels and below, and for secondary school students who are parents. Family Literacy program goals are to strengthen parent involvement in the learning process of preschool children ages birth through five years; promote school readiness of preschool children; offer parents special opportunities to improve their literacy skills and education, a chance to recover from dropping out of school; and identify potential developmental delays in preschool children by offering developmental screening.

____ **Coordination of Act 135 Initiatives with Other Federal, State, and District Programs**

The district ensures as much program effectiveness as possible by developing a district-wide/school-wide coordinated effort among all programs and funding. Act 135 initiatives are coordinated with programs such as Head Start, First Steps, Title I, and programs for students with disabilities.

Chapter 59 of Title 59:

Education and Economic Development Act Assurances for Districts

1. Each elementary, middle, and high school in the district has implemented the Comprehensive Developmental Guidance and Counseling Program Model.

2. All elementary, middle, and high schools in the district have integrated career awareness, exploration, and/or preparation activities into their curricula.

3. Each middle and high school in the district has a student-to-guidance personnel ratio of 300:1 or less. Suspended as pursuant to R14.3352.

4. Each middle and high school in the district employs certified career development facilitators who perform the 13 duties specified in the EEDA legislation.

5. All students in grades eight through twelve have developed an individual graduation plan (IGP) that is reviewed by students and their parents/parental designees during annual IGP conferences facilitated by certified guidance counselors.

6. All eighth grade students in the district have chosen a career cluster. (Students may change their cluster choice if they desire to do so).

7. All tenth grade students in the district have chosen a career major. (Students may change their major if they desire to do so).

8. All high schools in the district offer enough courses for all students to complete their chosen majors. (NOTE: To complete a major, students must take four courses for elective credit that are associated with that major).

9. Each high school in the district is organized around a minimum of three of the 16 national career clusters.

10. Each high school in the district has implemented an evidence-based program model designed to ensure that students identified as being at risk of dropping out actually graduate from high school with a state diploma.

11. Each high school in the district has implemented High Schools That Work or another state-approved comprehensive reform model.

12. Each high school in the district offers all students at least one opportunity to participate in an extended or work-based learning activity prior to graduation.

13. Each high school in the district offers students opportunities to enroll in courses for which they may receive both high school and college credit.

_____	_____	_____
Superintendent's Printed Name (for district and school plans)	Superintendent's Signature	Date

General Grant Assurances for Districts

As the duly authorized representative of_____,
(Please print or type name of District)

I certify that this applicant

A. Has the legal authority to apply for state assistance and the institutional, managerial, and financial capability (including funds sufficient to pay the non-state share of project costs) to ensure proper planning, management, and completion of the project described in this application.

B. Will give the State Department of Education (SCDE) access to and the right to examine all records, books, papers, or documents related to this award and will establish a proper accounting system in accordance with generally accepted accounting principles or agency directives. The applicant's accounting system must include sufficient internal controls, a clear audit trail, and written cost-allocation procedures as necessary. Financial management systems must be capable of distinguishing expenditures that are attributable to this grant from those that are not attributable to this grant. This system must be able to identify costs by programmatic year and by budget line item and to differentiate among direct, indirect, and administrative costs. In addition, the grantee must maintain adequate supporting documents for the expenditures (federal and nonfederal) and in-kind contributions, if any, that it makes under this grant. Costs must be shown in books or records (e.g., disbursements ledger, journal, payroll register) and must be supported by a source document such as a receipt, travel voucher, invoice, bill, or in-kind voucher. The applicant will also comply with the Office of Management and Budget 2 CFR Part 230 "Cost Principles for Non-Profit Organizations," 2 CFR Part 225 "Cost Principles for State, Local, and Indian Tribal Governments," or 2 CFR Part 220 "Cost Principals for Educational Institutions" for maintaining required support for salaries and wages. Required support includes certifications and/or personnel activity records according to the type of entity. Will approve all expenditures, document receipt of goods and services, and record payments on the applicant's accounting records prior to submission of reimbursement claims to the SCDE for costs related to this grant.

C. Will initiate and complete work within the applicable time frame after receipt of approval by the SCDE.

D. Will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, national origin, or disability. The grantee will take affirmative action to ensure that applicants for employment and the employees are treated during the period of their employment without regard to their race, color, religion, age, sex, national origin, or disability.

E. Will comply with the Ethics, Government Accountability, and Campaign Reform Act (S.C. Code Ann. § 2-17-10 *et seq.* and § 8-13-100 *et seq.* (Supp. 2009)].

F. Will comply with the Drug Free Workplace Act (S.C. Code Ann. § 44- 107-10 *et seq.* (Supp. 2009)] if the amount of this award is $50,000 or more.

G. Ensures that all policies, procedures, programs and the administration of programs in the school district are consistent with the No Child Left Behind Act of 2001, *EDGAR* (1999), and other applicable statues, regulations, program plans, and applications.

H. Will submit reports as necessary to enable the SDE to meet its responsibilities under the program and will maintain such records, provide such information, and afford access to the records as the SDE may find necessary to carry out its duties. The school district will cooperate in carrying out any evaluation conducted by state or federal agencies.

I. Affirms that the needs assessment was conducted in consultation and collaboration with the teachers of the school district, including those teachers in schools receiving assistance under Title I, school administrators, and charter school and private school representatives (where applicable) in the development of the needs assessment.

J. Will ensure, through incentives for voluntary transfers, the provision of professional development, recruitment programs, or other effective strategies, that low-income students and minority students are not taught at higher rates that other students by unqualified, out-of-field, or inexperienced teachers.

K. Will target Title II-A teacher quality funds to schools that have the lowest proportion of highly qualified teachers, have the largest average class size, or are identified for school improvement under the specification in Title I, section 1116(b)(1)(A) of the Elementary and Secondary Education Act (ESEA): "A local educational agency shall identify for school improvement any elementary school or secondary school served under this part that fails, for 2 consecutive years, to make adequate yearly progress as defined in the State's plan under section 1111(b)(2)."

L. Will comply with Title IX, Section 9501 of the ESEA regarding participation by private school children and teachers.

M. Will comply with Title V, Section 5206(a) of the ESEA regarding participation by charter schools.

N. Will use the grant funds received in order to supplement, and not supplant, nonfederal funds that would otherwise be used for activities authorized under Section 2123 of the ESEA, "Local Use of Funds."

_____	_____	_____
Superintendent's Printed Name (for district and school plans)	Superintendent's Signature	Date

Terms and Conditions for SCDE Grant Programs

A. **Completeness of Proposal** All proposals should be complete and carefully worded and must contain all of the information requested by the State Department of Education (SCDE). If you do not believe a section applies to your proposal, please indicate that fact.

B. **Termination** The SCDE reserves the right to reject any and all applications and to refuse to grant monies under this solicitation. After it has been awarded, the SCDE may terminate a grant by giving the grantee written notice of termination. In the event of a termination after award, the SCDE shall reimburse the grantee for expenses incurred up to the notification of termination. In addition, this grant may be terminated by the SCDE if the grantee fails to perform as promised in its proposal.

C. **Travel Costs** Travel costs, if allowed under this solicitation, must not exceed limits noted in the United States General Services Administration (www.gsa.gov) regulations.

D. **Honoraria** Amounts paid in honoraria, if allowed under this grant, must be consistent with SCDE policies. You should check with the program office before budgeting for honoraria.

E. **Obligation of Grant Funds** Grant funds may not be obligated prior to the effective date or subsequent to the termination date of the grant period. No obligations are allowed after the end of the grant period, and the final request for payment must be submitted no later than thirty (30) days after the end of the grant period.

F. **Use of Grant Funds** Funds awarded are to be expended only for purposes and activities covered by the project plan and budget.

G. **Copyright** The grantee is free to copyright any books, publications, or other copyrightable materials developed in the course of this grant. However, the SCDE reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, the copyrighted work developed under this grant.

H. **Documentation** The grantee must provide for accurate and timely recording of receipts and expenditures. The grantee's accounting system should distinguish receipts and expenditures attributable to each grant.

I. **Reports** The grantee shall submit a final financial report within thirty (30) days of the final disbursement. This report should be a final accounting of the grant. It may be submitted in either narrative or spreadsheet form.

J. **Certification Regarding Suspension and Debarment.** By submitting a proposal, the applicant certifies, to the best of its knowledge and belief, that the

- Applicant and/or any of its principals, subgrantees, or subcontractors
  - Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency;
  - Have not, within a three-year period preceding this application, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) contract or subcontract; violation of federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft,

- forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and
- Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated above.

- Applicant has not, within a three-year period preceding this application, had one or more contracts terminated for default by any public (federal, state, or local) entity.

K. **Audits**

- Entities expending $500,000 or more in federal awards:
  Entities that expend $500,000 or more in federal awards during the fiscal year are required to have an audit performed in accordance with the provisions of Office of Management and Budget (OMB) Circular No. A-133, *Audits of States, Local Governments, and Non-Profit Organizations*. The submission deadline for A-133 audits is nine months after the entity's fiscal year-end. A grantee that passes through funds to subrecipients has the responsibility of ensuring that federal awards are used for authorized purposes in compliance with federal program laws, federal and state regulations, and grant agreements. The director of the OMB, who will review this amount every two years, has the option of revising the threshold upward.
- Entities expending less than $500,000 in federal awards:
  Entities that expend less than $500,000 in a fiscal year in federal awards are exempt from the audit requirements in the Single Audit Act and Circular A-133. However, such entities are not exempt from other federal requirements (including those to maintain records) concerning federal awards provided to the entity. The entity's records must be available for review or audit by the SCDE and appropriate officials of federal agencies, pass-through entities, and the General Accounting Office (GAO).

M. **Records**. The grantee shall retain grant records, including financial records and supporting documentation, for a minimum of three (3) years after the termination date of the grant.

N. **Reduction in Budgets and Negotiations**. The SCDE reserves the right to negotiate budgets with potential grantees. The SCDE may, in its sole discretion, determine that a proposed budget is excessive and may negotiate a lower budget with the potential grantee. The grantee may at that time negotiate or withdraw its proposal. In addition, the SCDE may desire to fund a project but not at the level proposed. In that case the SCDE shall notify the potential grantee of the amount that can be funded, and the grantee and the SCDE shall negotiate a modification in the proposal to accommodate the lower budget. All final decisions are that of the SCDE.

N. **Amendments to Grants**. Amendments are permitted upon the mutual agreement of the parties and will become effective when specified in writing and signed by both parties.

_____	_____	_____
Superintendent's Printed Name (for district and school plans)	Superintendent's Signature	Date

TABLE OF CONTENTS

(Mandated Component)

Include a table of contents to ensure inclusion of all required elements.

EXECUTIVE SUMMARY OF NEEDS ASSESSMENT FINDINGS

(Mandated Component)

MISSION, VISION, VALUES, AND BELIEFS

(Optional)

DISTRICT STRATEGIC PLAN FOR _____ **DATE:_____**

Performance Goal Area: ☐Student Achievement ☐Teacher/Administrator Quality ☐School Climate (Parent Involvement, Safe and Healthy Schools, etc.)

☐District Priority

PERFORMANCE GOAL:
(Statement of desired progress or result over five years)

INTERIM PERFORMANCE GOAL: (One year goal)

DATA SOURCES(S):
(List types of data that will be collected or examined to measure progress.)

OVERALL MEASURES:

SOURCE:

** Represents projections of improvement*

AVERAGE BASELINE		**2013-14**	**2014-15**	**2015-16**	**2016-17**	**2017-18**
	Projected Data **Actual Data**	*	*	*	*	*

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SCHOOL RENEWAL PLAN COVER PAGE

(Mandated Component)

SCHOOL INFORMATION AND REQUIRED SIGNATURES

_____SCHOOL

_____SCHOOL DISTRICT

SCHOOL RENEWAL PLAN FOR YEARS _____ ***(five years)***

SCHOOL RENEWAL ANNUAL UPDATE FOR _____ ***(one year)***

Assurances
The school renewal plan, or annual update of the school renewal plan, includes elements required by the Early Childhood Development and Academic Assistance Act of 1993 (Act 135) and the Education Accountability Act of 1998 (EAA) (S.C. Code Ann. §§ 59-18-1300 and 59-139-10 *et seq*. (Supp. 2004)). The signatures of the chairperson of the board of trustees, the superintendent, the principal, and the chairperson of the school improvement council are affirmation of active participation of key stakeholders and alignment with Act 135 and EAA requirements.

CHAIRPERSON, BOARD OF TRUSTEES

PRINTED NAME	**SIGNATURE**	**DATE**

SUPERINTENDENT

PRINTED NAME	**SIGNATURE**	**DATE**

CHAIRPERSON, SCHOOL IMPROVEMENT COUNCIL

PRINTED NAME	**SIGNATURE**	**DATE**

PRINCIPAL

PRINTED NAME	**SIGNATURE**	**DATE**

SCHOOL ADDRESS: _____
_____
_____

SCHOOL'S TELEPHONE: ( )_____

PRINCIPAL'S E-MAIL ADDRESS:_____

STAKEHOLDER INVOLVEMENT FOR SCHOOL PLAN

(Mandated Component)

List the name of persons who were involved in the development of the school renewal plan. A participant for each numbered category is required.

POSITION ***NAME***

1. PRINCIPAL _____
2. TEACHER _____
3. PARENT/GUARDIAN _____
4. COMMUNITY MEMBER _____
5. SCHOOL IMPROVEMENT COUNCIL _____
6. OTHERS* (May include school board members, administrators, School Improvement Council members, students, PTO members, agency representatives, university partners, etc.)

POSITION ***NAME***

_____

_____

_____

_____

_____

_____

_____

_____

***REMINDER:** If state or federal grant applications require representation by other stakeholder groups, it is appropriate to include additional stakeholders to meet those requirements and to ensure that the plans are aligned.

ASSURANCES FOR SCHOOL PLAN

(Mandated Component)

Act 135 Assurances

Assurances, checked by the principal, attest that the district complies with all applicable Act 135 requirements.

_____ **Academic Assistance, PreK–3**
The school makes special efforts to assist children in PreK–3 who demonstrate a need for extra or alternative instructional attention (e.g., after-school homework help centers, individual tutoring, and group remediation).

_____ **Academic Assistance, Grades 4–12**
The school makes special efforts to assist children in grades 4–12 who demonstrate a need for extra or alternative instructional attention (e.g., after-school homework help centers, individual tutoring, and group remediation).

_____ **Parent Involvement**
The school encourages and assists parents in becoming more involved in their children's education. Some examples of parent involvement initiatives include making special efforts to meet with parents at times more convenient for them, providing parents with their child's individual test results and an interpretation of the results, providing parents with information on the district's curriculum and assessment program, providing frequent, two-way communication between home and school, providing parents an opportunity to participate on decision-making groups, designating space in schools for parents to access educational resource materials, including parent involvement expectations as part of the principal's and superintendent's evaluations, and providing parents with information pertaining to expectations held for them by the school system, such as ensuring attendance and punctuality of their children.

_____ **Staff Development**
The school provides staff development training for teachers and administrators in the teaching techniques and strategies needed to implement the school/district plan for the improvement of student academic performance. The staff development program reflects requirements of Act 135, the EAA, and the National Staff Development Council's revised *Standards for Staff Development*.

_____ **Technology**
The school integrates technology into professional development, curriculum development, and classroom instruction to improve teaching and learning.

_____ **Innovation**
The school uses innovation funds for innovative activities to improve student learning and accelerate the performance of all students. Provide a good example of the use of innovation funds.

_____ **Recruitment**
The district makes special and intensive efforts to **recruit** and give **priority** to serving those parents or guardians of children, ages birth through five years, who are considered at-risk of school failure. "At-risk children are defined as those whose school readiness is jeopardized by any of, but no limited to, the following personal or family situation(s): Educational level of parent below high school graduation, poverty, limited English proficiency, significant developmental delays, instability or inadequate basic capacity within the home and/or family, poor health (physical, mental, emotional) and/or child abuse and neglect.

_____ **Collaboration**
The school (regardless of the grades served) collaborates with health and human services agencies (e.g., county health departments, social services departments, mental health departments, First Steps, and the family court system).

_____ **Developmental Screening**
The school ensures that the young child receives all services necessary for growth and development. Instruments are used to assess physical, social, emotional, linguistic, and cognitive developmental levels. This program normally is appropriate at primary and elementary schools, although screening efforts could take place at any location.

_____ **Half-Day Child Development**
The school provides half-day child development programs for **four-year-olds** (some districts fund full-day programs). The programs usually function at primary and elementary schools, although they may be housed at locations with other grade levels or completely separate from schools.

_____ **Developmentally Appropriate Curriculum for PreK–3**
The school ensures that the scope and sequence of the curriculum for PreK–3 are appropriate for the maturation levels of students. Instructional practices accommodate individual differences in maturation level and take into account the student's social and cultural context.

_____ **Parenting and Family Literacy**
The school provides a four component program that integrates all of the following activities: interactive literacy activities between parents and their children (Interactive Literacy Activities); training for parents regarding how to be the primary teachers for their children and full partners in the education of their children (parenting skills for adults, parent education); parent literacy training that leads to economic self-sufficiency (adult education); and an age-appropriated education to prepare children for success in school and life experiences (early childhood education). Family Literacy is not grade specific, but generally is most appropriate for parents of children at the primary and elementary school levels and below, and for secondary school students who are parents. Family Literacy program goals are to strengthen parent involvement in the learning process of preschool children ages birth through five years; promote school readiness of preschool children; offer parents special opportunities to improve their literacy skills and education, a chance to recover from dropping out of school; and identify potential developmental delays in preschool children by offering developmental screening.

_____ **Coordination of Act 135 Initiatives with Other Federal, State, and District Programs**
The district ensures as much program effectiveness as possible by developing a district-wide/school-wide coordinated effort among all programs and funding. Act 135 initiatives are coordinated with programs such as Head Start, First Steps, Title I, and programs for students with disabilities.

TABLE OF CONTENTS

(Mandated Component)

Include a table of contents to ensure inclusion of all required elements.

EXECUTIVE SUMMARY OF NEEDS ASSESSMENT FINDINGS

(Mandated Component)

MISSION, VISION, VALUES, AND BELIEFS

(Optional)

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OVERALL MEASURES: SOURCE:	

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	Projected Data	*	*	*	*	*
	Actual Data					

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South Carolina Department of Education Proficiency-Based District-Wide Application for 2015–2016

With the approval of the revised State Board of Education Regulation 43-234, districts may submit a Proficiency-Based System application to the South Carolina Department of Education (SCDE). Career and Technical Education (CATE) proficiency courses must be reviewed and approved separately by the Office of Career and Technology Education due to funding and work experience attached to this course type. The application submitted for approval will provide an overview of the district Proficiency-Based System and will be signed by both the district superintendent and the local board of education chairperson.

Any district having schools using proficiency-based courses for **initial credit, credit recovery** or **credit through prior knowledge** during the 2015–16 school year should complete this application and submit it by June 19, 2015. Questions or clarification needed? Call 803-734-3749.

Applications should be e-mailed to Darlene Prevatt at dprevatt@ed.sc.gov or mailed to the following address:

Ms. Darlene Prevatt
South Carolina Department of Education
Room 501-A
Rutledge Building
1429 Senate Street
Columbia, S.C. 29201

The Division of Accountability staff will review the application and will approve the application by August 1, 2014, or request additional information. The approved application will be valid for the 2015–16 school year, or if the district chooses, it may be submitted as part of the district strategic plan and be renewed on the same 5 year cycle. If changes are made in the Proficiency-Based System during the 5 year cycle, an amendment must be filed.

The Proficiency-Based System will be part of the annual district accreditation review.

Please Complete the Following:

District:	
Date Submitted:	
School Year:	
Person Submitting the Application:	
Position:	
Mailing Address:	
Phone Number, including area code:	
E-mail Address:	
Contact for Day to Day Operation of District Proficiency-Based System:	
E-mail Address:	
Phone Number:	

This application contains **two sections**, both of which must be completed. **Section I** contains a list of assurances with which the district is required to comply. Check these and have both the superintendent and the local board of education chairperson sign and date the Assurances page. **Section II** contains three comprehensive questions, each part of which must be answered.

SECTION I

ASSURANCES

Assurances, checked by the district superintendent, attest that the district has or will comply with the following requirements:

☐1. The local school board will annually approve the district's Proficiency-Based System. The documentation for submission to the local school board should include, but not be limited to, the following criteria. Documentation of the local board approval will be housed at the district level and available for review.

- An explanation of how the needs assessment conducted substantiates the need for the district Proficiency-Based System or changes within the system.
- A description of the subject area course procedures for the high school proficiency-based credits the district will implement.
- A complete syllabus for each course, or the URL(s) where a syllabus may be found and the method in which the course will be taught.
- Documentation that demonstrates each course and all proficiency assessments for direct instruction are aligned to the State adopted subject area academic standards for the current year.
- A list of the prerequisite courses used for selecting students for each proficiency-based course where prerequisites are required.
- An explanation of how the proficiency-based assessments will be standardized across the district if the courses are offered in multiple schools.

☐2. The Proficiency-Based System will be evaluated annually, and districts will report the results back to the local board of education.

☐3. The district will communicate NCAA eligibility requirements and higher education guidelines regarding proficiency-based courses with parents and students.

☐4. Proficiency-based courses meet all relevant state statutes and regulations unless a State Board of Education (SBE) waiver has been granted to the district.

☐5. Teachers of all proficiency courses must hold South Carolina certification and be appropriately certified for the proficiency subjects taught unless a SBE waiver has been granted.

_____ _____

Signature of District Superintendent Date

_____ _____

Signature of Chairperson of Board of Education Date

SECTION II

Description of District Plan for Proficiency-Based System

1. Describe your rationale and justification for using a Proficiency-Based System, including any pertinent needs assessment data. This answer must include the following:

- Discuss, in detail the district goals/needs that precipitated the decision to use proficiency-based instruction or the decision to make changes within the established plan.

- How will this plan address the individual needs of students as they work toward receiving a diploma, moving into the workforce, and/or attending college?

- Describe evidence of stakeholder support for a proficiency-based program. Include students, parents, staff, and the community as stakeholders.

- How will the district policy on proficiency be communicated to stakeholders?

- Please paste, attach or record the URL for district policy on the Proficiency-Based System.

2. **Provide a description of the structure and scope of the Proficiency-Based System in your district. This answer must include the following:**

- What content/vendor will be used for initial credit, credit recovery, and/or blended learning within the proficiency-based system? (If you wish to change or add vendors/providers during the year, please send an amended application at such time.)

- Will proficiency-based courses be used to award initial credit? Credit recovery?

- Will the district offer a comprehensive curriculum or target particular areas such as: remediation, advanced course work, homebound, alternative learning, adult learning or another area?

- What criteria will be used for student eligibility for these types of proficiency-based credit: initial credit, credit recovery, credit through prior knowledge or credit through blended learning opportunities? Is there an appeal process?

- Explain how credit recovery will function: participation requirements, cost to students, interaction with teachers, and grade reporting.

- Explain how initial credit acquisition will function: participation requirements, cost to students, interaction with teachers, and grade reporting.

- Describe district proficiency-based education implementation to include the following:
    - schools/school levels involved (If you wish to change or add schools/school levels during the year, please send an amended application.)
    - delivery of instruction
    - system for awarding credit
    - time frame: rolling enrollment or following district calendar
    - implementation of the Uniform Grading Policy with the proficiency-based system (dropping or retaking a course; recording grades, etc.)
    - physical location of the students completing the work (Only at school or both in and outside of the school)
    - method and position or person recording proficiency-based courses in PowerSchool

- Will the hosting (district server or vendor) learning management system (LMS), if necessary, allow modification of courses to reflect all South Carolina State Standards?

- All proficiency courses must be taught by a South Carolina Certified teacher. Please explain how the district will assure all proficiency-based course teachers have the required credentials for the course he or she is teaching? Is there required teacher interaction with students and required teacher interaction with parents?

- What staff development or training for using a proficiency-based system is required for teachers, administrators, and students?

- Will locally-used content be reviewed course by course or on the vender level?

- How will the district address challenges special needs or 504 plan students might face to be successful in proficiency-based courses?

3. Describe the methods the district will annually use to evaluate the overall proficiency-based process and the program outcomes.

- When and how will the plan implementation be analyzed and evaluated? At what stages will data gathered from students participating in the proficiency-based system be analyzed and evaluated?

- Who will do the analysis and evaluation, and what methods and measures will be used?

- How will students who have gained success through proficiency be tracked in their next steps?

- What methods will the district use to check that students earning credit through this process have the skills and knowledge they need for subsequent work in the specific course content area?

(Add pages as needed.)

SBE approved 5/11/05

Guideline for Extenuating Circumstances R 43-274

Local school boards or their designee may extend the number of days allowed for a student's completion of academic and time requirements for a course to more than thirty days due to extenuating circumstances. Extenuating circumstances include but are not limited to the student's medical condition, family emergencies, and other student academic requirements that are considered to be a maximum load. Extending make-up requirements beyond thirty days because of extenuating circumstances must be completed prior to the beginning of the subsequent school year.

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General Administration

43-70. Textbook Adoption Regulation (3/24/00)
43-71. Free Textbooks (5/23/08)
43-73. Disposition of Instructional Materials Samples after State Adoption Process (5/23/03)
43-80. Operation of Public Pupil Transportation Services (4/27/09)
43-100. Test Security (6/26/15)
43-165.1. Program for Assisting, Developing, and Evaluating Principal Performance (APDEPP) (6/26/15)
43-166. Student and School Safety (3/28/97)
43-167. Principal Induction Program (3/24/00)
43-168. Nutrition Standards for Elementary (K-5) School Food Service Meals and Competitive Foods (2/27/09)
43-188. Displaying the Flag (6/27/14)