



2022 LEGISLATIVE GUIDANCE

Introduction

This guidance document provides an overview of the 2022 Georgia General Assembly legislation that expressly impacts state charter schools. Although this guidance contains recommendations for implementation, it is not and should not be construed as legal advice. Schools are encouraged to consult independent legal counsel for implementation guidance specific to their instructional models. The legislative summaries herein are not comprehensive. Schools are encouraged to access the embedded links to review the full text of the cited laws.

Schools should also remain aware of legislation or amendments that apply to state charter schools but whose applicability is not explicitly stated. When general legislation is determined applicable to state charter schools, the State Charter Schools Commission of Georgia (SCSC) will issue updated guidance. Finally, schools should pay particular attention to the effective dates of any applicable legislation. State charter schools are accountable for compliance with applicable legislation the date it becomes effective.

Legislative Changes Impacting State Charter School Operations

Parents' Bill of Rights

Effective: July 1, 2022

Reference: HB 1178

Summary: The Parents' Bill of Rights (Bill of Rights) acknowledges the fundamental rights of parents to direct the upbringing of their minor children, including, by way of illustration only, the right to review instructional materials; to access and review educational and other records; and, in many cases, the right to consent in writing before a photograph or video recording of their minor child is made. Courts will review actions that infringe upon parental rights with strict legal scrutiny.¹ [Access the statute's full list of rights using the embedded weblink above.](#)

The Bill of Rights allows parents to make written requests for information subject to its provisions and prescribes procedures and timelines for school responses and governing board appeals. Generally, when written requests for instructional materials are made, the school principal must respond within three business days. If the request is denied or existing information is not provided within thirty days, the parent may appeal the denial or failure to respond to the governing board. The school's governing board must then place the appeal on the agenda for its next or subsequent public meeting. [Review the technical statutory requirements using the embedded link.](#)

Governing Boards must consult with stakeholders to develop and adopt a policy or regulation to promote parental involvement. The policy/regulation must meet the statutory requirements. Further, the policy/regulation must be posted on the governing board's public website and made available for review at the school site.

Implementing Guidance: Governing boards should consult with independent counsel to ensure an understanding of all technical requirements. Governing boards may also wish to

¹ Under strict legal scrutiny, a court will evaluate whether the state or local entity's action is reasonable and necessary to achieve a compelling state interest and that such action is narrowly tailored and not otherwise served by less restrictive means.

have counsel review draft policies and procedures for compliance before board adoption. Governing boards should initiate discussions with school leadership and staff to develop a timeline for completion of the following tasks to ensure implementation **by July 1, 2022**:

- Engage required stakeholders to develop a parental involvement policy/regulation;
- Finalize the parental involvement policy/regulation and, if applicable, coordinate legal review with counsel; and,
- Present the policy/regulation for timely board adoption.

The governing board should work with school leadership to ensure that responsibilities for posting and maintaining the policy/regulation and implementing the required procedures are assigned to staff.

Finally, the governing board and school leaders should establish a process for receiving and timely responding to records requests subject to the Bill of Rights. In consultation with counsel, governing boards should ensure an understanding of any intersection between the Bill of Rights and other legal requirements relevant to records requests, such as the Georgia Open Records Act, O.C.G.A. § 50-18-70, et seq. The governing board should understand its appeal obligations and ensure that its hearing processes comply with applicable laws, including but not limited to the Georgia Open and Public Meetings Act, O.C.G.A. § 50-14-1, et seq., the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.

VIRTUAL STATE CHARTER SCHOOLS

The statute provides parents the right to provide written notice prohibiting photographs, video, or voice recordings of their child. However, this right is not absolute. It is subject to applicable public safety and security exceptions.

The SCSC has considered the unique safety and security considerations inherent in virtual instructional models and discussed the same with legislators. Although the Bill of Rights is not waivable, schools offering virtual instruction have flexibility in determining their adherence to this provision, given their unique security and safety considerations.

Virtual schools should consider codifying pertinent safety and security considerations in handbooks, policies, and procedures and taking other actions to ensure stakeholder transparency. As an added precaution, virtual schools may wish to consult with counsel to

ensure that their exercise of flexibility is likely to withstand applicable legal scrutiny.

Unmask Georgia Students Act

Effective: March 29, 2022 – June 30, 2027

Reference: SB 514

Summary: The Unmask Georgia Students Act (Act) prohibits governing boards and charter school personnel from making or enforcing rules that require students to wear face coverings on school grounds but do not provide an opportunity for parents to opt out. Schools cannot require parents seeking to opt-out of face covering requirements to provide a rationale or other certification. Further, schools cannot take adverse academic or disciplinary actions against students whose parents have opted out of an applicable rule or requirement.

Implementing Guidance: Given the Act's broad applicability, the governing board should ensure that board members and all school personnel are trained or otherwise aware of the Act's requirements. Governing boards should review existing policies, procedures, rules, and codes of conduct that mandate face coverings to ensure that they include a parental opt-out provision. Governing boards are encouraged to repeal or amend any policies that do not comply with the requirements of the Act. In addition, schools should develop a mechanism for receiving and tracking parent opt-outs.

Charter School Clean-Up Bill

Effective: July 1, 2022

Reference: HB 1215

Summary: HB 1215 includes several amendments to existing charter legislation, including a clarified definition of “charter school” and a provision prohibiting local boards of education from penalizing students seeking to withdraw from a local school system to enroll in a charter school. In addition, the bill repeals the requirement in O.C.G.A. § 20-2-2093 that the Department of Audits and Accounts develop an annual report on state charter schools offering virtual instruction.

Legislative Changes Impacting State Charter School Academics

Protect Students First Act

Effective: July 1, 2022

Reference: [HB 1084](#)

Summary: In relevant part, the Protect Students First Act (Act) requires charter school governing boards to prohibit employees from discriminating against students and other employees based on race. Further, governing boards must ensure that curricula and training programs encourage employees and students to practice tolerance and mutual respect and refrain from judging others based on race. Schools may provide curricula and training programs that foster respectful learning and work environments, provided the curricula or training programs do not advocate for "divisive concepts." The Act specifically defines the terms "divisive concepts," "espousing personal political beliefs," "race scapegoating," and "race stereotyping."

The Act shall not be construed to, among other things, inhibit or violate state and federal Constitutional rights; prohibit schools from promoting tolerance, mutual respect, or cultural sensitivity or competence as consistent with the provisions of the Act; or, to ban the discussion of divisive concepts as a part of a larger course of instruction in a professionally and academically appropriate manner without espousing personal beliefs. [Review the technical statutory elements using the embedded link.](#)

By no later than August 1, 2022, governing boards must adopt a complaint resolution policy for alleged violations of the Act. The complaint resolution policy must meet specific requirements including, but not limited to, the principal or designee's review of the complaint, reasonable steps to investigate the allegation(s) and a written summary of the findings. If a complainant makes an appropriate written request, the governing board must review certain school-level complaint determinations. The SCSC has jurisdiction to review governing board determinations and take appropriate remedial action.

By no later than July 1, 2022, the State Board of Education must promulgate a model policy to assist schools with establishing a complaint resolution process that meets the requirements of the Act. In addition, the Georgia Department of Education must develop

guidance for school use in determining whether violations of the Act have occurred.

The Act provides eligible complainants the right to request nonconfidential records reasonably believed to substantiate a complaint made under the Act. The Act prescribes procedures and timelines for school responses and governing board appeals. Generally, if a written request for records is made, the school principal must respond within three business days. If the school denies the request or existing information is not provided within thirty days, the parent may appeal the denial or failure to respond to the school's governing board, which then must place the appeal on the agenda for its next or subsequent public meeting.

Implementing Guidance: Governing boards should consult with independent counsel to ensure an understanding of all technical requirements of the Act. Before adoption, governing boards may also wish to retain counsel to review complaint resolution policies for compliance.

Governing boards should work with school leadership to ensure that curriculum and staff training programs do not advocate for divisive concepts. If a school permits discussion of divisive concepts under the Act, it should ensure that personal political beliefs are not espoused.

Governing boards should monitor State Board of Education meeting notices and other communications from the State Board of Education and Georgia Department of Education to track the development and dissemination of model policies and relevant guidance.

Note: A failure by the State Board of Education to promulgate a model policy by July 1, 2022, does not excuse the governing board's obligation to adopt the school's complaint resolution policy by August 1, 2022. Further, the governing board must establish processes to review school-level complaint determinations.

The governing board and school leaders should establish mechanisms for receiving and responding to records requests. In consultation with counsel, governing boards should ensure an understanding of any intersection between the Act and other requirements relevant to records requests, such as the Georgia Open Records Act, O.C.G.A. § 50-18-70, et seq. The governing board should understand its appeal obligations and ensure that its processes for hearing the same comply with all applicable laws, including, but not limited to, the Georgia Open and Public Meetings Act, O.C.G.A. § 50-14-1, et seq., and the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.