

POLICY UPDATE

Georgia School Boards Association

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2022 Legislative Update: New Policies for Parent Complaints and Other Rights

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Parent rights took center stage during the 2022 Session of the Georgia General Assembly, as lawmakers moved to increase parents’ oversight of what their children are being taught in the classroom and to ensure that parents are informed of their rights.

The State Board of Education (SBOE) and the State Department of Education (SDOE) are required to develop model policies and guidance to assist local boards of education as they adopt policies to comply with several new mandates. This article summarizes local board responsibilities with respect to future policy or procedural requirements of the “Big 3” parent rights bills, addresses questions concerning compliance, and provides sample policies.

HB 1084- Divisive Concepts

From a publicity perspective, perhaps the most attention focused on the state and national controversy surrounding the teaching of “critical race theory” (CRT), a term not found in the new Georgia Code Section 20-1-11.

In the statute, “**Divisive concepts**” means any of the following concepts, including views **espousing** such concepts:

- (A) One race is inherently superior to another race;
- (B) The United States of America is fundamentally racist;
- (C) An individual, by virtue of his or her race, is inherently or consciously racist or oppressive toward individuals of other races;
- (D) An individual should be discriminated against or receive adverse treatment solely or partly because of his or her race;
- (E) An individual’s moral character is inherently determined by his or her race;
- (F) An individual, solely by virtue of his or her race, bears individual responsibility for actions committed in the past by other individuals of the

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same race;

(G) An individual, solely by virtue of his or her race, should feel anguish, guilt, or any other form of psychological distress;

(H) Performance-based advancement or the recognition and appreciation of character traits such as a hard work ethic are racist or have been advocated for by individuals of a particular race to oppress individuals of another race; or

I) Any other form of **race scapegoating** or **race stereotyping**.

“**Espousing** personal political beliefs” means an individual, while performing official duties as part of his or her employment or engagement with a school or local school system, intentionally encouraging or attempting to persuade or indoctrinate a student, school community member, or other school personnel to agree with or advocate for such individual’s personal beliefs concerning divisive concepts.

“**Race scapegoating**” means assigning fault or blame to a race, or to an individual of a particular race because of his or her race. Such term includes, but is not limited to, any claim that an individual of a particular race, consciously and by virtue of his or her race, is inherently racist or is inherently inclined to oppress individuals of other races.

“**Race stereotyping**” means ascribing character traits, values, moral or ethical codes, status, or beliefs to an individual because of his or her race.

Among other actions addressed in the statute, schools and school systems are allowed to discuss “divisive concepts, as part of a larger course of instruction,” as long as the curricula and programs do not “advocate for divisive concepts.” School systems must provide curricula and training programs that “encourage employees and students to practice tolerance and mutual respect and to refrain from judging others based on race,” and individuals facilitating such programs must respond “in a professionally and academically appropriate manner and without espousing personal political beliefs to questions regarding specific divisive concepts raised by students, school community members, or participants in the training program.”

By August 1, 2022, each local board of education and

the governing body of each charter school must adopt a complaint resolution policy to address complaints alleging violations of this statute. Sample Policy IKBB is designed to comply with the new state statute.

The new state policy requirement is not to be confused with the long-standing federal requirement for local boards to adopt policies that prohibit discrimination against employees (GAAA-Equal Opportunity Employment) and students (JAA-Equal Educational Opportunities) in all federally protected areas, which includes race.

The State Board of Education is supposed to develop a model policy by July 1, 2022. Further, the State Department of Education is supposed to develop guidance for schools and school systems to assist in determining whether violations of the statute have occurred.

HB 1178 – Parents’ Bill of Rights

Under the new Parents’ Bill of Rights (Code Section 20-2-786), the General Assembly took procedures that already exist in school systems and added a specific right to appeal the administrative decision in response to a parental complaint to the local board of education and then to the State Board.

While acknowledging that the Bill of Rights “does not prescribe all rights of parents,” it summarizes many rights already codified, which are “reserved to the parent of a minor child...without obstruction or interference from a state or local government entity, governing body, or any officer, employee, or agent thereof.”

Each local board must “in consultation with parents, teachers, and administrators, develop and adopt a policy or regulation to promote parental involvement in the public schools.” Many local boards have existing policies that require such involvement; for example, the Title I parent and family engagement policy, the local wellness policy, and the student code of conduct.

GSBA has established a new code/title for the Parents’ Bill of Rights because the policy or regulation must incorporate designated topics, some of which currently are handled through procedures or parent notices associated with other policies denoted in brackets.

- (1) Review records relating to his or her minor child; [Policy *continued on page 3*]

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JR-Student Records]

(2)(a) Learn about his or her minor child’s courses of study, including, but not limited to, parental access to instructional materials intended for use in the classroom. Such instructional materials will be made available for parental review during the first two weeks of each grading period, either online or on site upon a parent’s request made during the review period.

(b) Object to instructional materials intended for use in his or her minor child’s classroom or recommended by his or her minor child’s teacher;

(3) Withdraw his or her minor child from the school’s prescribed course of study in sex education if the parent provides a written objection to his or her child’s participation. Such procedures will provide for a parent to be notified in advance of such course content so that he or she may withdraw his or her minor child from the course; [Policy IDBA-Sex Education or IDB-Health and Physical Education]; and

(4) Provide written notice that photographs or video or voice recordings of his or her child are not permitted, subject to applicable public safety and security exceptions. [Policy JR-Student Records]

As to rights that involve “instructional material,” the term means:

(a) Materials and content which constitute the principal source of study for a state funded course to be used in the various grades in Georgia’s public schools, including the elementary grades and high school grades; and

(b) Locally approved instructional materials and content which constitute the principal source of study for a state funded course, not including supplementary or ancillary material, which is adopted by a local board of education or used by a local school system. Supplementary or ancillary material includes, but is not limited to, articles, online simulations, worksheets, novels, biographies, speeches, videos, music, and similar resources in any medium, including both physical or digital.

Following the general requirements of the Open Records Act but not the requirements of FERPA, parents have a right to request, in writing, to the school principal or district superintendent, to review the information related to their

parent rights. Following an information request, the principal or the superintendent has up to 3 days to produce the information for inspection, a period that can be extended up to 30 days if the information takes longer to produce. If the principal or superintendent denies a parent request for information or does not provide existing responsive information within 30 days, the parent may appeal to the board of education. The board of education must place the appeal on the agenda of its next public meeting, or if it is too late to appear on the next meeting’s agenda, the appeal must appear on the agenda for the subsequent meeting. A parent dissatisfied with the board of education’s decision may appeal the decision to the State Board of Education as provided for in Code Section 20-2-1160.

SB 226-Materials Harmful to Minors

For many years, State Board Rule 160-4-4-.01 Media Programs has required each local board of education to adopt a media policy that requires development of procedures for, among other responsibilities, selecting media materials locally and “handling requests for reconsideration of materials.” The Rule establishes no procedural requirements, such as who can make a request or at what level(s) the request should be handled. Many districts include such procedures in a media procedures handbook, some make publicly available a “request for reconsideration of materials form” with relevant details, and others have a board-adopted Policy KNBA- Complaints about Instructional Materials or related regulations.

In its early form, this legislation focused on school library materials but expanded to “material that is harmful to minors [that] has been provided or is currently available to a student enrolled in the local school system.” Its final version requires each local board by January 1, 2023 to adopt a complaint resolution policy to address complaints about material alleged to be harmful to minors submitted by parents or guardians of a child attending a school in the district. The State Department of Education by September 1, 2022 is to develop a model policy that meets the statutory requirements.

GSBA added a new policy code/title in the instructional (I) section to accommodate those districts which desire to handle “harmful to minors” complaints through instructional procedures rather than media procedures. Regardless of the code/title, the first course of action should be to review

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existing procedures against the new statutory requirements. There is nothing to prevent districts from having separate procedures for handling complaints about media center materials that do not involve the sexual connotations involved in a “harmful to minors” complaint.

The bill defines “**harmful to minors**” as meeting three conditions for “that quality of description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse” when it:

- “Taken as a whole, predominantly appeals to the prurient, shameful, or morbid interest of minors;
- Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and
- Is, when taken as a whole, lacking in serious literary, artistic, political or scientific value for minors.”

A “material harmful to minors” complaint from a parent must be filed in writing with the principal of the school where the student attends, giving “a reasonably detailed description of the material that is alleged to be harmful to minors.” Within 7 business days of receiving a written complaint, the school principal or designee must review the material, investigate, decide whether it is harmful to minors, and decide whether student access to the material should be removed or restricted. The principal or designee then has 3 more days (total of 10 business days since receiving the complaint) to confer with and inform the parent whether the material was determined to be harmful to minors and whether it will be removed or restricted.

The school level decision can be appealed to the board of education, which includes the ability of the parent to provide input during public comment at a regularly scheduled board meeting. Unless another time frame is mutually agreed to by the parent and the board, the review and final disposition must be completed within 30 calendar days of receiving the written appeal. The title of the material submitted for appeal that was determined by the board not to be harmful to minors must be published on the district’s website within 15 business days of the decision and remain there for at least 12 months.

Detailed statutory requirements and timelines are included in the sample policy.

Conclusion

Each new complaint process policy is intended for use in situations unique to its title and not for other types of complaints. GSBA will track the development of the statewide models and provide additional information as it becomes available. As always, we urge boards and administrators to carefully draft policies required by the legislature after having reviewed the legislation itself, forthcoming SBOE rules and SDOE guidance and obtaining a review of any proposed policies by their attorneys.

Divisive Concepts Complaint Resolution Process

DEFINITIONS

(1) **‘Divisive concepts’** means any of the following concepts, including views espousing such concepts:

- (A) One race is inherently superior to another race;
- (B) The United States of America is fundamentally racist;
- (C) An individual, by virtue of his or her race, is inherently or consciously racist or oppressive toward individuals of other races;
- (D) An individual should be discriminated against or receive adverse treatment solely or partly because of his or her race;
- (E) An individual’s moral character is inherently determined by his or her race;
- (F) An individual, solely by virtue of his or her race, bears individual responsibility for actions committed in the past by other individuals of the same race;
- (G) An individual, solely by virtue of his or her race, should feel anguish, guilt, or any other form of psychological distress;
- (H) Performance-based advancement or the recognition and appreciation of character traits such as a hard work ethic are racist or have been advocated for by individuals of a particular race to oppress individuals of another race; or
- (I) Any other form of race scapegoating or race stereotyping.

(2) **‘Espousing personal political beliefs’** means an individual, while performing official duties as part of his or her employment or engagement with a school or local school system, intentionally encouraging or attempting to persuade or indoctrinate a student, school community member, or other school personnel to agree with or advocate for such individual’s personal beliefs concerning divisive concepts.

(3) **‘Race scapegoating’** means assigning fault or blame to a race, or to an individual of a particular race because of his or her race. Such term includes, but is not limited to, any claim that an individual of a particular race, consciously and by virtue of his or her race, is inherently racist or is inherently inclined to oppress individuals of other races.

(4) **‘Race stereotyping’** means ascribing character traits, values, moral or ethical codes, status, or beliefs to an individual because of his or her race.

REQUIREMENTS

(1) The Board of Education, the Superintendent, and each school shall prohibit employees from discriminating against students and other employees based on race.

(2) The Board of Education, the Superintendent, and each school shall ensure that curricula and training programs encourage employees and students to practice tolerance and mutual respect and to refrain from judging others based on race.

(3) Nothing in this policy shall be construed or applied to:

Policy Sample IKBB, continued from page five...

- (A) Inhibit or violate the rights protected by the Constitutions of Georgia and the United States of America or undermine intellectual freedom and free expression;
 - (B) Infringe upon the intellectual vitality of students and employees;
 - (C) Prohibit the Board, system or a school from promoting concepts such as tolerance, mutual respect, cultural sensitivity, or cultural competency; provided, however, that such efforts do not conflict with the requirements of this policy and applicable laws;
 - (D) Prohibit a school administrator, teacher, other school personnel, or an individual facilitating a training program from responding in a professionally and academically appropriate manner and without espousing personal political beliefs to questions regarding specific divisive concepts raised by students, school community members, or participants in a training program;
 - (E) Prohibit the discussion of divisive concepts, as part of a larger course of instruction, in a professionally and academically appropriate manner and without espousing personal political beliefs;
 - (F) Prohibit the full and rigorous implementation of curricula, or elements of a curriculum, that are required as part of advanced placement, international baccalaureate, or dual enrollment coursework; provided, however, that such implementation is done in a professionally and academically appropriate manner and without espousing personal political beliefs;
 - (G) Prohibit the use of curricula that addresses the topics of slavery, racial oppression, racial segregation, or racial discrimination, including topics relating to the enactment and enforcement of laws resulting in racial oppression, segregation, and discrimination in a professionally and academically appropriate manner and without espousing personal political beliefs;
 - (H) Create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the District, Board or the schools, departments, agencies, entities, officers, employees, agents, or any other personnel affiliated with the District or the Board.
- (4) The Board of Education hereby adopts this complaint resolution policy to address complaints alleging violations of this policy.
- (A) A response will be provided to a complaint made by:
 - (i) The parent of a student enrolled at the school where the alleged violation occurred;
 - (ii) A student who has reached the age of majority or is a lawfully emancipated minor and who is enrolled at the school where the alleged violation occurred; or
 - (iii) An individual employed as a school administrator, teacher, or other school personnel at the school where the alleged violation occurred;
 - (B) The complaint shall first be submitted in writing to the principal of the school where the alleged violation occurred;
 - (C) The complaint shall provide a reasonably detailed description of the alleged violation;
 - (D)
 - (i) Within five school days of receiving such written complaint, the school principal or a school system designee will review the complaint and take reasonable steps to investigate the allegations in the complaint;
 - (ii) Within ten school days of receiving the complaint, unless another schedule is mutually agreed to by the complainant and the school principal or the school system designee, the school principal or such designee will confer

Policy Sample IKBB, continued from page six...

with the complainant and inform the complainant whether a violation occurred, in whole or in part, and, if such a violation was found to have occurred, what remedial steps have been or will be taken; provided, however, that the confidentiality of student or personnel information shall not be violated; and

(iii) Following such conference, within three school days of a request by the complainant, the school principal or school system designee will provide to the complainant a written summary of the findings of the investigation and a statement of remedial measures, if any; provided, however, that such written response shall not disclose any confidential student or personnel information.

(E) The determinations shall be reviewed by the Superintendent or his or her designee within ten school days of receiving a written request for such review by the complainant addressed to the Superintendent, provided, however, that confidential student or personnel matters shall not be subject to review;

(F) In reviewing the decision, the Superintendent shall review the original complaint filed by the complainant, any communication between the complainant and the principal or designee from the time the complaint is filed until the time of the review that is related to the complaint, and any statement in writing submitted to the Superintendent in connection with the review by either the complainant or the principal or designee by a date set by the Superintendent. The Superintendent shall have the right, but not the obligation, to hear from the complainant and the principal or designee or to request further information from either.

(G) The Superintendent's decision following the review provided for in subparagraph (E) shall be subject to review by the Board of Education as provided in Code Section 20-2-1160; provided, however, that confidential student or personnel matters shall not be subject to review;

(H) When the Board has made a decision, it shall be binding on the parties; provided, however, that the parties shall be notified in writing of the decision and of their right to appeal the decision to the State Board of Education and of the procedures and requirements for such an appeal as set forth in Georgia law.

(I) Any individual described in (4)(A) above, shall have the right at any time, including prior to filing a complaint, to request, in writing, from the Superintendent or the school principal nonconfidential records which he or she reasonably believes may substantiate a complaint under this policy. Such records shall be produced for inspection within a reasonable amount of time not to exceed three school days of receipt of the request. If some, but not all, of the records are available within three school days, the records that are available shall be made available and the requester shall be provided a description of the records which are unavailable and a timeline for when those records will be available. These records shall be provided as soon as practicable, but in no case later than thirty (30) days after receipt of the request.

(J) If a parent's request described in subsection (J) is denied or the records not produced within thirty (30) days, the parent may appeal the denial or failure to the Board which must place the appeal on the agenda for the next public meeting. If it is too late for such appeal to appear on the next meeting's agenda, the appeal must be included on the agenda for the subsequent meeting.

Material Harmful to Minors Complaint Resolution Process

DEFINITIONS

Harmful to minors- as used in this policy, means that quality of description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, when it:

- (1) Taken as a whole, predominantly appeals to the prurient, shameful, or morbid interest of minors;
- (2) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and
- (3) Is, when taken as a whole, lacking in serious literary, artistic, political, or scientific value for minors.

Business Day – as used in this policy, means any calendar day, except Saturdays, Sundays, and any federal and school holidays upon which the office of the Superintendent is open to the public for business.

REQUIREMENTS

The Board of Education hereby adopts this policy to address complaints submitted by parents or permanent guardians alleging that material that is harmful to minors has been provided or is currently available to his or her child who is enrolled in this school system. The complaint resolution process is as follows:

- (1) Complaints must be submitted in writing by the parent or permanent guardian to the principal of the school where the student is enrolled.
- (2) Complaints must provide a reasonably detailed description of the material that is alleged to be harmful to minors.
- (3) Within seven (7) business days of receiving a written complaint, the school principal or his or her designee will review the complaint and take reasonable steps to investigate the allegations in the complaint, including, but not limited to, reviewing the material that is alleged to be harmful to minors, if it is available.
- (4) The school principal or his or her designee will determine whether the material that is the subject of the complaint is harmful to minors.
- (5) The school principal or his or her designee will determine whether student access to the material that is the subject of the complaint should be removed or restricted.
- (6) Within ten (10) business days of receiving the complaint, unless another schedule is mutually agreed to by the parent or permanent guardian and the school principal or his or her designee, the school principal or his or her designee will confer with the parent or permanent guardian and inform him or her whether the material that is the subject of the complaint was determined to be harmful to minors, and whether student access to such material will be removed or restricted.
- (7) Appeals of the school's principal's or his or her designee's determinations is subject to full administrative and substantive review by the Board of Education, which shall include the ability of the parent or permanent guardian to provide input during public comment at a regularly scheduled board meeting. Unless another time frame is mutually agreed upon by the parent or permanent guardian and the Board of Education, the review and final disposition of the appeal by the Board of Education will be completed within 30 calendar days of receiving the written appeal.
- (8) On appeal the Board shall review the original complaint filed by the parent or permanent guardian, any statement made

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by the parents or permanent guardian as part of public comment at a regular board meeting, any communication between the parent or permanent guardian to the principal or designee from the time the complaint is filed until the time of the appeal that is related to the complaint, and any statement in writing submitted to the Board in connection with the appeal by either the parent or permanent guardian or the principal or designee by a date set by the Board. The Board shall have the right, but not the obligation, to hear from the parent or permanent guardian and the principal or designee at the meeting where it makes its review and to discuss any legal issues raised by the complaint in executive session with the attorney for the school district.

(9) The title of the material submitted for appeal that is determined by the Board of Education to be not harmful to minors shall be published on the Board of Education's website within 15 business days from the date of the Board's determination and will remain on the website for a period of not less than 12 months. A parent or permanent guardian may request access to appealed materials that are physical in nature and accessible to their student in the student's school media center. A parent or permanent guardian must abide by the school's policies and procedures when requesting and reviewing such material.

Parents' Bill of Rights

DEFINITION

Instructional material - As used in this policy, the term "instructional material" means:

- a. Instructional materials and content which constitute the principal source of study for a state funded course to be used in the various grades in Georgia's public schools, including the elementary grades and high school grades; and
- b. Locally approved instructional materials and content which constitute the principal source of study for a state funded course, not including supplementary or ancillary material, which is adopted by a local board of education or used by a local school system. Supplementary or ancillary material includes, but is not limited to, articles, online simulations, worksheets, novels, biographies, speeches, videos, music, and similar resources in any medium, including both physical or digital.

REQUIREMENTS

The Board of Education promotes parental involvement in school district schools.

1. The Superintendent or his or her designee shall ensure that each school within the school district has in place and makes available procedures for a parent to:

- (a) Review records relating to his or her minor child;
- (b) Learn about his or her minor child's courses of study, including, but not limited to, parental access to instructional materials intended for use in the classroom. Such instructional materials will be made available for parental review during the first two weeks of each grading period, either online or on site upon a parent's request made during the review period.
- (c) Object to instructional materials intended for use in his or her minor child's classroom or recommended by his or her minor child's teacher;
- (d) Withdraw his or her minor child from the school's prescribed course of study in sex education if the parent provides a written objection to his or her child's participation. Such procedures will provide for a parent to be notified in advance of such course content so that he or she may withdraw his or her minor child from the course; and
- (e) Provide written notice that photographs or video or voice recordings of his or her minor child are not permitted, subject to applicable public safety and security exceptions.

2. The procedures required by this policy will be posted on the school district's website and made available for review on site upon request of a parent.

NOTE: This document is only a sample. After selecting appropriate options, deleting instructions, and/or adding other wording based on district practice, a document with the following or similar language should be posted on the school district's public website, either as a standalone document or as a regulation coded JRB-R.

Parents' Bill of Rights*

A parent of a minor child at any school within the district may exercise his or her parental rights using the following procedures:

- (1) A parent may review records relating to his or her minor child by contacting the office **OPTIONS:** [at his or her child's school] **OR** [of the Superintendent] and requesting the same. A mutually agreeable time for parent record review will be scheduled during regular business hours.
- (2) A parent may learn about his or her minor child's courses of study, including, but not limited to, parental access to instructional materials intended for use in the child's classroom, by contacting **OPTIONS:** [the child's teacher] **OR** [the instructional leader at the school **OR** _____ INSERT TITLE OF APPROPRIATE DISTRICT STAFF] and requesting the same. Such instructional materials will be made available for parental review during the first two weeks of each grading period, either online or on site upon a parent's request made during the review period.
- (3) A parent may object to instructional materials intended for use in his or her minor child's classroom or recommended by his or her minor child's teacher by contacting **OPTIONS:** [the instructional leader at the school **OR** _____ INSERT TITLE OF APPROPRIATE DISTRICT STAFF].
- (4) A parent may withdraw his or her minor child from the school's prescribed course of study in sex education if the parent provides a written objection to his or her child's participation. Parents will be notified in advance of the sex education course content and parents will be given the opportunity to opt his or her minor child out of participation by notifying the minor child's teacher in writing.
- (5) A parent may provide written notice that photographs or video or voice recordings of his or her minor child are not permitted, subject to applicable public safety and security exceptions, by notifying **OPTIONS:** [the minor child's school in writing upon the child's enrollment] **OR** [INSERT TITLE OF APPROPRIATE DISTRICT STAFF].

* Pursuant to Georgia Code 20-2-786 (f)

Unstructured Break Time

The Board of Education requires each elementary school to schedule recess for all students in kindergarten and grades one through five every school day; provided, however, that recess shall not be required on any school day on which a student has had physical education or structured activity time or if reasonable circumstances impede such recess, such as inclement weather when no indoor space is available, assemblies or field trips exceeding their scheduled duration, conflicts occurring at the scheduled recess time over which the classroom teacher has no control, or emergencies, disasters, or acts of God.

The Board allows the scheduling of unstructured break time for students in grades 6 through 8 at the discretion of the school principal.

The school principal is authorized to determine the length, frequency, timing, and location of breaks at each school. In determining the schedule for recess or unstructured break time for students, the principal shall consult with appropriate instructional personnel at the school and system level, as appropriate, to ensure that break time does not interfere with and provides support for academic learning. The principal shall also issue directions concerning the responsibility for supervision of students so that break time will be a safe experience for them.

OPTIONS: (Must select at least one. *Include any that apply and delete others.*)

-Breaks may be withheld from students for disciplinary or academic reasons if prior notice of such is provided to the students.

-Decisions to withhold break time shall not be inconsistent with any behavioral plan developed by the school for the student, including a Section 504 Plan or an Individualized Educational Plan (IEP).

-Break time cannot be withheld from students for disciplinary or academic reasons.

-Failure to fulfill classroom responsibilities or to adhere to academic requirements may result in the loss of break time.

Monthly Policy Alerts



April:

Litigation: No policy implications

Legislation: The 2022 legislative session is over and GSBA is updating its summaries to reflect the language of the final bills. As other bills are signed by the Governor, future Policy Alerts and a Policy Update will describe the implications.

As of this writing, the only bill with potential policy implications which has passed the General Assembly and been signed by the Governor is described below.

SB 514- Unmask Georgia Students Act

- **Policy Code Impacted:** Potentially, Infectious Diseases (GANA or JGCC), or other health related policy
- **Issue:** Mask mandates and the authority to issue them have been hotly debated in every sector of society since early 2020 when COVID-19 reached pandemic proportions. Citing the belief that “parents are the best decision-makers when it comes to the health and education of their children,” the Governor signed Senate Bill 514, which became effective March 29, 2022, the day he signed it.

The Act prohibits any local board of education, local school superintendent, governing body of a charter school or state charter school or any school administrator, teacher or other school personnel while acting within the scope of their employment in such schools from making or enforcing any rule that requires a student to wear a face mask or covering while at school or on school property, unless the rule lets the parent exempt his or her student from the mandate. The parent cannot be required to provide a reason or any certification about the child’s health or education status. Students who do not wear masks cannot “suffer any adverse disciplinary or academic consequences as a result of such election by a parent.” The Act cannot be waived by strategic waiver or charter school systems, schools within such systems, or state charter schools.

- **Action to be taken:** A policy containing COVID 19 protocols or details is not required or recommended. School districts should examine existing policies, regulations, protocols, school rules, health plans, or handbooks to be sure any mask mandates comply with the new statutory requirements.

State Board Rules: No policy implications

May:

Litigation: No policy implications

State Board Rules: No policy implications. The State Board did not hold a regular business meeting in April.

Legislation: The following bills with implications for policies or procedures have been enacted into law with the Governor’s signature.

HB 1084-Divisive Concepts

- **Policy Code Impacted:** IKBB-Divisive Concepts Complaint Resolution Process
- **Issue:** Named by the sponsor the “Protect Students First Act,” new Code Section 20-1-11 requires “each local board, superintendent, and governing body of a charter school to prohibit employees from discriminating against students and other employees based on race” and to “ensure that curricula and training programs encourage employees and students to practice tolerance and mutual respect and to refrain from judging others based on race.”

No curriculum, classroom instruction, or mandatory training program, whether delivered or facilitated by school personnel or a third party engaged by the school or school system, is allowed to advocate for “divisive concepts,” defined in the statute to encompass specific concepts concerning race, including views espousing such concepts.

- **Action to be taken:** By July 1, 2022, the State Board

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of Education must develop a model policy to assist schools and districts with establishing a complaint resolution process, while the Department of Education is to develop related guidance. By August 1, 2022, each local board of education must adopt a complaint resolution policy containing specific provisions to address complaints alleging violations of the statute. GSBA will include a sample policy and further description in a future Policy Update.

HB 1178-Parents' Bill of Rights

- **Policy Code Impacted:** JRB-Parents' Bill of Rights
- **Issue:** Finding that parents have a "fundamental right to direct the upbringing and education of their minor children" and that "important information relating to a minor child should not be withheld, either inadvertently or purposefully," from them, the General Assembly created new Code Section 20-2-786, the "Parents' Bill of Rights." Each "governing body," which includes local boards of education, school governing councils, and other entities, by whatever name, that are responsible for creating and implementing the budget of a local education agency must "in consultation with parents, teachers, and administrators, develop and adopt a policy or regulation to promote parental involvement in the public schools." The policy or regulation must include procedures whereby parents can exercise specific rights designated in the statute, such as knowing about promotion, retention and graduation requirements, reviewing records and instructional materials, objecting to instructional materials, and opting out of sex education and production of certain directory information items.
- **Action to be taken:** Boards of education are not required to adopt a new policy and may choose to comply with the mandate through procedures. Most districts already have such procedures in place as almost all of the new act incorporates rights already in existence for parents. A future Policy Update will explore policy and procedural options and provide a sample policy for boards that opt for a new policy.

SB 226-Material Harmful to Minors

- **Policy Code Impacted:** IKBC-Material Harmful to Minors Complaint Resolution Process
- **Issue:** This legislation created new Code Section 20-2-324.6, which requires each local board of education by January 1, 2023 to adopt a policy providing for a

complaint resolution process to be used by parents or permanent legal guardians alleging that material that is "harmful to minors," as defined in the act, has been provided or is currently available to a student. The law specifies requirements and timelines for the complaint resolution process, which must start at the school level, allowing successive appeals through and possibly beyond the local Board of Education. By September 1, 2022, the Department of Education must develop a model policy.

- **Action to be taken:** A future Policy Update will provide a fuller discussion and a sample policy.

SB 588-Rules of Conduct for Board Meetings

- **Policy Code Impacted:** Not applicable
- **Issue:** Code Section 20-2-58, relating to regular monthly meetings of local boards of education, has two noteworthy additions:
 1. In addition to providing public notice of its meetings, as has long been required, each local board must "also publish notice of its regular monthly meetings in a prominent manner on its principal public website."
 2. By October 1, 2022, and by August 1 of each year thereafter, each local board must adopt rules of conduct for public meetings and publish them in a prominent manner on its principal public website.
- **Action to be taken:** A future Policy Update will discuss options for Rules of Conduct.

HB 1283-Recess for Elementary School Students

- **Policy Code Impacted:** IEDA-Unstructured Break Time
- **Issue:** Local boards have been required since 2004 when Code Section 20-2-323 was enacted to have a policy either allowing or prohibiting unstructured break time (recess) for students in kindergarten and grades one through eight, with specific provisions if breaks are allowed. That code section has been revised to require, beginning with the 2022-23 school year, each elementary school to schedule recess for all students in kindergarten and grades one through five every school day, except on days when a student has had physical education or if reasonable circumstances such as bad weather or other scheduled events or emergencies impede recess.

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An early version of the Bill would have required recess for K and grades K-5 and maintained a policy requirement only if the local board wanted to allow or prohibit unstructured break time for students in grades 6-8. However, the final version requires local boards to “establish written policies allowing unstructured break time for students in kindergarten and grades one through eight.”

- **Action to be taken:** Local boards with existing policies that met previous statutory requirements can revise them as appropriate to meet the new statute. Alternatively, they can wait for a sample policy in a future Policy Update.

HB 1292-Students Counted Present when Participating in 4-H Activities

- **Policy Code Impacted:** JB, JBD or document re: student attendance
- **Issue:** New Code Section 20-2-692.3 requires schools to count students present when participating in activities or programs sponsored by 4-H, in the same manner as an educational field trip. While participating, students cannot be counted absent, either excused or unexcused, for any day, portion of a day, or days missed from school.
- **Action to be taken:** Although the new law does not reference a policy, common sense would suggest adding the new requirement to the appropriate section of the board’s existing student attendance policy, which is required, and other documents containing such information.

SAVE THE DATE



LEGAL ISSUES WORKSHOP

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