



**STATE OF SOUTH CAROLINA**  
**DEPARTMENT OF EDUCATION**

**MOLLY M. SPEARMAN**  
*STATE SUPERINTENDENT OF EDUCATION*

**MEMORANDUM**

**TO:** District Superintendents

**FROM:** Katie Nilges  
Director, Office of Governmental Affairs

**DATE:** July 5, 2022

**RE:** 2022-23 General Appropriations Bill – New, Amended, and Remaining Provisos

The purpose of this memo is to inform districts of new, amended, and remaining provisos adopted by the General Assembly in the [2022–23 General Appropriations Bill](#), which have significant impact on school districts for the 2022-23 school year. Information related to changes in the funding formula, specifically Proviso 1.3, and related provisos will be provided in a separate memo.

**1.86. (SDE: Formative Assessment Data):** For the 2022-2023 school year, districts must ensure all students in first through eighth grades are assessed using a state approved interim assessment tool during the fall, winter, and spring. School districts shall provide all 2021-2022 and 2022-2023 interim and formative assessment data scores by grade and school to the Department of Education. The department is directed to compile the information received and submit a comprehensive report regarding performance on such assessments to the General Assembly by January 31 of the current fiscal year. Any school district failing to provide this data to the department shall have ten percent of their State Aid to Classrooms funding withheld until the data is provided.

- This proviso was amended from all students first through ninth grade to first through eighth grade only. For additional questions related to administration of assessments, please contact Christina Melton, Director, Office of Assessments and Standards, at [Csmelton@ed.sc.gov](mailto:Csmelton@ed.sc.gov). For more information on reporting, please contact Dan Ralyea, Director, Office of Data and Research Analysis, at [DRalyea@ed.sc.gov](mailto:DRalyea@ed.sc.gov).

**1.97. (SDE: Magnet School Athletics):** From funds authorized or appropriated, a public magnet school that shares a physical campus with another public magnet school must allow any student enrolled at a school on that physical campus to participate in an athletic sport not offered at the school in which the student is enrolled, provided the student meets all age and academic requirements for participation. For the purposes of athletic competition classification, schools with students participating pursuant to this provision must not have their school enrollments joined or modified due to compliance with this provision, nor shall any school be subjected to a change in athletic competition classification as a result of compliance. All public schools and all public school districts receiving funds authorized or appropriated are prohibited from expending any funds to pay membership dues or other funds to any organization that prevents a student from playing sub-varsity or varsity athletics or changes or alters a school's athletic competition classification or competition status as a result of any school or school district's compliance with this provision. This provision shall not limit the ability of any magnet school student, provided the student meets all age and eligibility requirements, to otherwise elect to participate in sub-varsity or varsity athletics at the student's zoned or resident school.

- This is a new proviso. For more information related to eligibility requirements for athletics, please contact Jerome Singleton, Commissioner, South Carolina High School League, at [Jsingle@schsl.org](mailto:Jsingle@schsl.org).

**1.101. (SDE: Graduation Requirements):** Of the funds appropriated or authorized herein, and pursuant to Section 59-39-100 of the 1976 Code, the Department of Education, through the State Board of Education, is directed to promulgate regulations to update the current graduation requirements to include within the existing credits a required half credit in personal finance. The regulation shall be submitted to the State Board of Education for first reading by September 30th.

- This is a new proviso. A Drafting Notice for amending Regulation 43-234: Defined Minimum Program for Grades 9-12, has been submitted to Legislative Council. Interested persons may submit their comments in writing to Katie Nilges, Director of Governmental Affairs, 1429 Senate Street, or by e-mail to [Knilges@ed.sc.gov](mailto:Knilges@ed.sc.gov). To be considered, all comments must be received no later than 5:00 p.m. on August 22, 2022.

**1.113. (SDE: Surplus Property):** A school district must transfer, or offer for sale or lease, any surplus real property or property which has been vacant, unused, or unused for direct student instruction for the previous four school years and is not currently included in any district capital improvement plan for future use on or before July 1, 2022. All school districts must publish on their website by September 15, 2022, a list of properties that qualify under this provision.

A school district shall comply with the requirements of this provision by transferring such property to another governmental subdivision or state agency that has provided written confirmation of an intent to accept the property for public use by December 31, 2022. Any governmental subdivision or state agency providing such written confirmation must comply with all requirements related to the acquisition of real property or surplus property, and/or requirements related to the establishment of permanent improvement projects prior to accepting property transferred pursuant to this provision.

If no governmental subdivision or state agency confirms an intent to accept the property, the district shall offer the property for sale or lease at fair market value as determined by a neutral appraiser and in compliance with existing law providing for sale or lease of such property by a school district. If a school district fails to comply with this provision, the Department of Education must withhold five percent of all state payments to the district until the district complies.

- This is a new proviso requiring districts to publish on their website by September 15, 2022, a list of properties meeting the requirements of the proviso. For more information on School Facilities, please contact Wayne Stokes, Director, Office of School Facilities, at [Wstokes@ed.sc.gov](mailto:Wstokes@ed.sc.gov).

**1.116. (SDE: Competency-Based Education):** (A) In the current fiscal year, districts seeking to implement competency-based education may submit a waiver application to the State Board of Education in a format developed by the State Department of Education. For purposes of this proviso, competency-based education refers to a comprehensive learning approach for a student to master competencies and related standards along a personalized, self-paced, and flexible pathway. As part of the waiver application, districts may include in-person instruction, virtual instruction, self-guided learning, and experiential learning through approved off-campus educational opportunities in calculating instructional hours and may offer the required instructional days at any time during the school year, consistent with the law.

(B) Of the funds appropriated to the Department, the State Department of Education shall create evaluation criteria and guidelines for schools that are operating under a waiver pursuant to this proviso. A participating school shall submit required data for a biennial cyclical review on a form developed by the department. A report summarizing the reviews including the waivers requested and how they hindered implementation must be distributed to the Governor and members of the General Assembly no later than June 30, 2023.

- This is a new proviso. Additional information on implementation is forthcoming. For more information on Competency-Based Education, please contact Stephanie DiStasio, Director, Office of Personalized Learning, at [Sdistasio@ed.sc.gov](mailto:Sdistasio@ed.sc.gov).

**1A.71. (SDE EIA: National Board Certification Incentive):** Public school classroom teachers, to include teachers employed at the special schools or classroom teachers who work with classroom teachers, to include teachers employed at the special schools who are certified by both the State Board of Education and the National Board for Professional Teaching Standards (NBPTS), shall be paid an annual salary supplement of either \$7500 or \$5000. When all other criteria included in this provision are met, the amount of the supplement shall be determined by the teacher's date of application to NBPTS and the length of the national certificate as described below.

(A) A salary supplement of \$7500 shall be paid to National Board-Certified Teachers (NBCTs) who made an initial application before July 1, 2010, and who hold a ten-year national certificate.

(B) A salary supplement of \$5000 shall be paid to NBCTs who made an initial application before July 1, 2010, and who hold a five-year national certificate.

(C) A salary supplement of \$5000 shall be paid to NBCTs who made an initial application after July 1, 2010, and who hold either a five-year or a ten-year national certificate.

The salary supplement shall begin in the year the teacher achieves national certification, be added to the teacher's annual pay, and continue as long as the teacher is certified by both the State Board of Education and NBPTS and employed as a public school classroom teacher as described above. However, the supplement shall be adjusted on a pro rata basis for the teacher's FTE and paid to the teacher in accordance with the district's payroll procedure.

The special schools include the Governors School for Science and Math, Governors School for the Arts and Humanities, Wil Lou Gray Opportunity School, Governor's School for Agriculture at John de la Howe, School for the Deaf and the Blind, Department of Juvenile Justice, and Palmetto Unified School District 1.

Public school classroom teachers who are certified by NBPTS shall enter a recertification cycle for their South Carolina certificate consistent with the length of the recertification cycle for National Board Certification. Teachers who are certified by NBPTS moving to this State who hold a valid standard certificate from their sending state are exempted from initial certification requirements and are eligible for a professional teaching certificate and continuing contract status. Their recertification cycle will be consistent with the length of the recertification cycle for National Board Certification. The department is authorized to carry forward funds and only expend them for the same purpose. Appropriations in excess of applicable expenditures shall be distributed to school districts based on the EFA formula.

- This is a new proviso to clarify recent changes to National Board Certification incentives. For more information on the National Board Certificate Incentive program, please contact Melanie Cooper, Office of Finance, at [MCooper@ed.sc.gov](mailto:MCooper@ed.sc.gov).

**1A.74. (SDE-EIA: Report Card):** For the current fiscal year, the department is directed to produce the school report cards by October 15.

- This is a new proviso. For more information on the Report Card, please contact Dan Ralyea, Director, Office of Data and Research Analysis, at [DRalyea@ed.sc.gov](mailto:DRalyea@ed.sc.gov).

**Below are important provisos to note as they will remain in effect for the 2022-23 school year:**

**1.91. (SDE: Public School Virtual Program Funding):** For Fiscal Year 2022-23, school districts shall be permitted to offer a virtual education program for up to five percent of its student population based on the most recent 135 days ADM count without impacting any state funding. The Department of Education shall establish guidelines for the virtual program and parameters students must meet in order to participate in the virtual program. School districts must submit their plans for the virtual program to the State Board of Education for approval.

School districts offering a virtual program must report their ADM counts for students participating in their virtual program and the number of students participating face to face for the

5th, 45th, 90th, and 135th day to the Department of Education.

For every student participating in the virtual program above the five percent threshold, the school district will not receive 47.22% of the State per pupil funding provided to that district as reported in the latest Revenue and Fiscal Affairs revenue per pupil report pursuant to Proviso 1.3. This amount shall be withheld from State Aid to Classroom's district allocation.

The five percent threshold shall not apply to students whose IEP or 504 status requires their participation in a program administered in a virtual format.

- If a district was approved the State Board of Education to offer a virtual education program for the 2021-2022 school year, they do not need to seek approval again. However, if an approved district plans to continue offering a virtual education program, the district must inform Bradley Mitchell, Director, Office of Virtual Education, using the following [form](#) no later than August 19, 2022.

**1.93. (SDE: Partisanship Curriculum):** For the current fiscal year, of the funds allocated by the Department of Education to school districts, no monies shall be used by any school district or school to provide instruction in, to teach, instruct, or train any administrator, teacher, staff member, or employee to adopt or believe, or to approve for use, make use of, or carry out standards, curricula, lesson plans, textbooks, instructional materials, or instructional practices that serve to inculcate any of the following concepts: (1) one race or sex is inherently superior to another race or sex; (2) an individual, by virtue of his race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously; (3) an individual should be discriminated against or receive adverse treatment solely or partly because of his race or sex; (4) an individual's moral standing or worth is necessarily determined by his race or sex; (5) an individual, by virtue of his race or sex, bears responsibility for actions committed in the past by other members of the same race or sex; (6) an individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his race or sex; (7) meritocracy or traits such as a hard work ethic are racist or sexist, or were created by members of a particular race to oppress members of another race; and (8) fault, blame, or bias should be assigned to a race or sex, or to members of a race or sex because of their race or sex. Nothing contained herein shall be construed as prohibiting any professional development training for teachers related to issues of addressing unconscious bias within the context of teaching certain literary or historical concepts or issues related to the impacts of historical or past discriminatory policies.

**1.94. (SDE: Retired Teacher Salary Negotiation):** With funds appropriated for State Aid to Classrooms, when hiring retired teachers for the 2022-23 school year, school districts uniformly may negotiate salaries below the school district salary schedule.

**1A.69. (SDE-EIA: Kindergarten Start Dates):** A district superintendent or charter school authorizer may submit a request to the department to waive the minimum one hundred eighty day school attendance requirement for kindergarten students for the purpose of scheduling a readiness assessment. Upon approval of the waiver request, the approved school may stagger administering the readiness assessment to kindergarten students during the first five days of the academic year.

- For additional information, please review the June 21, 2022, [memo](#).

While this memo focuses on those provisos with significant impact on school districts, a listing of all adopted provisos may be found [here](#). For more information on provisos or legislative actions, please contact Katie Nilges, Director, Office of Governmental Affairs, at [Knilges@ed.sc.gov](mailto:Knilges@ed.sc.gov).