

**BOARD AGENDA ITEM**

**May 11, 2021**

***SUBJECT:***

Changes to the following policies, First Reading  
Policy BB School Board Legal Status  
Policy BBA Board Powers and Duties  
Policy BBAA Board Member Authority and Responsibilities  
Policy BC Board Member Conduct  
Policy BCA Board Member Code of Ethics  
Policy BDE Board Committees  
Policy BHC Board Staff Communications

***BACKGROUND INFORMATION:***

Policies are cyclically reviewed and, as needed, revised and/or updated. The listed policies within School Board Governance and Operations section of the Aiken County Board Polices were identified for revision.

***ADMINISTRATIVE CONSIDERATION:***

Policies were revised to provide clearer understanding of the role and responsibilities of board members and remove outdated or ambiguous language.

***RECOMMENDATION:***

Approve the changes to the following policies, First Reading  
Policy BB School Board Legal Status  
Policy BBA Board Powers and Duties  
Policy BBAA Board Member Authority and Responsibilities  
Policy BC Board Member Conduct  
Policy BCA Board Member Code of Ethics  
Policy BDE Board Committees  
Policy BHC Board Staff Communications

***ATTACHMENTS:***

Policy BB School Board Legal Status  
Policy BBA Board Powers and Duties  
Policy BBAA Board Member Authority and Responsibilities  
Policy BC Board Member Conduct  
Policy BCA Board Member Code of Ethics  
Policy BDE Board Committees  
Policy BHC Board Staff Communications

***PREPARED BY:***

Salvatore Minolfo

*Policy*

**SCHOOL BOARD LEGAL STATUS**

Code **BB** Issued ~~07/01~~ 05/21

Purpose: To establish the legal foundation for board operations.

The legally constituted governing body of the school district is the board of trustees of the School District of Aiken County. The board is composed of nine members, each of whom must reside in and be elected from each of the single-member election districts established by law. Each board member serves for a term of four years. State law has provided that each school district will be under the management and control of its board of trustees.

The board's powers are derived from the state constitution and acts of the general assembly. Consequently, the board may perform only those acts for which some authority exists. This authority may be expressly stated or implied either in state law or in rules and regulations of the state board of education. The board's authority to exercise permissive powers within the framework of state laws and regulations allows for freedom of action.

~~While the board is responsible to the state board of education, it is, t~~The board is by law and tradition, responsible to the community it serves and represents. It is, therefore, the duty of the board to carry out the will of the community in matters of public education, within the boundaries set by the laws and regulations of the state of South Carolina and Aiken County.

All powers of the board lie in its action as a body. Board members acting as individuals have no authority over personnel or school affairs.

Adopted 9/27/88; Revised 7/17/01, 05/25/21

Legal references:

- A. S.C. Code, 1975, as amended:
1. Section 59-17-10 through 59-17-90 – School district organization, consolidation, etc.
  2. Section 59-19-10 – Each school district will be under the management and control of the board of trustees.
- ~~B. S.C. Code, 1976, as amended:~~
- ~~1. May not use their position or office for personal financial gain (Section 8-13-700);~~
  - ~~2. May not receive compensation to influence action (Section 8-13-705);~~
  - ~~3. May not use or disclose confidential information gained in the course of their employment (Section 8-13-725);~~
  - ~~4. May not have an economic interest in a contract if the official is authorized to perform an official function relating to the contract (Section 8-13-775);~~
  - ~~5. Section 59-19-300 – Prohibits receiving pay as teacher in same district where serving on board.~~
  - ~~6. Section 59-25-10 – Prohibits board from employing members of immediate family, with exceptions.~~
  - ~~7. 1962-63 opinions Attorney General, No. 1563, p. 133, Section 59-25-10 applies to the employment~~

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- of substitute teachers:
8. ~~Section 59-31-590—Prohibits service as agent of school book publisher~~
  9. ~~Section 59-69-260—Authorizes board member to provide services or sell products to the district...so long as these transactions are in accordance with state ethical provision of law.~~
  10. ~~1992 State Ethics Commission Opinion (SEC AO92-134) School board member with family member employed in school district~~

## *Policy*

### **BOARD POWERS AND DUTIES**

Code BBA Issued ~~07/01~~ 05/21

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Purpose: To establish the basic legal structure in which the board operates.

The board takes a broad view of its required functions. It sees them as the following.

#### Legislative/Policy-making

The legislative authority includes policy-making action and the review of rules and regulations established to put policies into operation. The board is responsible for the adoption of policy. The policies will be put in written form and continually re-evaluated in terms of the changing needs and functions of public education.

#### Executive

~~The board will employ a superintendent to serve as the chief executive officer. In that role, the~~ superintendent performs administrative duties for the board by the powers delegated to him/her. The board ~~must will~~ hold the superintendent responsible for the proper and efficient administration of the ~~schools district~~.

#### Quasi-judicial

The board serves in a quasi-judicial function when it acts on appeals of parents/legal guardians, ~~pupils-students~~ or employees on decisions made by the superintendent or his/her designee.

#### Appraisal and approval

The board is responsible for evaluating the effectiveness of its policies and how well they have been put into action. The superintendent recommends specific action, and it is the function of the board to appraise the value and importance of each recommendation and to act on each proposal.

#### Operational action

The board is responsible for ~~the machinery and process of~~ carrying on board business, such as adopting ~~a procedural form- procedures~~ for meetings, election of board officers, and ensuring compliance with providing the enforcement of state laws and directives of the state department of education.

#### Provision of financial resources

## PAGE 2 – BBA – BOARD POWERS AND DUTIES

The board ~~has the major responsibility for the adoption of a~~ will adopt the annual budget which will provide the resources wherewithal in terms of buildings, personnel staff, materials, and equipment, and programs to enable the school system to carry out its policies.

### Reviewing action

The board has final authority within the law for the operation of schools. No section of these policies and procedures may be construed to limit the statutory powers of the board to exercise its own judgment on the basis of the recommendation of the superintendent.

### State law

The law of the state requires district boards to discharge certain duties and confers upon them many legislative, judicial and executive powers including the following (statutory references to sections of the S.C. Code, 1976, as amended).

### Legislative (rule-making powers)

General: Boards...may prescribe such rules and regulations not inconsistent with the law as they deem necessary or advisable. (59-19-110)

Specific: The board shall promulgate rules prescribing the scholastic standards of achievement and standards of conduct and behavior that must be met by all pupils- students as a condition to the right of such pupils to attend the public schools. (59-19-90(3))

### Judicial powers

The board may conduct hearings or delegate this power to one or more members who will report to the board. (59-19-110)

### Executive powers

In the executive area, the board's powers include the following.

- managing and controlling the district, subject to legal requirements (59-19-90(7))
- controlling the educational interests of the district, with the right to operate or not operate any school or schools (59-19-90(7))
- suspending or dismissing pupils when the best interest of the schools makes it necessary (59-19-90(3))
- transferring and assigning pupils (59-19-90(9))
- prescribing conditions of attendance for children not meeting eligibility requirements, subject to certain conditions (59-19-90(10))
- providing school-age child care programs or facilities (59-19-90(11))
- controlling school property of the district (59-19-90(5))
- acquiring land by condemnation (59-19-180, 59-19-200)
- providing suitable school houses (59-19-90(1))

## PAGE 3 – BBA – BOARD POWERS AND DUTIES

- selling or leasing school property (59-19-250)
- waiving state restrictions on attendance for any person who is less than five or more than 21 years of age to attend any of the free public schools (59-63-20(3))
- holding in trust gifts made to district on giving approved bond (59-19-160)
- employing and discharging teachers (59-19-90(2))
- establishing and controlling schools for eleemosynary institutions (59-37-20)
- insuring motor vehicles (59-19-260)
- conveying school property no longer needed for school purposes (59-23-310)
- requiring teaching of certain enumerated subjects (59-29-10)
- approving claims against school funds (59-69-210)
- charging matriculation and incidental fees when allowed by any special act of the general assembly (59-19-90(8))
- making annual reports to state superintendent (59-19-330)
- visiting schools within the district...at least once in every school term and taking care that they are conducted according to law and with the utmost efficiency (59-19-90(6))
- calling meetings of the qualified electors of the district for consultation in regard to the school interests thereof, at which meetings the chairperson or other member of the board shall preside, if present (59-19-90(4))
- fixing the time of operation of schools (59-65-240)
- providing protective eye devices to persons in certain labs and classrooms (59-1-390)
- admitting only those beginning students who produce a birth certificate and a certificate of immunization; immunization standards are those required by the South Carolina State Department of Health and Environmental Control (44-29-180)
- requiring competitive bids for buildings or additions constructed from state funds, with some exceptions (S.C. Consolidated Procurement Code, Sections 10-1-110, 11-35-10, et seq. and 59-21-410)
- providing an accelerated program for qualified high school students (59-39-110)
- developing a comprehensive five-year plan with updates (59-139-10)

Adopted 6/10/75; Revised 7/17/01, 05/25/21

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### Legal references:

- A. S.C. Code, 1976, as amended:
1. Section 59-19-90 – General powers and duties of school trustees.
  2. Title 59 – Public education.

*Policy*

**BOARD MEMBER AUTHORITY AND RESPONSIBILITIES**

Code **BBA** Issued ~~07/01~~ 05/21

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Purpose: To establish the basic structure of the authority and responsibilities of the board and its members.

The board has the authority to act only when a quorum is present at a legal meeting of the board. Because all powers of the board of trustees lie in its action as a group, individual board members exercise authority over district affairs only if they vote to take action at a legal meeting of the board.

Board members acting as individuals have no authority over personnel or school affairs except when such authority is specifically delegated to a member by the board. Such authority will be given to an individual board member, including the chair, by a majority vote of the board. The board will not be bound in any way by any action or statement on the part of any individual board member not delegated by the board.

~~Because all powers of the board of trustees lie in its action as a group, individual board members exercise their authority over district affairs only as they vote to take action at a legal meeting of the board.~~

~~In other instances, an individual board member, including the chairperson, will have power only when the board, by vote, has delegated authority to him/her. The board will not be bound in any way by any action or statement on the part of any individual board member not delegated by the board.~~

The board and its members will deal with administrative services through the superintendent and will not give orders to any subordinates of the superintendent either publicly or privately, but may make suggestions and recommendations.

Questions, requests, complaints, and other information presented to individual board members outside of a board meeting by members of the public should be referred to the superintendent.

The board will make its members, the district staff and the public aware through its actions and policies that only the board acting as a whole has authority to take official action.

The members of the board of trustees are officers of the state. Constitutional provisions that apply to officers apply to school board members.

Adopted 9/27/88; Revised 7/17/01, 05/25/21

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Legal references:

## **PAGE 2 – BBAA – BOARD MEMBER AUTHORITY AND RESPONSIBILITIES**

- A. S.C. Constitution:
  - 1. Article II, Sections 3 & 4 – Definition of Qualified Electors.
  - 2. Article XVII, Sections 1 & 1A – Qualifications for Office and Prohibition against Dual Office Holding.
  
- B. S.C. Code, 1976, as amended:
  - 1. Section 7-5-120 – Qualifications for Voter Registration.
  - 2. Title 8 – Deals with Rights and Responsibilities of Public Officers.
  - 3. Section 59-15-50 – Oath of Board Members.
  
- C. Attorney General’s Opinion:
  - 1. 1960-61, No. 1092, p. 164 – Any action taken by the board of trustees must be taken at a regularly called and assembled meeting with a quorum present.

## Policy

### BOARD MEMBER CONDUCT

Code BC Issued ~~07/01~~ 05/21

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Purpose: To establish the basic structure for board member conduct as individuals and while sitting as a board.

Public office is a trust created by the confidence in which the public places the integrity of its public officers. To preserve this confidence, it is the desire of the board to operate under the highest ethical standards.

It is the responsibility of each board member to do the following:

- Become familiar with district policies, rules and regulations, state and federal school laws, and regulations of the state department of education.
- Have a general knowledge of educational aims and objectives of the district.
- Work harmoniously with other board members without trying either to dominate the board or neglect one's share of the work.
- Vote and act in the board meetings impartially for the good of the district.
- Accept the will of the majority vote in all cases and give wholehearted support to the resulting policy or decision.
- Represent the board and district to the public in such a way as to promote both interest and support.
- Refer complaints to the proper school authorities and abstain from individual counsel and action.
- Recognize that authority rests only with the board in official meetings and that the individual member has no legal status to bind the board outside of such meetings, except as otherwise provided by the board.
- Maintain the confidentiality of all matters discussed in executive session.
- Understand that the basic function of a school board is policy-making, not administration, and accept the responsibility of learning to discriminate intelligently between the two functions.

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- Give the superintendent full administrative authority for properly discharging his/her professional duties and hold him/her responsible for acceptable results.

(Cf. BCA, BCB)

Adopted 6/10/75; Revised 7/17/01, 05/25/21

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*Policy*

**BOARD MEMBER CODE OF ETHICS**

*Code BCA Issued ~~07/01~~ 05/21*

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Purpose: To establish the basic structure for ethical board conduct.

The public schools play a vital and important role in our state and country by providing the basic foundation for democratic living and for sustaining the American way of life. Therefore, school board membership represents a challenging responsibility. This code of ethics is adopted by the board as a guide to its members as they strive to render effective and efficient service to their community.

A board member should honor the high responsibility which his/her membership demands by doing the following.

- thinking always in terms of “children first”
- understanding that the basic function of a school board is policy-making, not administration, and by accepting the responsibility of learning to discriminate intelligently between these two functions
- accepting the responsibility along with his/her fellow board members of seeing that the maximum facilities and resources are provided for the proper functioning of schools
- refusing to be influenced for personal or political gain
- representing, at all times, the entire school district
- accepting the responsibility of becoming well informed concerning the duties of the board members and proper functions of public schools
- recognizing responsibility as a state official to seek the improvement of education throughout the state
- ~~seeking regular communication from students, staff and all segments of the community~~
- ensuring effective communication between and among the board and staff, parents/guardians, students, and the community

A board member should respect his/her relationships with other members of the board by doing the following.

- recognizing that authority rests only with the board in official meetings and that the individual member has no legal status to bind the board outside of such meetings
- recognizing the integrity of his/her predecessors and associates and the merit of their work
- refusing to make statements or promises as to how he/she will vote on any matter which should properly come before the board as a whole
- making decisions only after all facts bearing on a question have been presented and discussed
- respecting the opinion of others and graciously conforming to the principle of majority rule

## PAGE 2 – BCA – BOARD MEMBER CODE OF ETHICS

- refusing to participate in irregular meetings with a quorum present which are not official and which all members do not have the opportunity to attend
- maintaining the confidentiality of matters discussed in executive session

A board member should maintain desirable relations with the superintendent of schools and his/her staff:

- striving to procure, when a vacancy exists, the best professional leader available for the head administrative post
- giving the superintendent full administrative authority for properly discharging his/her professional duties and holding him/her responsible for acceptable results
- acting only upon the recommendation of the superintendent in matters of employment or dismissal of school personnel
- having the superintendent present at all meetings of the board except when his/her contract and salary are under consideration
- referring all complaints ~~to the lowest administrative level possible for consideration, recognizing that through the appeal process all concerns may come to the superintendent and ultimately to the board after all administrative procedures have been exhausted to the superintendent for handling, recognizing that through the appeal process all concerns may come to the board after all administrative procedures have been exhausted~~
- striving to provide adequate safeguards around the superintendent and other staff members to the end that they can live happily and comfortably in the community and discharge their educational functions on a thoroughly professional basis
- presenting personal criticisms of any employee directly to the superintendent

Adopted 1/24/89; Revised 8/17/93, 7/17/01, 05/25/21

Legal references:

School board members are under the jurisdiction of the “Ethics, Government Accountability and Campaign Reform Act,” Section 8-13-100, *et seq.*, S.C. Code, and are subject to rules of conduct of the statute.

Such rules include, but are not limited to, the following.

School board members

- may not use their position or office for personal financial gain (Section 8-13-700).
- may not receive compensation to influence action (Section 8-13-705).
- may not receive additional money as payment for advice or assistance given in the course of their employment (Section 8-13-720).
- may not use or disclose confidential information gained in the course of their employment (Section 8-13-725).
- may not serve as a member or employee of a governmental regulatory commission that regulates any business with which they are associated (Section 8-13-730).
- may not appear before the Public Service Commission or the S.C. Department of Insurance in rate or price-fixing matters (Section 8-13-740).
- may not enter into contract with a governmental agency or department which is to be paid in whole or in part out of governmental funds, unless the contract has been awarded through a process of public notice and

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- competitive bidding and no official function regarding the contract has been performed (Section 8-13-775).
- may not offer or give gifts or promises to members or employees of a governmental regulatory agency or department that regulates a business they are associated with (Section 8-13-705).
- in cases where a potential conflict of interest exists, individuals shall take such steps as the Ethics Commission shall prescribe to remove oneself from the potential conflict of interest (Section 8-13-700).

No elected public official, regardless of compensation, and no appointed public official, regardless of compensation, shall hold office unless he/she has filed a statement of economic interest with the State Ethics Commission (even if a negative report). (Section 8-13-1110, S.C. Code.)

*Policy*

**BOARD COMMITTEES**

*Code BDE Issued ~~07/01~~ 05/21*

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Purpose: To establish the basic structure for the board's use of committees composed of board members.

The board believes that it operates most effectively without committees. Board members will receive the same information, explore options and make decisions together. The chairman may appoint special committees, subject to approval by the board, or a majority of members of the board may appoint a special committee, when the need arises. No more than three board members should be appointed to any special committee. The function of special committees will be fact finding, deliberative and advisory, but never legislative or administrative. Such committees will serve until they have accomplished their purpose and/or until they are discharged by the board.

All committees will be open to the public. All committees will make reasonable and timely efforts to give notice of their meetings in accordance with applicable provisions of the South Carolina Freedom of Information Act ("FOIA").

~~The board recognizes, however, that representation is sometimes needed to meet with business-industry, other government agencies or civic groups, or to receive administrative briefings, reports or for other special purposes. Therefore, the nine members of the board will be divided into three committees as follows:~~

~~Committee #1~~

~~District 1~~

~~District 2~~

~~District 8~~

~~Committee #2~~

~~District 3~~

~~District 5~~

~~District 9~~

~~Committee #3~~

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~~District 4~~

~~District 6~~

~~District 7~~

~~The committees are formed to have a cross-section of county representation on each committee rather than using numerical arrangement. This alignment allows the three members representing Aiken and the two members representing North Augusta to serve on different committees. Each committee will serve for a calendar quarter (3 months) on a rotating basis effective on the first day of each quarter. The committee in rotation during the time of the meeting will represent the board.~~

~~The superintendent will notify the appropriate committee immediately upon realizing a possible need to have representation of the board at any meeting or function between regular board meetings.~~

~~Each committee will select a chairman and should less than two members of any committee be available to attend a meeting, the chairman will select an alternate from the subsequent committee. When a committee represents the board between board meetings, the committee members will advise the other board members as soon as possible of the purpose of any such meeting and the specifics of information exchanged.~~

Adopted 10/25/88; Revised 7/17/01, 05/25/21

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### Legal references:

- A. S.C. Code of Laws, 1976, as amended:
  - 1. Section 30-4-20 (a) – Defines a public body.
  - 2. Section 30-4-60 – Meetings of public bodies shall be open.
  - 3. Section 30-4-70 – Meetings which may be closed.
  - 4. Section 59-19-110 – Board may designate members to investigate matters under its control.

## *Policy*

### **BOARD/STAFF COMMUNICATIONS**

Code **BHC** Issued **07/01 05/21**

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Purpose: To establish the basic structure for board communications with staff members.

The board intends to maintain open channels of communication between itself and the staff. The basic line of communication will, however, be through the superintendent.

#### Staff communications to the board

Principals, supervisors, teachers, or other staff members will submit all communications or reports to the board or any board committee through the superintendent.

This necessary procedure will not be construed as denying the right of any employee to appeal to the board from administrative decisions, provided such appeal is in accordance with the board's policy on complaints and grievances.

Staff members are also reminded that board meetings are public meetings. As such, they provide an excellent opportunity to observe first hand the board's deliberations on problems of staff concern.

#### Board communications to the staff

The board will make all official communications, policies and directives of staff interest and concern to the staff through the superintendent. The superintendent will ~~employ such media as are appropriate (e.g. superintendent's notes) to keep the staff informed of the board's problems, concerns and actions.~~ Determine the most effective means of communicating with the staff.

#### Visits to schools

Board members should make official visits to the school only under board authorization and with the full knowledge of staff including the superintendent, principals and other supervisors.

Board members may make informal visits to schools or classrooms after making arrangements for visitations through the principals of various schools. Such visits will be regarded as informal expressions of interest in school affairs and not as "inspections" or visits for supervisory or administrative purposes.

#### Social interaction

Staff and board members share a keen interest in the schools and in education generally. Therefore,

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it is expected that when they meet at social affairs and other functions, they may informally discuss such matters as educational trends, issues, innovations, and general school district problems.

However, staff members are reminded that individual board members have no special authority unless they are convened at a legal meeting of the board or vested with special authority by board action. Therefore, discussion by either party of personalities or personal grievances may be considered as evidence of unethical conduct.

Adopted 7/17/01; Revised 05/25/21

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