

## REMOVAL FROM OFFICE OF A BOARD MEMBER

Code **ABCF**

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### **Constitutional and Statutory Provisions:**

Article VI, §9, South Carolina Constitution, provides: "*Officers shall be removed for incapacity, misconduct, or neglect of duty in such manner as may be provided by law when no mode of trial or removal is provided by this Constitution.*" (See also §§1-3-240 and 1-3-250, South Carolina Code.)

Any public official can be removed by the Governor for crimes involving misuse of public funds or moral turpitude. (See Article VI, §8, South Carolina Constitution.) (See also §8-1-10, South Carolina Code, pertaining to definition of public officials.) The Governor may remove State Board members who are convicted of misconduct. (See §8-1-90, South Carolina Code.) State Board members have the right to due process in removal cases with appeal to the circuit court. (See Article I, §22, South Carolina Constitution.) The Attorney General's Office has the authority to bring action against usurpers and those who have forfeited public office, (§15-63-60, South Carolina Code). Incapacity, misconduct or neglect are grounds for removal under the State Constitution or State Code of Laws. Dual office-holding (Article VI, §3 and Article XVII, South Carolina Constitution), dueling (Article XVII, §1B, South Carolina Constitution), conviction of a crime involving misuse of public funds or involving moral turpitude (Article VI, §8, South Carolina Constitution and §8-1-110, South Carolina Code), collecting and retaining rebates, and failure to fulfill duties related to public records (§30-1-10, South Carolina Code) are also potential grounds for removal. State Board members who are found guilty of making a contract or otherwise profiting from a contract with the State Board of Education may be removed from office. (See §59-5-130, South Carolina Code.)

State Board members should consult the Ethics Commission concerning potential conflicts of interest in order that the member may remove himself from a potential conflict of interest situation if it is determined necessary by the Ethics Commission according to its rules and regulations. (See §§2-17-5, et seq. and 8-13-700, et seq., State Ethics Laws.)

According to Act 79 of 1995, any State Board member who has three (3) consecutive unexcused absences from regularly scheduled meetings of the Board is considered removed from the Board, and a vacancy is created. An unexcused absence must be defined by the Board in rules governing its operation.

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### **State Board Rule:**

A Board member may be excused from attendance at a Board meeting by the Board Chair. The Chair's decision not to excuse a Board member from attendance at a Board meeting may be appealed to the entire Board.