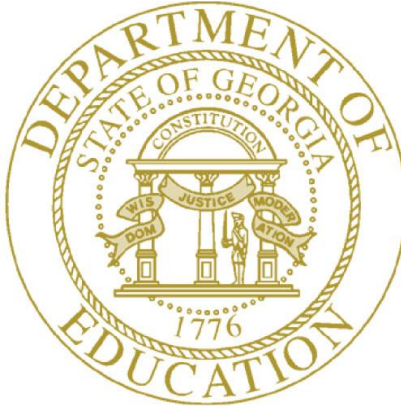


**Georgia Department of Education
Guidance for State Board of Education Rule
160-5-1-.36 LOCAL SCHOOL BOARD GOVERNANCE**



**Guidance for the
LOCAL
SCHOOL BOARD GOVERNANCE RULE**

In Reference to State Board of Education
Rule 160-5-1-.36
LOCAL SCHOOL BOARD GOVERNANCE

This is a companion document to the State Board of Education Rule 160-5-1-.36 LOCAL SCHOOL BOARD GOVERNANCE. The purpose of this document is to bring clarity to the practical application of the State Board Rule and address topics covered in the rule with greater detail. It is not intended to state new law or supplant any federal or state laws, regulations, or requirements. Nothing in this manual should be seen as having the force of law. This manual should not be cited as law or as imposing any additional requirements or obligations outside the requirements of existing law.

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Revision History

Initial Release December, 2010

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Introduction

Senate Bill 84 (SB 84) was passed by the Georgia General Assembly in 2010. This bill provides for various changes to Georgia law relating to local boards of education. Major revisions include the following:

- To revise provisions relating to the eligibility for election as a local board of education member;
- To limit the size of local boards of education;
- To revise provisions relating to per diem and expenses for local board members;
- To provide for the fundamental role of local boards of education and local school superintendent;
- To prohibit certain conflicts of interest of board members;
- To provided for a code of ethics for local board of education members;
- To provide for removal of board members under certain circumstances; and
- To revise provisions relating to training of local board of education members.

All provisions related to eligibility, candidacy, removal of elected officials, etc., was submitted to the U. S. Department of Justice for preclearance under the federal Voting Rights Act of 1965, as amended. The U.S. Department of Justice "precleared" Senate Bill 84 in a letter dated September 2, 2010. A copy of the preclearance notice is in Appendix A. In the last paragraph of the preclearance letter, the Justice Department notes that any rules, codes of ethics, etc., adopted pursuant to this legislation will also be subject to review under Section 5 of the Voting Rights Act.

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Implementation of Local School Board Governance Standards and Model Ethics Policy

Proposed Timeline and Checklist

Notice: This timeline is intended to serve as a planning tool for local school boards and is not intended to circumvent State law and State Board of Education rule.

- November 2010 – January 1, 2011, Local Board of Education begins review of State Board of Education local board governance standards including the model code of ethics and the newly adopted State Board of Education Rule 160-5.1-.36 Local School Board Governance.
- December 2010 – Local Board of Education members and newly elected members attend Georgia School Boards Association’s Annual Winter Conference.
- No later than February 8, 2011, Local Board of Education members agree to and adopt, at a minimum, the State Board of Education’s model code of ethics including the conflict of interest provisions. The adoption must be at a regularly scheduled local board meeting.
- No later than February 8, 2011, Local Board of Education submits its adopted code of ethics including the conflict of interest provision to:
Georgia State Board of Education
Local Board Governance
205 Jesse Hill Jr., Dr.
Suite 2053 Twin Towers East
Atlanta, Georgia 30334
- December 2010 – November 30, 2011, newly elected Local Board of Education members begin meeting the training requirements currently in O.C.G. A. 20-2-230.
- Beginning January 1, 2011, and as appropriate thereafter, if offering candidacy for election or re-election to a local board of education, file an affidavit with the local election officer prior to the time of qualifying, affirming compliance with the State Board of Education’s policy on training for members of local boards of education, the code of ethics of the local board of education, and the conflict of interest provisions applicable to members of local boards of education.
- Beginning January 1, 2011, whenever a member of a local board of education moves his/her domicile from the district which that person represents, he/she must provide written notification of such move to the secretary of the local board of education and the election superintendent within ten days of such move.
- Beginning January 1, 2011, local school superintendents shall submit to the State Board of Education the names and contact information of all local board members. The names and contact information should be sent to the Georgia Department of Education at LocalBoardGovernance@doe.k12.ga.us in an Excel document and should include the full name, address, and when applicable, email address.

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- No later than October 1, 2011, (or until such date as determined by the State Board of Education) local board of education adopts a training program (plan), at a minimum, aligned to the State Board of Education local board governance standards.

- Beginning July 1, 2012, and annually thereafter, the local board of education submits disclosure of compliance with State Board of Education’s policy on training for members of local boards of education, the code of ethics of the local board of education, and the conflict of interest provisions applicable to members of local boards of education.

- No later than July 1, 2011, local board of education adopts policies regarding nepotism to ensure compliance with State Board of Education Rule 160-5-1-.36 Local School Board Governance section (5).

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Organization of State Board Rule

The State Board of Education rule 160-5-1-.36 is organized in the major sections listed below:

- (1) Definitions
 - This section provides an identification and explanation of terms that may be unfamiliar to the general public.
- (2) Requirements
 - This section provides a timeline and required actions of the State Board of Education, local boards of education, and candidacy for local boards of education.
- (3) Local Board of Education Size
 - This section establishes the membership size of local school boards and provides for exemptions under certain conditions.
- (4) Compensation for Members of Local Boards of Education
 - This section provides for local board members per diem when certain conditions are met.
- (5) Nepotism
 - This section defines nepotism and the exemptions of such provisions under certain conditions.
- (6) Sanctioning Members of Local Boards of Education
 - This section explains the conditions that prohibit local board members from using his or her official position to secure unwarranted privileges and advantages for himself or herself and/or family members.
- (7) Suspension of Local Boards of Education
 - This section explains the authority vested with the Governor to remove a local board member and such member's right to a hearing.

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(1) Definitions

This section identifies unfamiliar terms used in the document.

(2) Requirements

This section defines the actions that must be taken by all entities impacted by the legislation.

The State Board of Education shall adopt a model code of ethics for members of local boards of education by October 1, 2010. Such model code of ethics shall also include appropriate consequences for violation of a provision or provisions of such code. The State Board of Education may periodically adopt revisions to such model code as it deems necessary.

A local board of education should review its current code of ethics to determine if its existing code includes, at a minimum, each provision in the SBOE model. The SBOE model code of ethics includes conflict of interest provisions that must be included in the local board's code of ethics. A sample format is included in the guidelines accompanying the SBOE rule. If provisions are not included, the local board will need to revise its current code to include the missing provision(s). A local board may also include additional provisions. A local board may complete the review process in a manner consistent with its current procedures. A local board of education may also complete the review process as an entire board or it may choose to use a committee structure for such review. If a local board of education has not officially adopted a code of ethics, it must, at a minimum, adopt the SBOE model including the conflict of interest provisions. Each local board of education shall adopt its code of ethics and any revisions at a regularly scheduled meeting. As a best practice, the adoption of the code of ethics and any subsequent revisions should be reflected in the official minutes of the local board.

Once a local board adopts its code of ethics, but no later than three months after the State Board of Education adopts a model code, a copy of the local board's code and any subsequent revisions, including the date adopted by the local board, must be submitted to the SBOE. All documentation should be mailed to the following address:

Georgia State Board of Education
Local Board Governance
205 Jesse Hill Jr. Drive
Suite 2053 Twin Towers East
Atlanta, GA 30334.

The State Board of Education shall adopt a training program for members of local boards of education by July 1, 2011. The State Board of Education may periodically adopt revisions to such training program as it deems necessary. By September 1, 2011, within three months of adoption by the State Board of Education, each local board of education and each governing board of other local units of administration (including Regional Educational Services Agencies – RESAs) shall adopt a training program for members of such boards that includes, at a minimum, such training program and requirements established by the SBOE.

The Governance Task Force and Advisory Committee developed local board governance standards. Standards were posted for a comment period and subsequently approved by the SBOE at its September 2010 meeting. The standards were also reviewed by a national panel of experts. As a result of the recommendations from the panel of experts and subsequent changes, the SBOE reposted the standards for public review and readopted the standards at its November 2010 meeting. The

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SBOE will develop a framework for training will approve trainers who will be authorized to deliver local board governance training.

O.C.G.A. section 20-2-230 requires all new members of governing boards of local units of administration to receive at least 12 hours of orientation to the educational program objectives of Georgia and instruction in school finance; school law, with special emphasis on the “Quality Basic Education Act; responsiveness to the community; the ethics duties, and responsibilities of local governing board members; annual performance evaluation of the school superintendent and other duties as defined in section 20-2-230. While Senate Bill 84 replaces the requirements in O.C.G.A. section 20-2-230, this section remains in effect until such time the SBOE has completed the development of a framework for training aligned with the adopted local board governance standards.

Local board members will be required to participate in training as established by the SBOE. As a best practice, a local board of education should develop its training program (plan) to meet the needs of the collective board as well as the needs of each member. Ideally, the local board and each member’s training plan should align to the strategic plan of the local board/district. It is important to note that training required pursuant to SB 84 must include training curricula aligned with SBOE governance standards for local boards. Local boards and individual members may also include additional training based on identified needs. A local board may develop its overall training program (plan) in a manner consistent with its current procedures.

Once a local board has established its training program (plan), it must adopt such and any revisions at a regularly scheduled meeting. As a best practice, the adoption of a training program (plan) and any subsequent revisions should be reflected in the official minutes of the local board.

A copy of the training program (plan) and any subsequent revisions, including the date adopted by the local board, must be submitted to the SBOE. The initial submission must be no later than October 1, 2011. The SBOE is required by SB 84 to adopt a training program for members of local boards of education by July 1, 2011. The SBOE may periodically adopt revisions to such training programs as it deems necessary.

All documentation should be mailed to the following address:

Georgia State Board of Education
Local Board Governance
205 Jesse Hill Jr. Drive
Suite 2053 Twin Towers East
Atlanta, GA 30334.

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In addition to any other requirements provided by law, and as required by O.C.G.A. § 20-2-51(e), no person shall be eligible for election as a member of a local board of education unless he or she:

1. Has read and understands the code of ethics and the conflict of interest provisions applicable to members of local boards of education and has agreed to abide by them;
2. Has agreed to annually disclose compliance with the State Board of Education's policy on training for members of local boards of education, the code of ethics of the local board of education, and the conflict of interest provisions applicable to members of local boards of education.

Each county's election office and the Georgia Secretary of State's office share certain responsibilities for ensuring that candidates and elections meet and are conducted in accordance with applicable law. Qualifying for a seat on a local board of education and conducting a campaign are complicated processes. An individual seeking election to a local school board must not only meet the requirements in this rule, its corresponding statutes in the education code, Title 20 of the Official Code of Georgia Annotated, but the individual must also meet the requirements imposed in accordance with election law, Title 21 of the Official Code of Georgia Annotated, and laws regarding public officers, Title 45 of the Official Code of Georgia.

This rule and guidance discusses only the local board of education candidate requirements found in education law. For more guidance or assistance in qualifying and campaigning for a seat on a local board of education, please review the requirements of Titles 21 and 45 of the Official Code of Georgia, the local county election office, and the office of the Georgia Secretary of State. [http://sos.georgia.gov/elections/elections/candidate_information/qualguide.pdf]

O.C.G.A. § 20-2-51 and paragraphs (2)(c) through (2)(e) detail several requirements regarding an individual's eligibility for election as a member of a local board of education. Those requirements are:

- The individual must reside in the school district and election district in which he or she seeks election.
- If the individual moves from his or her district, he or she must notify the local board of education and county election superintendent within ten days of the move.
- The individual must not be serving on the governing body of a private elementary or secondary educational institution.
- The individual must not be employed by the local board of education to which he or she is seeking election.
- The individual must not be employed by the Georgia Department of Education or the State Board of Education.
- The individual must not have family members employed in certain positions within the LEA. This is discussed in more detail in paragraph (5) of the rule.
- The individual must submit an affidavit to the county elections office stating that he or she read, understands, and agrees to abide by the local board of education's code of ethics and policies regarding conflicts of interest and will annually disclose compliance with the State Board of Education's policy regarding school board training.
- The individual must not be on the National Sex Offender Registry or the state sexual offender registry.

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To qualify to be a candidate in an election, an individual will need to certify he or she meets the above requirements, as well as any other requirements, to the county elections office. Forms to qualify for elections are available from the county elections office and the Georgia Secretary of State's office. Qualifying for office occurs in the April preceding the election for partisan candidates and the June preceding the election for nonpartisan candidates. For more information regarding qualification or eligibility for office, please consult the county elections office or the Georgia Secretary of State's office.

In addition to submitting an affidavit to the county elections office stating that the local school board candidate read, understands, and agrees to abide by the local board of education's code of ethics and policies regarding conflicts of interest, O.C.G.A. § 20-2-51(e) and paragraph (2)(e) of this rule require sitting board members to annually disclose compliance with the State Board of Education's policy regarding school board training.

Beginning January 1, 2011, local school districts must submit to the Georgia State Board of Education the name and contact information of all local school board members, including any newly elected local board of education members. Newly elected, elected on or after July 1, 2010, members must complete the training requirements as established by the State Board of Education (Please see section (2) Requirements). Currently, new board members' training is verified by the "trainer" or vendor/entity providing the training. The trainer submits a list of training participants to the Georgia Department of Education. Once the list is verified by the Department, the local board member is sent a certificate verifying they have received the appropriate training.

Once the State Board of Education has developed the framework for the newly adopted standards for training programs and approved trainers to deliver training, local board members verification of training requirements will be revised.

Please note that while charter schools are public schools and state chartered special schools are considered LEAs for many purposes, the governing boards of charter schools are not subject to the provisions regarding the election of local boards of education. Instead, governing boards of charter schools must adhere to its charter and applicable provisions of the Charter Schools Act of 1998, O.C.G.A. § 20-2-2060 et seq.

(3) Local Board of Education Size

In accordance with O.C.G.A. § 20-2-52, each local board of education shall have no more than seven members as provided by local Act.

Paragraph (3)(a) shall not apply to a local board of education whose board size exceeds seven members as provided by local constitutional amendment or federal court order or pursuant to a local law in effect prior to July 1, 2010; provided, however, that if the local law of any such local board of education is amended to revise the number of members on such board, paragraph (3)(a) shall apply.

(4) Compensation for Members of Local Boards of Education

The per diem rate and reimbursements for expenses incurred outlined below is effective for local school districts in which no local Act has been passed. Local school districts in which a local Act has been passed govern its per diem and reimbursement for actual expenses in accordance with the local Act.

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The following is applicable to local board members elected or appointed prior to July 1, 2010:

- The local board must approve the per diem rate for its members.
- The approved per diem rate shall be limited to \$50.00 per day for each day of attendance at meetings of the board and while meeting and traveling within or outside the state as a member of a committee of the board on official business.
- In addition, the local board member attending a meeting of the board or otherwise meeting or traveling on official business may also receive reimbursement for actual expenses that are necessarily incurred.
- The official business must be authorized by a majority of the board.
- For local school districts with a full-time equivalent (FTE) count of less than 4,000 students based on the most recent FTE count, may (but is not required to do so) receive a per diem of not less than \$50.00 and not more than \$100.00 for each day of attendance at meetings of the board and while meeting and traveling within or outside the state as a member of a committee of the board, plus reimbursement for actual expenses.
- Local school district's personnel responsible for per diem and reimbursement for actual expenses must comply with generally accepted accounting principles (GAAP).

The following is applicable to local board members elected or appointed after July 1, 2010:

- The local board must approve the per diem rate for its members.
- The approved per diem rate shall be limited to \$50.00 per day for each day of attendance at meetings of the board.
- In addition, the local board member attending a meeting of the board or otherwise meeting or traveling on official business may also receive reimbursement for actual expenses that are necessarily incurred.
- For local school districts with a full-time equivalent (FTE) count of less than 4,000 students based on the most recent FTE count, may (but is not required to do so) receive a per diem of not less than \$50.00 and not more than \$100.00 for each day of attendance at meetings of the board and while meeting and traveling within or outside the state as a member of a committee of the board, plus reimbursement for actual expenses.
- The per diem rate and reimbursements for expenses incurred outlined above is effective for local school districts in which no local Act has been passed. Local school districts in which a local Act has been passed govern its per diem and reimbursement for actual expenses in accordance with the local Act.

The following is applicable to local board members regardless of when elected or appointed:

- Local boards of education members shall submit expenses, in accordance with procedures determined by the local school district, to the local school superintendent for approval.
- Local school districts may pay per diem and reimbursements for actual expenses only from the local tax funds available to local boards for educational purposes.
- All boards of education members, including boards of local units of administration (i.e., RESAs), may receive per diem and/or reimbursement for actual expenses for travel, lodging, meals, and registration fees for attending required training. Required training includes any training requirements established by the State Board of Education as well as any training requirements established by the local board.
- Per diem and/or reimbursement may be paid either before or after such board members assume office.

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(5) Nepotism

Each LBOE shall adopt policies regarding nepotism including the minimum following provisions:

1. The local board should adopt its nepotism policy consistent with the manner in which it adopts all local board policies.
2. The nepotism policy should clearly state that on or after July 1, 2009, individuals are not eligible for election or appointment as a LBOE member if:
 - An immediate family member sits on the same LEA's local board.
 - An immediate family member serves as the local school superintendent, principal, assistant principal, or system administrative staff of the same LEA if the immediate family member's employment in that position began on or after January 1, 2010.

An immediate family member is defined in the SBOE rule 160-5-1-.36 Local School Board Governance and O.C.G.A. § 20-2-63 as a spouse, child, sibling, or parent or the spouse of a child, sibling, or parent. System administrative staff is not defined in SBOE rule but may be by local board policy and is commonly referred to as employees of the local school district assigned to duties other than instructing students.

This section of the SBOE rule is not intended to affect the employment of individuals employed by the LEA. This section of the SBOE rule and O.C.G.A § 20-2-51 speak to who is eligible to run for and serve on the local school board. Paragraph (5)(a)(3) and O.C.G.A. § 20-2-101 speak to individuals eligible for employment in an LEA when an immediate family member serves on the local school board. Those provisions, paragraph (5)(a)(3) of this SBOE rule and O.C.G.A. § 20-2-101, prohibit, after July 1,2009, the appointment of a superintendent if that prospective superintendent has an immediate family member serving as a local board member, principal, assistant principal, or system administrative staff in the school system and the immediate family member's service in that position began on or after January 1, 2010.

A local school board or an individual attempting to qualify to run for a local board of education seat may petition the SBOE to waive the nepotism requirements in SBOE rule 160-5-1-.36. The SBOE may consider such requests if the initial fall enrollment count conducted in 2009 or thereafter does not exceed a full time equivalent (FTE) count of 2,800. For example, a local school board or an individual would need to seek a waiver if an individual is attempting to qualify for a local board of education seat and that individual has:

- A daughter-in-law serving as the superintendent.
- A husband serving as a principal in the LEA,
- A father serving as the LEA's Chief Financial Officer
- A sister serving as an assistant principal in the LEA.

In order to petition the SBOE to waive the nepotism requirements, a local school board must take the following steps prior to submitting the waiver request:

- If acting on behalf of an individual attempting to qualify to run for local board member, provide a 30-day notice of the individual's intent to run for office. This notice should, at a minimum, be provided to a local newspaper of general circulation and the same newspaper in which other legal announcements of the local board of education are advertised, and should be published according to the schedule of the legal organ or newspaper for the 30 day notice period; and
- Whether acting on behalf of an individual or on its own initiative also conduct a public hearing for the purpose of providing for full opportunity for discussion and public input on

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the issues of potential problems and other concerns with regard to the waiver request. The public hearing must meet the following guidelines:

1. Be advertised at least seven days prior to the date of the hearing in a local newspaper of general circulation and the same newspaper in which other legal announcements of the local board of education are advertised.
2. May be held in conjunction with a regularly scheduled or called board meeting or may be conducted independently at the local board's discretion.
3. The cost of the public hearing and the required notice must be borne by the local board. This requirement means it is not permissible to use state or federal funds to pay the cost of such hearing or notice.

Once a local school board has taken the steps above, it must submit the following to the Georgia State Board of Education:

1. A list the specific laws, rules, regulations, policies, procedures, or provisions that are requested for waiver;
2. A description of any familial relationship that is the subject of the waiver request;
3. A description of how the proposed waiver will improve student performance;
4. A description of the students who will be affected by the proposed waiver, including their estimated number, current performance, grade level, and any common demographic traits;
5. A list of schools by name, including the school code, that will be affected by the proposed waiver, and a description of each school, including current performance, grade levels, and demographic traits of the students of each such school;
6. A description of the methods for collection of data, and for measuring and evaluating any change in student performance resulting from the proposed waiver;
7. The period of time for which the proposed waiver is requested and the proposed starting date; and
8. A resolution from the local school board including the following:
 - a. A statement approving or disapproving the waiver request and outlining the reasons for its approval or disapproval;
 - b. If at the request of an individual, the name and contact information of the individual;
 - c. A statement declaring that no state and/or federal funds were used to pay the cost of notice and/or to conduct the actual hearing.

The local board resolution must be attested to by local board members and the local school superintendent consistent with local board of education policy when requesting waivers from the SBOE. If the local board of education has not developed such a policy, the local board resolution must be signed and dated by the local board chair and the local school superintendent.

9. A description (summary) of any public comment received at the public hearing. The summary must include the following:
 - a. A statement declaring that a notice of hearing was advertised at least seven days prior to the date of the hearing in accordance with SBOE rule 160-5-1-.36;
 - b. A statement declaring the actual date of the notice and the actual date the hearing was held; and
 - c. A statement declaring if the hearing was held in conjunction with a regularly scheduled meeting, a called board meeting or conducted specifically for the purpose of determining if the local board shall petition the SBOE to waive the nepotism requirements.

A sample application and resolution are included in Appendices C and D. Please note, a local board of education is not required to use the sample application or resolution as long as it includes all the required information listed above.

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The application and resolution must be submitted to the SBOE at the following address:

Georgia State Board of Education
Local Board Governance
205 Jesse Hill Jr. Drive
Suite 2053 Twin Towers East
Atlanta, GA 30334.

The original application and resolution with appropriate signatures may be scanned and sent electronically to LocalBoardGovernance@doe.k12.ga.us.

It is the responsibility of the local board of education to ensure that all appropriate documents are submitted in accordance with SBOE rule and guidance. The SBOE will act only on requests that have been submitted appropriately and will return any application that fails to meet the above requirements. The local board of education may resubmit the application upon remedying its deficiencies.

The SBOE shall approve or deny a waiver request no later than 45 working or business days after receipt of the waiver request submitted in accordance with SBOE rule and guidance, and the SBOE will submit its decision, in writing, to the local board of education within the 45 working or business days. It is the responsibility of the local board of education to notify the individual(s) seeking candidacy regarding action taken by the SBOE.

An approved waiver must be received by the local election superintendent prior to an individual's filing of a declaration or notice of candidacy. It is the responsibility of the individual(s) seeking candidacy to notify the local election superintendent and provide any documents requested by the local election superintendent.

(6) Sanctioning Members of Local Boards of Education

Local boards of education are required to adopt, at a minimum, the SBOE model code of ethics, including the conflict of interest provisions in accordance with section (2) of SBOE rule 160-5-1-.36. No person is eligible for election as a member of a local board of education unless he or she has read and understands the code of ethics and the conflict of interest provisions applicable to members of local boards of education and has agreed to abide by them; and has agreed to annually disclose compliance with the code of ethics of the local board of education and the conflict of interest provisions applicable to members of local boards of education. Please see Appendix B for the model code of ethics, including the conflict of interest provisions.

(7) Suspension of Local Boards of Education

Paragraph (7) of rule 160-5-1-.36 shall apply only to an LEA or school which is placed on the level of accreditation immediately preceding loss of accreditation on or after July 1, 2010. Paragraph (7) of this rule shall apply only to local board of education members elected or appointed on or after July 1, 2010.

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Appendix A: The U.S. Department of Justice Notice of Preclearance for SB 84



U.S. Department of Justice
Civil Rights Division

TCH:RSB:MSR:ANA:mef
DJ 166-012-3
2010-2820

Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530

September 2, 2010

Ann S. Brumbaugh, Esq.
Assistant Attorney General
40 Capitol Square, S.W.
Atlanta, Georgia 30334-1300

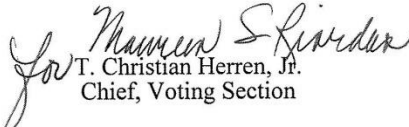
Dear Ms. Brumbaugh:

This refers to Act. No. 463 (S. B. 84) (2010), which enumerates prohibited conflict of interests for local school board members and the procedures for enforcement; directs the State Board of Education to create and adopt a code of ethics; requires local school boards to adopt a code of ethics which must contain the State model, and as of July 1, 2010, provides candidate qualifications for local school board members, including acknowledgment and compliance with the code of ethics, the conflicts of interest provisions, the training requirements, and the signing of an affidavit; limits the number of school board members, provides a waiver (in limited circumstances) to O.C.G.A. Section 20-2-51 (c)(2); and provides the procedures for the suspension, removal, and reinstatement of local school board members when the accreditation of the school system they serve becomes jeopardized, for the State of Georgia, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. We received your submission on July 7, 2010.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41.

Act No. 463 includes provisions that are enabling in nature. Therefore, any changes affecting voting that are adopted pursuant to this legislation will be subject to Section 5 review (*e.g.*, creation of the State Board of Education's code of ethics, creation or changes to local school board code of ethics, and the suspension and/or removal of local school board members). 28 C.F.R. 51.15.

Sincerely,


T. Christian Herren, Jr.
Chief, Voting Section

Georgia Department of Education
Guidance for State Board of Education Rule
160-5-1-.36 LOCAL SCHOOL BOARD GOVERNANCE

Appendix B: Local Board of Education Model Code of Ethics & Conflict of Interest Provisions

LOCAL BOARD OF EDUCATION MODEL CODE OF ETHICS

Each local school board member is required to sign, at a minimum, the model code of ethics. Local Boards of Education electing to adopt the model code of ethics passed by the State Board of Education should add signature lines for each local board member on the model code of ethics located at the link below.

Click on link to access [Model Code of Ethics](#)

LOCAL BOARD OF EDUCATION CONFLICT OF INTEREST PROVISIONS

Each local school board member is required to sign, at a minimum, the conflict of interest provisions. Local Boards of Education electing to adopt the model conflict of interest provisions passed by the State Board of Education should add signature lines for each local board member on the model conflict of interest provisions located at the link below.

Click on link to access [Conflict of Interest Provisions](#)

Georgia Department of Education
Guidance for State Board of Education Rule
160-5-1-.36 LOCAL SCHOOL BOARD GOVERNANCE

Appendix C: Application for SBOE Rule 160-5-1-.36 Waiver Request

Name of District:

Application Date:

1. List the specific laws, rules, regulations, policies, procedures, or provisions that are requested for waiver. Be sure to specify if the request is for state law by citing specific code and if State Board of Education rule, the specific name and number of the rule.
2. Provide a description of any familial relationship that is the subject of the waiver request. Be sure to specify if the potential candidate is a spouse, child, sibling, or parent or the spouse of a child, sibling, or parent.
3. Provide a description of how the proposed waiver will improve student performance. While a local school board is not required to provide specific performance targets, it is important to provide specificity regarding what performance is expected to be improved. It may be helpful to address if the graduation rate is expected to improve, if the dropout rate is expected to decrease, if students are expected to improve performance on state assessments – CRCT, Georgia High School Graduation Tests, End of Course Tests, etc.
4. Provide a description of the students who will be affected by the proposed waiver, including their estimated number, current performance, grade level, and any common demographic traits.
5. Provide a list of schools by name (including the school code), that will be affected by the proposed waiver, and a description of each school, including current performance, grade levels, and demographic traits of the students of each such school.
6. Provide a description of the methods for collection of data, and for measuring and evaluating any change in student performance resulting from the proposed waiver. Be sure to list the data that will be collect – student assessment, discipline data, attendance data, graduation data, dual enrollment data, etc.
7. Designate the period of time for which the proposed waiver is requested and the proposed starting date.
8. Provide a description (summary) of any public comment received at the public hearing. The summary must include the following:
 - a. A statement declaring that a notice of hearing was advertised at least seven days prior to the date of the hearing in accordance with SBOE rule 160-5-1-.36;
 - b. A statement declaring the actual date of the notice and the actual date the hearing was held; and
 - c. A statement declaring if the hearing was held in conjunction with a regularly scheduled meeting, a called board meeting or conducted specifically for the purpose of determining if the local board shall petition the SBOE to waive the nepotism requirements;

Please mail application and local board resolution to:
Georgia State Board of Education
Local Board Governance
205 Jesse Hill Jr. Drive
Suite 2053 Twin Towers East

Atlanta, GA 30333

Georgia Department of Education
Guidance for State Board of Education Rule
160-5-1-.36 LOCAL SCHOOL BOARD GOVERNANCE

Appendix D: Sample Resolution

Sample Resolution
SBOE Rule 160-5-1-.36 Waiver Request

Whereas, the {include the name of the local board of education} {acting on its own initiative} or if at the request of an individual {acting upon the request of Jane Doe located at ABC Drive, Union City, Georgia 39999} to petition the Georgia State Board of Education to waive subsections (d) and (e) of O.C.G.A. 20-2-244 and section (5) (a) 1 of SBOE rule; and

Whereas, a notice of hearing was advertised on January 1, 2020, at least seven days prior to the date of the hearing, in accordance with SBOE rule 160-5-1-.36; and

Whereas, the actual date of the hearing was February 1, 2020; and

Whereas, the hearing was held {at a scheduled meeting}, {at a called board meeting} {at a meeting conducted specifically for the purpose of determining if the local board shall petition the SBOE to waive the nepotism requirements}; and

Whereas, no state and/or federal funds were used to pay the cost of notice and/or to conduct the actual hearing; and

Therefore, be it resolved that the {name of the local board of education} hereby {approve or deny} the waiver request of {individual's name} for the following reasons:

- List reasons here
- List reasons here
- List reasons here

Local Board of Education Chair's Signature/Date

Local School Superintendent Signature/Date