

**Law reviews.** - For article, "Rights Resurgence: The Impact of the ADA Amendments Act on Schools and Universities," see 25 Ga. St. U.L. Rev. 641 (2009).

### **JUDICIAL DECISIONS**

**Title repealed prior conflicting legislation.** - Former Code of School Laws, Ga. L. 1919, pp. 288-363, repealed all prior legislation concerning or affecting the common schools of Georgia which was in conflict with it. *David v. Board of Educ.*, 179 Ga. 498, 176 S.E. 481 (1934).

### **OPINIONS OF THE ATTORNEY GENERAL**

**Education board not authorized to lend money to other board or agency.** - There are many general and special provisions found in this title with regard to the powers and authority of the State Board of Education; there is no provision which authorizes the board to lend money to any other board or agency. It would be presumed that the General Assembly, under the present law, did not intend for the board to have such authority. 1957 Op. Att'y Gen. p. 122.

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## **ARTICLE 4**

### **INCREASED FLEXIBILITY FOR LOCAL SCHOOL SYSTEMS**

**Effective date.** - This article became effective July 1, 2008.

**Editor's notes.** - Ga. L. 2000, p. 618, § 9, effective July 1, 2000, repealed the Code sections formerly codified at this article. The former article consisted of Code Sections 20-2-80 and 20-2-81, relating to local school trustees, and was based on Ga. L. 1919, p. 288, §§ 120, 121; Code 1933, §§ 32-1104, 32-1105; Ga. L. 1946, p. 206, §§ 10, 11; Ga. L. 1983, p. 3, §§ 16, 53; Ga. L. 1992, p. 6, § 20. For present comparable provisions, see Code Section 20-2-85, et seq.

#### **20-2-80. Requests for increased flexibility; requirements.**

- (a) A local school system may request increased flexibility from certain state laws, rules, and regulations in exchange for increased accountability and defined consequences through a contract with the State Board of Education. Such contract shall establish a framework of accountability, flexibility, and consequences in accordance with this article.
- (b) A local school system may elect not to request increased flexibility in exchange for increased accountability and defined consequences and opt to remain under all current laws, rules, regulations, policies, and procedures, and such local school system shall:
- (1) Conduct a public hearing for the purpose of providing public notice that such local school system is opting for the status quo. The public hearing shall be advertised in a local newspaper of general circulation which shall be the same newspaper in which other legal announcements of the local board of education are advertised; and
  - (2) Sign a statement on a form provided by the state board that such local school system is opting for the status quo.

(Code 1981, § 20-2-80, enacted by Ga. L. 2008, p. 82, § 1/HB 1209.)

#### **20-2-81. Strategic plan and proposed contract for local school systems requesting flexibility.**

- (a) Each local school system which elects to request increased flexibility pursuant to this article shall develop a five-year strategic plan which sets out the school system's vision and mission for improving the performance of its schools and shall clearly delineate in a proposed contract the following for measuring the improvement and performance of its schools:
- (1) Current performance data, grade levels, and demographic data for each school within the school system;
  - (2) Performance goals for each school, including both improvement and achievement; and
  - (3) Performance measures and benchmarks for each school for evaluating improvement and achievement and monitoring progress toward yearly performance goals.

- (b) The proposed strategic plan shall incorporate, to the extent practicable, school improvement plans in effect for schools in the local school system.
- (c) The department shall provide an electronic template accessible through the Internet for local school systems to input their proposed contracts. The template shall be designed to include the information contained in subsection (a) of this Code section.
- (d) Prior to the submission of a proposed contract to the department, a local board of education shall schedule and hold a public hearing for the purpose of providing an opportunity for full discussion and public input on the strategic plan and proposed contract, including formal, written comments or suggestions regarding the local school system's flexibility requests and performance goals and their impact on each school. The public hearing shall be advertised in a local newspaper of general circulation which shall be the same newspaper in which other legal announcements of the local board of education are advertised.
- (e) The local school system shall submit the proposed contract to the department in accordance with time frames established by the department.

(Code 1981, § 20-2-81, enacted by Ga. L. 2008, p. 82, § 1/HB 1209.)

#### **20-2-82. Contract terms for local school systems requesting flexibility.**

- (a) The local board of education and the department shall enter into negotiations on the appropriate terms of the contract, including the accountability, flexibility, and consequences components of the contract in accordance with Code Section 20-2-84, in consultation with the Office of Student Achievement. The accountability, flexibility, and consequences components may vary between schools and clusters.
- (b) The flexibility requested by a local school system pursuant to subsection (b) of Code Section 20-2-84 shall result in consequences in accordance with subsection (c) of Code Section 20-2-84 and Code Section 20-2-84.1 for noncompliance with the accountability requirements established pursuant to subsection (a) of Code Section 20-2-84.
- (c) The department, in consultation with the Office of Student Achievement, shall make a recommendation to the state board on whether the proposed terms of the contract should be approved by the state board.
- (d) (1) The state board shall have the authority to approve or deny approval of the proposed terms of the contract but shall give all due consideration to the recommendation and input from the Office of Student Achievement.  
(2) In the event that the state board denies approval of the proposed terms of the contract, the local board of education shall work with the department, in consultation with the Office of Student Achievement, for further revisions and resubmission to the state board.
- (e) The state board shall be authorized to approve a waiver or variance request of specifically identified state rules, regulations, policies, and procedures or provisions of this chapter upon the inclusion of such request in the local school system's proposed contract and in accordance with subsection (b) of Code Section 20-2-84. The goal for each waiver and variance shall be improvement of student performance. The state board shall not be authorized to waive or approve variances on any federal, state, and local rules, regulations, court orders, and statutes relating to civil rights; insurance; the protection of the physical health and safety of school students, employees, and visitors; conflicting interest transactions; the prevention of unlawful

conduct; any laws relating to unlawful conduct in or near a public school; any reporting requirements pursuant to Code Section 20-2-320 or Chapter 14 of this title; the requirements of Code Section 20-2-211.1; or the requirements in subsection (c) of Code Section 20-2-327. A local school system that has received a waiver or variance shall remain subject to the provisions of Part 3 of Article 2 of Chapter 14 of this title, the requirement that it shall not charge tuition or fees to its students except as may be authorized for local boards by Code Section 20-2-133, and shall remain open to enrollment in the same manner as before the waiver request.

(Code 1981, § 20-2-82, enacted by Ga. L. 2008, p. 82, § 1/HB 1209; Ga. L. 2010, p. 237, § 1C/HB 1079; Ga. L. 2011, p. 635, § 2/HB 186.)

**The 2010 amendment**, effective July 1, 2010, in subsection (e), in the third sentence, deleted "or" following "public school;" near the end and added "; or the requirements of Code Section 20-2-211.1" at the end.

**The 2011 amendment**, effective May 13, 2011, in subsection (e), in the third sentence, deleted "or" following "Chapter 14 of this title;" near the end, and added "; or the requirements in subsection (c) of Code Section 20-2-327" at the end.

**Editor's notes.** - Ga. L. 2011, p. 635, § 1, not codified by the General Assembly, provides: "The General Assembly finds that:

"(1) Our state's long-term prosperity depends on supporting an education system that is designed to prepare our students for a global economy;

"(2) High school students and parents must understand that they have options for career pathway programs of study that join a college-ready academic core with quality career, technical, and agricultural education studies that result in a high school diploma and preparation for success in advanced training, an associate's degree, a baccalaureate degree, and a career;

"(3) Local school systems must provide every student with choices that are academically rigorous and aligned to opportunities in high-demand, high-skill, high-wage career fields and to postsecondary career and technical pathways leading to advanced credentials or degrees;

"(4) The State Board of Education, the Board of Regents of the University System of Georgia, and the Board of Technical and Adult Education must work together so that academic courses that are embedded within career, technical, and agricultural education courses (CTAE) are given appropriate academic credit at the high school level and recognized at the postsecondary level;

"(5) Teachers should be provided with professional development opportunities that enforce the academically rigorous standards in relevant, project based coursework;

"(6) High school students should clearly understand the options for dual high school and postsecondary credit, and the state should properly fund these options;

"(7) Every state education agency, postsecondary institution, and local school system should provide all high school students with opportunities for accelerated learning through dual credit coursework leading to at least six postsecondary credits and have as a collective goal to graduate every student with postsecondary credit;

"(8) Georgia's strategic industries must be partners in our public education system (secondary and postsecondary) so that they are assured that our high school graduates are prepared for success in the workforce;

"(9) Georgia's public education system must incorporate many different types of assessments and certificates into their programs so that a student's skill level is assessed and that it also has meaning to them for postsecondary and career success; and

"(10) Georgia's students must understand that a high school diploma and some form of postsecondary credential are key to success in the workforce and earning a family living wage."

### **20-2-83. State board approval of local school board flexibility contract.**

- (a) Upon approval of a proposed contract of a local school system which has requested flexibility, the state board shall enter into such contract with the local board of education.
- (b) The terms of the contract shall include, but not be limited to, accountability, flexibility, and consequences components as negotiated pursuant to subsection (a) of Code Section 20-2-82 and in accordance with Code Section 20-2-84.
- (c) Each contract shall be for a term of five years. The terms of the contract may provide for automatic extension of such contract if a local school system has met its accountability requirements.
- (d) The terms of a contract may be amended during the term of the contract only if warranted due to unforeseen circumstances and upon approval of the state board and the local board of education.

(Code 1981, § 20-2-83, enacted by Ga. L. 2008, p. 82, § 1/HB 1209.)

### **20-2-84. Accountability, flexibility, and consequences components of contract.**

- (a) The accountability component of the contract provided in Code Section 20-2-83 shall include at least one of the student achievement measures in paragraphs (1) through (4) of this subsection, including both total scores and any needed targeted subgroups:
  - (1) High school graduation rates;
  - (2) SAT or ACT performance;
  - (3) State standardized test data, which may include criterion-referenced competency tests, the Georgia High School Graduation Test, end-of-course assessments, or a combination thereof;
  - (4) Advanced placement or international baccalaureate participation and performance; and
  - (5) Any other accountability measures included pursuant to Part 3 of Article 2 of Chapter 14 of this title.
- (b) The flexibility component of the contract provided in Code Section 20-2-83 shall include the waiver or variance of at least one of the areas in paragraphs (1) through (4) of this subsection as requested by the local school system:
  - (1) Class size requirements in Code Section 20-2-182;
  - (2) Expenditure controls in Code Section 20-2-171 and categorical allotment requirements in Article 6 of this chapter;
  - (3) Certification requirements in Code Section 20-2-200;
  - (4) Salary schedule requirements in Code Section 20-2-212; and
  - (5) Any other requirements or provisions of this chapter as identified by the local school system and approved by the state board except as provided in subsection (e) of Code Section 20-2-82.
- (c) The consequences component of the contract provided in Code Section 20-2-83 shall include:
  - (1) Interventions or sanctions for failure to meet identified levels of achievement or for not showing specified levels of progress pursuant to Code Section 20-14-41, which may be accelerated; and

(2) Loss of governance of one or more nonperforming schools by the local school system in accordance with Code Section 20-2-84.1.

Consequences shall be incurred upon noncompliance of a local school system with the accountability component of its contract; provided, however, that if a local school system has been in compliance with the accountability component of its contract for at least three consecutive years, consequences shall not be invoked upon the fifth year of the contract, and such school system may request an extension of its contract and corresponding flexibility from the state board. The schedule of interventions or sanctions, including loss of governance, for failure to meet identified levels of achievement or specified levels of progress shall be mutually agreed upon in the contract. If the Office of Student Achievement recommends to the state board that loss of governance not be included in a contract with respect to a high performing school, the contract may provide alternate terms with respect to that school.

(Code 1981, § 20-2-84, enacted by Ga. L. 2008, p. 82, § 1/HB 1209.)

#### **20-2-84.1. Loss of governance for nonperforming schools.**

- (a) The State Board of Education shall, as provided for in the contract entered into with a local school system pursuant to Code Section 20-2-83, mandate the loss of governance of one or more of its nonperforming schools as a consequence of failure pursuant to paragraph (2) of subsection (c) of Code Section 20-2-84. Such loss of governance may include, but shall not be limited to:
- (1) Conversion of a school to charter status with independent school level governance and a governance board with strong parental involvement;
  - (2) Operation of a school by a successful school system, as defined by the Office of Student Achievement, and pursuant to funding criteria established by the state board; or
  - (3) Operation of a school by a private entity, nonprofit or for profit, pursuant to a request for proposals issued by the department.
- (b) Loss of governance shall be invoked upon the fifth year of the contract if the school system is in noncompliance as set out in the terms of the contract.

(Code 1981, § 20-2-84.1, enacted by Ga. L. 2008, p. 82, § 1/HB 1209.)

#### **20-2-84.2. State monitoring.**

- (a) The Office of Student Achievement shall revise the single state-wide accountability system established pursuant to paragraph (1) of subsection (a) of Code Section 20-14-26 for submission to the state board for approval to integrate the requirements of this article, to the greatest extent practicable, including, but not limited to, the loss of governance consequences provided for in Code Section 20-2-84.1.
- (b) The Office of Student Achievement shall monitor each local school system's progress toward meeting its performance goals in its contract and shall the notify the department if a local school system is not in compliance with such performance goals. The department shall provide

support and guidance to school systems not meeting their yearly progress goals.

(Code 1981, § 20-2-84.2, enacted by Ga. L. 2008, p. 82, § 1/HB 1209.)

**20-2-84.3. Limit on number of local school systems entering into flexibility contract.**

(a) No more than five local school systems in the first calendar year may enter into a contract with the State Board of Education pursuant to this article.

(b) No later than June 30, 2015, each local school system shall either notify the department of its intention to request increased flexibility pursuant to this article or shall comply with subsection (b) of Code Section 20-2-80.

(Code 1981, § 20-2-84.3, enacted by Ga. L. 2008, p. 82, § 1/HB 1209; Ga. L. 2011, p. 647, § 2/HB 192.)

**The 2011 amendment**, effective May 13, 2011, substituted "June 30, 2015" for "June 30, 2013" in subsection (b).

**20-2-84.4. Other funding options.**

The department may offer other funding options for local school systems which choose to enter into a contract pursuant to this article and may also offer other funding options for charter systems.

(Code 1981, § 20-2-84.4, enacted by Ga. L. 2008, p. 82, § 1/HB 1209.)

**20-2-84.5. Applicability to charter systems.**

Except as otherwise provided in Code Section 20-2-84.4, this article shall not apply to a local school system which has become a charter system pursuant to Code Section 20-2-2063.2 or which is in the process of applying to become a charter system.

(Code 1981, § 20-2-84.5, enacted by Ga. L. 2008, p. 82, § 1/HB 1209.)

**20-2-84.6. Establishment of rules, regulations, and guidelines.**

The State Board of Education shall be authorized to establish rules, regulations, and guidelines to effect the implementation of this article.

(Code 1981, § 20-2-84.6, enacted by Ga. L. 2008, p. 82, § 1/HB 1209.)

