

Senate Bill 114

By: Senators Jones of the 10th, Davenport of the 44th, Henson of the 41st and Butler of the 55th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,
2 relating to local boards of education, so as to revise qualifications for local board of
3 education members; to provide for prohibited practices; to provide for disclosure of financial
4 interests in contracts or matters pending before the board; to prohibit use of school system
5 property for personal benefit; to provide that contracts are voidable in certain circumstances;
6 to provide for a code of ethics oath; to provide for the establishment of local ethics
7 commissions; to provide for the appointment, terms of office, qualifications, and organization
8 of members; to provide for duties and powers, including investigation, procedures, hearings,
9 and actions; to provide for procedures relating to indictments; to provide for immunity; to
10 provide for circumstances when a board member shall not be in violation; to provide for
11 removal from office of board members; to provide for whistleblower protection; to provide
12 for related matters; to provide for an effective date; to repeal conflicting laws; and for other
13 purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 Article 3 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to local
17 boards of education, is amended by revising subsections (a) and (b) of Code Section 20-2-51,
18 relating to election of county board of education members, persons ineligible to be members
19 or superintendent, ineligibility for local boards of education, and ineligibility for other
20 offices, as follows:

21 "(a) No person shall be eligible for election as a member of a local board of education who
22 is not a resident of the school district in which that person seeks election and of the election
23 district which such person seeks to represent and who has not been a resident of the school
24 district for at least one year as of the date of taking office. No person shall be eligible for
25 election as a member of a local board of education who has been convicted of a felony or
26 who has been convicted of a misdemeanor in the past ten years from the date of the
27 election. Whenever there is in a portion of any county a local school system having a

28 board of education of its own, receiving its pro rata of the public school fund directly from
 29 the State School Superintendent and having no dealings whatever with the local board, then
 30 the members of the board of such county shall be selected from that portion of the county
 31 not embraced within the territory covered by such local system.

32 (b) Whenever a member of a local board of education moves that person's domicile from
 33 the district which that person represents, such person shall cease to be a member of such
 34 local board of education, and a vacancy shall occur. The member shall provide notice of
 35 such move to the secretary of the local board of education and the election superintendent
 36 within ten days of such move. Any member of a local board shall immediately be
 37 disqualified to continue serving as a member of said board if such member qualifies as a
 38 candidate for any other federal, state, or county elective office or if the member is
 39 convicted of a felony or misdemeanor."

40 SECTION 2.

41 Said article is further amended in Code Section 20-2-63, relating to the prohibition of certain
 42 conflicts of interest for local board of education members, as follows:

43 "20-2-63.

44 ~~(a)(1) No local board of education member shall use or attempt to use his or her official~~
 45 ~~position to secure unwarranted privileges, advantages, or employment for himself or~~
 46 ~~herself, his or her immediate family member, or others.~~

47 ~~(2) No local board of education member shall act in his or her official capacity in any~~
 48 ~~matter where he or she, his or her immediate family member, or a business organization~~
 49 ~~in which he or she has an interest has a material financial interest that would reasonably~~
 50 ~~be expected to impair his or her objectivity or independence of judgment. Compliance~~
 51 ~~with Code Section 20-2-505 shall not constitute a violation of this paragraph.~~

52 ~~(3) No local board of education member shall solicit or accept or knowingly allow his~~
 53 ~~or her immediate family member or a business organization in which he or she has an~~
 54 ~~interest to solicit or accept any gift, favor, loan, political contribution, service, promise~~
 55 ~~of future employment, or other thing of value based upon an understanding that the gift,~~
 56 ~~favor, loan, contribution, service, promise, or other thing of value was given or offered~~
 57 ~~for the purpose of influencing that board member in the discharge of his or her official~~
 58 ~~duties. This paragraph shall not apply to the solicitation or acceptance of contributions~~
 59 ~~to the campaign of an announced candidate for elective public office if the local board~~
 60 ~~of education member has no knowledge or reason to believe that the campaign~~
 61 ~~contribution, if accepted, was given with the intent to influence the local board of~~
 62 ~~education member in the discharge of his or her official duties. For purposes of this~~
 63 ~~paragraph, a gift, favor, loan, contribution, service, promise, or other thing of value shall~~

64 ~~not include the items contained in subparagraphs (a)(2)(A) through (a)(2)(J) of Code~~
 65 ~~Section 16-10-2.~~

66 ~~(4) No local board of education member shall use, or knowingly allow to be used, his or~~
 67 ~~her official position or any information not generally available to the members of the~~
 68 ~~public which he or she receives or acquires in the course of and by reason of his or her~~
 69 ~~official position for the purpose of securing financial gain for himself or herself, his or~~
 70 ~~her immediate family member, or any business organization with which he or she is~~
 71 ~~associated.~~

72 ~~(5) No local board of education member or business organization in which he or she has~~
 73 ~~an interest shall represent any person or party other than the local board of education or~~
 74 ~~local school system in connection with any cause, proceeding, application, or other matter~~
 75 ~~pending before the local school system in which he or she serves or in any proceeding~~
 76 ~~involving the local school system in which he or she serves.~~

77 ~~(6) No local board of education member shall be prohibited from making an inquiry for~~
 78 ~~information on behalf of a constituent if no fee, reward, or other thing of value is~~
 79 ~~promised to, given to, or accepted by the local board of education member or his or her~~
 80 ~~immediate family member in return therefor.~~

81 ~~(7) No local board of education member shall disclose or discuss any information which~~
 82 ~~is subject to attorney-client privilege belonging to the local board of education to any~~
 83 ~~person other than other board members, the board attorney, the local school~~
 84 ~~superintendent, or persons designated by the local school superintendent for such~~
 85 ~~purposes unless such privilege has been waived by a majority vote of the whole board.~~

86 ~~(8) No member of a local board of education may also be an officer of any organization~~
 87 ~~that sells goods or services to that local school system, except as provided in Code~~
 88 ~~Section 20-2-505 and excluding nonprofit membership organizations.~~

89 ~~(9) No local board of education member shall be deemed in conflict with this subsection~~
 90 ~~if, by reason of his or her participation in any matter required to be voted upon, no~~
 91 ~~material or monetary gain accrues to him or her as a member of any profession,~~
 92 ~~occupation, or group to any greater extent than any gain could reasonably be expected to~~
 93 ~~accrue to any other member of that profession, occupation, or group.~~

94 (a) No elected official, appointed officer, or employee of a local school system or of any
 95 office, department, or agency thereof shall knowingly:

96 (1) Engage in any business or transaction with or have a financial or other personal
 97 interest, direct or indirect, in the affairs of the school system which would result in a
 98 financial benefit, except for a financial benefit of a nominal or incidental amount, to the
 99 official, appointed officer, or employee or to a relative of such person or which would

- 100 tend to impair the independence of judgment or action in the performance of official
101 duties;
- 102 (2) Engage in or accept private employment from or render services for private interests
103 when such employment or service is incompatible with the proper discharge of that
104 person's official duties or would tend to impair his or her independence of judgment or
105 action in the performance of his or her official duties;
- 106 (3) Disclose information or use information, including information obtained at meetings
107 which are closed pursuant to Chapter 14 of Title 50, concerning the property,
108 government, or affairs of the school system or any office, department, or agency thereof
109 that is not available to members of the general public and gained by reason of his or her
110 official position for his or her personal gain or benefit, to advance his or her financial or
111 other private interest, or to advance the financial or private interest of any other person
112 or business entity;
- 113 (4) Represent private interests in any action or proceeding against the school system or
114 any office, department, or agency thereof;
- 115 (5) Vote or otherwise participate in the negotiation or the making of any contract with
116 any business or entity in which he or she, or his or her relative, has a financial interest;
- 117 (6) Solicit, accept, or agree to accept gifts, loans, gratuities, entertainment,
118 transportation, lodging, meals, any ticket of admission, discounts, payment, or service,
119 except those of a value less than \$50.00, from any employee, student, parent, person,
120 firm, or corporation which to his or her knowledge is interested directly or indirectly in
121 any manner whatsoever in business dealings with the school system or any office,
122 department, or agency thereof; provided, however, that an elected official who is a
123 candidate for public office may accept campaign contributions and services in connection
124 with any campaign;
- 125 (7) Advertise business and professional services to the school system or its employees
126 for personal gain;
- 127 (8) Use school system resources for personal or commercial enterprise;
- 128 (9) Vote or otherwise participate in an appointment, employment, or promotion decision
129 related to a relative;
- 130 (10) Vote or otherwise participate in an appointment, employment, or promotion
131 decision of a person when the public official knows or should know that such vote or
132 participation would create a direct or indirect monetary benefit or economic opportunity;
- 133 (11) Have a personal interest, directly or indirectly, in school real estate, school
134 textbooks, or school materials and supplies of any kind whatsoever;

135 (12) Sell, solicit, or offer for sale to the board or to any official or employee of the board,
136 directly or indirectly, any kind of school real estate, school textbooks, or school materials
137 and supplies, or receive any salary, bonus, or commission on any such sale;

138 (13) Have a financial interest in school buses or bus equipment or supplies, provide
139 services for buses owned by the board, or sell gasoline to the board from a corporation
140 in which the board member is a shareholder; or

141 (14) Vote or participate in discussions or deliberations at any meeting of the board or any
142 committee of the board on any issue before the board in which the board member or a
143 relative of the board member has matters involving consideration of his or her conduct,
144 matters which would inure to his or her financial or personal interests, or matters which
145 would be a conflict of interest as provided in this Code section. Such board member
146 shall, prior to the vote being taken, publicly state during the meeting the nature of his or
147 her interest in the matter from which he or she is abstaining from voting and shall within
148 ten days of such abstention disclose the nature of his or her interest as a public record in
149 a memorandum filed with the board secretary who shall incorporate the memorandum
150 into the minutes of the meeting.

151 (b)(1) No board member, superintendent, or general counsel of a school system may,
152 within one year after retirement or termination from such position or employment:

153 (A) Act as agent or attorney for an employee or board member before a tribunal or
154 board hearing; or

155 (B) Knowingly attempt to influence, on behalf of any other person, the school system,
156 including its employees and board members, in connection with any matter in which
157 the school system has a direct interest.

158 (2) No board member as a consequence of his or her board position may accept any
159 honoraria. As used in this paragraph, the term 'honoraria' means a payment of money or
160 anything of value for any appearance, discussion, speech, or article by such board
161 member or for travel and subsistence expenses in excess of any actual and necessary
162 expenses in connection with such appearance, discussion, or speech.

163 (c)(1) Any elected official, appointed officer, or employee of a school system who has
164 any financial interest, directly or indirectly, in any contract or matter pending before or
165 within any office, department, or agency of the school system shall disclose such interest
166 in writing to the board. Any board member who has a financial interest in any contract
167 or matter pending before the board shall disclose such interest, in writing, and such
168 disclosure shall be entered on the records of the board. The disclosure of any salary
169 received by a board member from the school system or any entity doing business with the
170 school system may be accomplished by naming the entity and position held by the board
171 member with such entity. Interest and dividends from entities doing business with the

172 school system which are listed on a national stock exchange or have more than 100
 173 stockholders do not have to be disclosed. Likewise, the disclosure of any salary received
 174 by an immediate relative of the board member may be accomplished by naming the
 175 relative and the position held. The board member also shall disqualify himself or herself
 176 from participating in any decision or vote relating thereto.

177 (2) Prior to January 31 of each year, each elected official of a school system shall
 178 disclose publicly the identity of any relative employed by the school system to the board
 179 on such form as prescribed by the board.

180 (d) No elected official, appointed officer, or employee of a school system shall use
 181 property of the school system for personal use, benefit, or profit except in accordance with
 182 policies and procedures promulgated by the board.

183 (e) Any contract between a local board of education and another party shall include
 184 provisions ensuring that the contract shall be voidable or rescindable at the discretion of
 185 the board at any time if any elected official, appointed officer, or employee has any interest
 186 in such contract and does not disclose such interest in accordance with the provisions of
 187 this Code section.

188 (f) Elected officials, appointed officers, and employees of a school system may be
 189 punished for violation of the provisions of this Code section as follows:

190 (1) The members of the board shall be subject to removal from office as provided in
 191 Code Section 20-2-75;

192 (2) Appointed officers and employees not subject to civil service or covered by the
 193 provisions of Part 7 of Article 17 of this chapter shall have the right to request a hearing
 194 before the board pursuant to subsection (g) of this Code section upon written charges
 195 being provided to such officer or employee;

196 (3) Employees covered by the provisions of Part 7 of Article 17 of this chapter shall be
 197 subject to suspension, dismissal, or nonrenewal in accordance with the provisions of such
 198 Code section; and

199 (4) Employees subject to civil service rules, upon a violation of this Code section, shall
 200 be subject to suspension or dismissal in accordance with the provisions of this Code
 201 section and the personnel rules and regulations adopted by the local board of education.

202 ~~(b)~~(g) Upon a motion supported by a two-thirds' vote, a local board of education may
 203 choose to conduct a hearing concerning the violation by a local board of education member
 204 an appointed officer or employee of any conflict of interest provision in subsection (a) of
 205 this Code section. The local board of education member individual accused of violating
 206 said provision shall have 30 days' notice prior to a hearing on the matter. At such hearing,
 207 the individual shall have the right to be heard, to be represented by counsel, and to require
 208 the attendance of witnesses and the production of relevant books and papers. Said accused

209 ~~member may bring witnesses on his or her behalf, and the~~ The local board of education
 210 may call witnesses to inquire into the matter. If it is found by a vote of ~~two-thirds a~~
 211 majority of all the members of the board that the accused ~~member~~ officer or employee has
 212 violated a ~~conflict of interest provision contained in subsection (a) of this Code section, the~~
 213 ~~local board shall determine an appropriate sanction~~ he or she may be suspended or
 214 dismissed from the service of the school system. ~~A board member~~ An individual subject
 215 to sanction pursuant to this Code section may, within 30 days of such sanction vote, appeal
 216 such decision to the State Board of Education, which shall be empowered to affirm or
 217 reverse the decision to sanction such ~~board member~~ individual. The State Board of
 218 Education shall promulgate rules governing such appeal process. This subsection shall
 219 apply only to ~~local board of education members elected or~~ officers or employees appointed
 220 or employed on or after July 1, ~~2010~~ 2013.

221 ~~(e)(h)~~ (h) As used in this Code section, the term '~~immediate family member~~' means a spouse,
 222 ~~child, sibling, or parent or the spouse of a child, sibling, or parent~~ 'relative' means an
 223 individual who is related to the elected official, appointed officer, or employee as father,
 224 mother, son, daughter, brother, sister, husband, wife, grandfather, grandmother, grandchild,
 225 mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, or son-in-law;
 226 any other relative living in the household of the elected official, appointed officer, or
 227 employee; a person who is engaged to be married to the elected official, appointed officer,
 228 or employee or who otherwise holds himself or herself out as or is generally known as the
 229 person whom the elected official, appointed officer, or employee intends to marry or with
 230 whom the elected official, appointed officer, or employee intends to form a household; or
 231 any other natural person having the same legal residence as the elected official, appointed
 232 officer, or employee."

233 **SECTION 3.**

234 Said article is further amended in Code Section 20-2-72, relating to a code of ethics for local
 235 board of education members, as follows:

236 "20-2-72.

237 (a) The State Board of Education shall adopt a model code of ethics for members of local
 238 boards of education by October 1, 2010. Such model code of ethics shall also include
 239 appropriate consequences for violation of a provision or provisions of such code. The State
 240 Board of Education may periodically adopt revisions to such model code as it deems
 241 necessary. At a minimum, such model code shall include the following code of ethics oath,
 242 which shall be read and signed by each local board of education member at the first regular
 243 meeting of the local board in January following each regular election:

244 'As a member of the Board of Education, I will strive to improve
 245 public education, and to that end I will:

- 246 (1) Make decisions based on what is best for students in all cases;
 247 (2) Recognize that authority rests with the board as a whole and make no personal
 248 promises or take any independent action that might compromise the board as a whole;
 249 (3) Maintain honest, equitable, and professional relationships with fellow board
 250 members;
 251 (4) Observe local, state, and federal laws, policies, rules, and regulations;
 252 (5) Base my decisions upon all available facts, vote my convictions in every case,
 253 remain unswayed by bias of any kind, and uphold the majority decision of the board
 254 once a decision is made;
 255 (6) Vote in accordance with what is best for the local school system as a whole;
 256 (7) Maintain the confidentiality of privileged information, including statements made
 257 in any executive session of the board;
 258 (8) Focus on the board's role of policymaking and evaluation and not become involved
 259 in the day-to-day operations of the school system;
 260 (9) Support cooperation between the school system and the community;
 261 (10) Refer complaints, comments, and criticism to the superintendent and not to other
 262 staff unless otherwise provided by law;
 263 (11) Support school system staff in the proper performance of their duties;
 264 (12) Communicate the reaction of the community and other key stakeholders to board
 265 policies to other board members and the superintendent;
 266 (13) Disclose by December 31 of each year through a written report to be maintained
 267 by the board for public inspection the source, nature, and amount of any income or
 268 other item of value received by me or any immediate relative, directly or indirectly,
 269 from the school system itself, any employee of the school system, or any entity doing
 270 or seeking to do business with the school system;
 271 (14) Provide full documentation in the form of receipts or other evidence of payment
 272 in accordance with accepted accounting practices or a daily mileage log for any expense
 273 for which reimbursement is requested from the school system; and
 274 (15) Ensure that my behavior, as a reflection on the school system, is above reproach
 275 at all times.

276 Furthermore, I understand that I will be removed from the board if the ethics commission
 277 finds that I have:

- 278 (1) Breached the confidentiality of privileged information, including statements made
 279 in an executive session of the board;

280 (2) Violated local, state, and federal laws, policies, rules, and regulations regarding
 281 fraud and fraudulent activities;

282 (3) Become engaged in conflicts of interest;

283 (4) Used school system contacts and privileges to promote partisan politics or sectarian
 284 religious views;

285 (5) Voted on or influenced in any way a decision or action by the board or a school
 286 system employee that directly affects me or any of my relatives;

287 (6) Discussed or otherwise communicated with vendors, individuals, or groups who are
 288 soliciting business from the school system regarding the subject of the solicitation or
 289 any matter related to the solicitation once the solicitation is issued by the school system
 290 and until such time as the board has rendered a decision on the solicitation; or

291 (7) Consistently, intentionally, and willfully violated the procedures, norms, rules, or
 292 regulations regarding the prohibition against involvement in the day-to-day operation
 293 of the school system.

294 For the purposes of this statement, the term 'relative' is as defined in Code Section
 295 20-2-63 of the O.C.G.A.

296 Member signature: _____

297 Date: _____!

298 (b) Within three months of adoption by the State Board of Education of a model code of
 299 ethics pursuant to subsection (a) of this Code section, each local board of education shall
 300 adopt a code of ethics that includes, at a minimum, such model code of ethics. Each local
 301 board of education shall incorporate into its code of ethics any revisions adopted by the
 302 State Board of Education to the model code of ethics pursuant to subsection (a) of this
 303 Code section within three months of adoption of such revisions."

304 **SECTION 4.**

305 Said article is further amended by adding new Code sections to read as follows:

306 "20-2-75.

307 (a) **Creation of ethics commission.** Each local board of education shall establish a
 308 seven-member ethics commission. Members of the commission shall be appointed by the
 309 board for staggered five-year terms. When the commission is first established, two persons
 310 will be appointed to serve five-year terms, one person will be appointed to serve a
 311 four-year term, two persons will be appointed to serve three-year terms, one person will be
 312 appointed to serve a two-year term, and one person will be appointed to serve a one-year
 313 term. Each member of the commission shall hold office from the date of appointment until
 314 the end of the term for which he or she was appointed or until his or her successor qualifies
 315 for office. Members of the commission shall not be eligible for reappointment. If a

316 vacancy occurs on the commission, the board shall within 90 days appoint a person to fill
 317 the unexpired term.

318 (b) **Qualifications.** A person is eligible to serve as a member of the ethics commission if
 319 that person, while serving:

320 (1) Resides in the school district and is a registered voter;

321 (2) Is not an employee of the local board of education or a relative or business associate
 322 of any member of the local board;

323 (3) Does not hold any elective or appointive office and is not a candidate for any office
 324 in the governments of the United States, the State of Georgia, or the county or
 325 municipality in which the school system is located;

326 (4) Has not provided a financial contribution of more than \$100.00 to, or worked
 327 significantly in, the political campaign of any current member of the local board;

328 (5) Is not a relative of a person who provided a financial contribution of more than
 329 \$100.00 to, or worked significantly in, the political campaign of any current member of
 330 the local board; and

331 (6) Has not been convicted of a felony and has not been convicted of a misdemeanor in
 332 the past ten years.

333 (c) **Duties and powers.** The ethics commission shall have the following duties and
 334 powers:

335 (1) To receive and hear complaints of violations by board members of one or more
 336 provisions contained in Code Section 20-2-63, the code of ethics oath contained in Code
 337 Section 20-2-72, or applicable state or federal law;

338 (2) Upon receipt of a complaint, to conduct investigations as it deems necessary to
 339 determine whether any board member has violated any provision contained in Code
 340 Section 20-2-63, the code of ethics oath contained in Code Section 20-2-72, or applicable
 341 state or federal law. An affirmative vote of three members is required to initiate an
 342 investigation. For the purpose of conducting a meeting or hearing, five members shall
 343 constitute a quorum and five affirmative votes are required to issue any finding;

344 (3) To take appropriate action as a result of a violation of one or more provisions
 345 contained in Code Section 20-2-63, the code of ethics oath contained in Code Section
 346 20-2-72, or applicable state or federal law;

347 (4) To request funding from the local board in order to conduct a hearing and to use any
 348 funds provided to conduct hearings;

349 (5) To establish policies and procedures for conducting meetings and hearings of the
 350 commission; and

351 (6) To perform any other function authorized by this Code section.

352 (d) **Organization of the ethics commission.**

353 (1) Members of the ethics commission shall be compensated on a per meeting basis at
 354 a rate determined by the local board.

355 (2) The ethics commission shall elect one member to act as chairperson for a term of two
 356 years or until a successor is duly elected. The chairperson shall have the same voting
 357 rights as the other commission members. The commission shall also elect one member
 358 to act as vice chairperson for the same term. If the office of chairperson or vice
 359 chairperson is vacated in any manner before the expiration of the term, the commission
 360 shall elect a member to fill the unexpired term.

361 (3) The local board may remove a commission member for neglect of duty, misconduct
 362 in office, or a disability rendering the member unable to discharge the powers and duties
 363 of the office as specified in this Code section, for no longer qualifying for the position as
 364 specified in this Code section, or for any reason that would justify the removal of a
 365 member of a local board of education.

366 (4) There shall be no scheduled regular monthly or bimonthly meetings of the
 367 commission. The chairperson shall call meetings as the chairperson deems necessary.
 368 A meeting can also be called by written notice signed by at least four members of the
 369 commission. All meetings of the commission shall be open to the public. The purpose
 370 of the public meetings shall be to hear and dispose of complaints or to render advisory
 371 opinions as set forth in this Code section.

372 (5) The local board office shall provide staff support to the ethics commission.

373 (6) The ethics commission shall be governed by and subject to the provisions of this
 374 Code section. No official action, except as outlined in this Code section, shall be taken
 375 by the commission. If a commission member has a conflict of interest involving any
 376 matter before the commission or must otherwise disqualify himself or herself under the
 377 conditions of this Code section or by law, the remaining commission members shall
 378 choose by majority vote an alternative person who meets all qualifications set out above
 379 to hear the complaint.

380 **(e) Complaint and investigation procedures.**

381 (1) Any citizen eligible to vote in the school district and any employee of the local board
 382 of education may file a complaint alleging a violation of one or more provisions
 383 contained in Code Section 20-2-63, the code of ethics oath contained in Code Section
 384 20-2-72, or applicable state or federal law by filing it with the chairperson to the local
 385 board. The complaint shall be in writing and verified under oath.

386 (2) The chairperson of the local board shall immediately deliver the complaint to the
 387 chairperson of the ethics commission or a designee and shall also immediately forward
 388 a copy of the complaint by certified and regular mail to the board member against whom
 389 the complaint was filed, along with a copy to the superintendent and legal counsel of the

390 local board. A complaint must be filed within six months of the date of the alleged
 391 violation or, in the case of concealment or nondisclosure, within six months of the date
 392 the alleged violation should have been discovered after due diligence.

393 (3) Within 60 days of receipt of a complaint, the ethics commission shall conduct and
 394 conclude an investigation to determine whether good and sufficient cause exists
 395 concerning the complaint. During the investigation, the commission shall have the power
 396 to secure necessary documents. The superintendent shall ensure that school system
 397 employees cooperate with any commission investigation. The investigation shall not be
 398 open to the public. The commission shall not receive live testimony as part of the
 399 investigation. If, after conducting an investigation, the commission by majority vote
 400 determines that no good and sufficient cause exists for a determination that a violation
 401 exists, the commission may dismiss the complaint and shall report said dismissal to the
 402 local board.

403 (f) **Ethics Commission hearings.** If the commission determines that good and sufficient
 404 cause exists for a determination that a violation has occurred, or if the board refers a matter
 405 to the ethics commission where a member of the board is sought to be removed or
 406 suspended by the board, a formal public hearing shall be conducted. The commission shall
 407 notify the board member charged with a violation of the date, time, and place for the
 408 hearing by certified and regular mail. At the hearing, the commission shall hear sworn
 409 testimony from all witnesses it deems relevant. The hearing shall be recorded by a certified
 410 court reporter. The commission is authorized to issue subpoenas on behalf of any party and
 411 for the appearance of any party or documents as provided by law. Upon conclusion of the
 412 hearing, the commission shall issue written findings of fact and conclusions of law and
 413 take, but shall not be limited to taking, one or more of the following actions:

414 (1) Find that the board member did not violate any provision contained in Code Section
 415 20-2-63, the code of ethics oath contained in Code Section 20-2-72, or applicable state
 416 or federal law; upon a finding that an initial complaint was filed without justification or
 417 was supported by erroneous information or evidence, the commission may recommend
 418 that the board reimburse the accused board member up to \$2,500.00 in actual attorney
 419 fees and costs;

420 (2) Censure or reprimand of the member of the local board;

421 (3) To the extent applicable, file criminal charges against the local board member; or

422 (4) Recommend removal of the local board member.

423 Formal hearings shall be open to the public and shall comply with all state and federal open
 424 meetings and open records laws.

425 (g) **Actions of the commission.** If the ethics commission finds that the local board
 426 member has:

427 (1) Breached the confidentiality of privileged information, including statements made
 428 in an executive session of the local board;

429 (2) Violated local, state, or federal laws, policies, rules, and regulations regarding fraud
 430 and fraudulent activities;

431 (3) Engaged in conflicts of interest;

432 (4) Used school system contacts and privileges to promote partisan politics or sectarian
 433 religious views;

434 (5) Voted on or influenced in any way a decision or action by the local board or a school
 435 system employee that directly affects the local board member or any of his or her
 436 relatives;

437 (6) Discussed or otherwise communicated with vendors, individuals, or groups who are
 438 soliciting business from the school system regarding the subject of the solicitation or any
 439 matter related to the solicitation once the solicitation is issued by the school system and
 440 until such time as the local board has rendered a decision on the solicitation; or

441 (7) Consistently, intentionally, and willfully violated the procedures, norms, rules, or
 442 regulations regarding the prohibition against involvement in the day-to-day operation of
 443 the school system,

444 then the ethics commission must find that the board member should be removed from
 445 office.

446 **(h) Notice; rejection or modification of the commission's action.** The ethics
 447 commission shall notify the local board and local board member of its action by sending
 448 a certified letter to the chairperson of the local board and the local board member who is
 449 the subject of the investigation. Within 30 days of receipt of the notice from the
 450 commission, the local board may reject or modify the action of the commission, but only
 451 by a three-fourths' vote of the local board.

452 **(i) Suspension and removal of member.** If the ethics commission finds that the local
 453 board member should be removed from office, then the local board member shall be
 454 automatically and immediately suspended from the local board. If the local board accepts,
 455 by majority vote, the findings of the ethics commission or if, after the 30 day period
 456 specified in subsection (h) of this Code section, the local board has not rejected the findings
 457 of the ethics commission that the local board member should be removed from office, the
 458 local board member shall be automatically and immediately removed from the local board.

459 **(j) Appeals.** Any local board member sought to be removed from office as provided in
 460 this Code section shall have the right of appeal from the decision of the local board to
 461 superior court. Such appeal shall be governed by the same rules as govern appeals to the
 462 superior court from the probate court.

463 (k) **Indictment.** Upon indictment of a local board member for a felony by a grand jury
464 of this state or by the United States that relates to the performance or activities of the office
465 of local board member, the ethics commission shall be authorized to conduct an
466 investigation and a hearing in accordance with this Code section. If the ethics commission
467 determines that the indictment relates to and adversely affects the administration of the
468 office of the indicted local board member and that the rights and interests of the public are
469 adversely affected thereby, the ethics commission shall recommend that the local board
470 suspend the local board member immediately and without further action pending the final
471 disposition of the case or until the expiration of the local board member's term of office,
472 whichever occurs first. During the term of office to which such local board member was
473 elected and in which the indictment occurred, if a nolle prosequi is entered, if the local
474 board member is acquitted, or if after conviction the conviction is later overturned as a
475 result of any direct appeal or application for a writ of certiorari, the local board member
476 shall be immediately reinstated. While a local board member is suspended under this
477 subsection and until initial conviction by the trial court, the local board member shall
478 continue to receive the compensation for such office. After initial conviction by the trial
479 court, the local board member shall not be entitled to receive the compensation for such
480 office. If the local board member is reinstated to office, he or she shall be entitled to
481 receive any compensation withheld under the provisions of this subsection. For the
482 duration of any suspension under this subsection, the local board shall appoint a
483 replacement member. Upon a final conviction with no appeal or review pending, the office
484 shall be declared vacant and a successor to that office shall be chosen as provided by law.
485 After any suspension is imposed under this subsection, the suspended local board member
486 may petition the local board for a review. The local board may direct the ethics
487 commission to review the suspension. The commission shall make a written report within
488 14 days. If the commission recommends that the local board member be reinstated, the
489 local board member shall immediately be reinstated to office by the local board. The
490 provisions of this subsection shall not apply to any indictment handed down prior to July
491 1, 2013.

492 (l) **Civil recovery.** The local board shall take appropriate legal action to recover the value
493 of anything received by any person or persons in violation of one or more provisions
494 contained in Code Section 20-2-63, the code of ethics oath contained in Code Section
495 20-2-72, or applicable state or federal law, as determined by the ethics commission. A
496 taxpayer, pursuant to applicable law, may take such legal action after a written demand to
497 the local board to bring such action and failure of the local board to initiate the action
498 within 60 days after receipt of the demand.

499 (m) **Official's liability.** No member of the ethics commission or any person acting on
 500 behalf of the ethics commission, operating within the course and scope of this Code
 501 section, shall be liable to any person for any damages arising out of such action.

502 (n) **Safe harbor.** Notwithstanding anything in this Code section to the contrary, a local
 503 board member shall not be found in violation of one or more provisions contained in Code
 504 Section 20-2-63, the code of ethics oath contained in Code Section 20-2-72, or applicable
 505 state or federal law if:

506 (1) The local board member, prior to engaging in the conduct, completely disclosed the
 507 existence of the issue or matter to the local board at a public meeting;

508 (2) The local board member sought and received a public legal opinion from the legal
 509 department of the local board; and

510 (3) The local board member acted in reliance on that legal opinion.

511 However, a local board member shall nonetheless be subject to an adverse finding upon a
 512 determination that the disclosure to the local board was not sufficiently complete or was
 513 materially false or misleading. Additionally, citizens who report alleged violations in good
 514 faith shall not be subject to any reprisal by the individual local board member or the local
 515 board as a whole.

516 20-2-76.

517 (a) A member of a local board of education shall be subject to suspension or removal from
 518 office for any of the following causes:

519 (1) Incompetence, misfeasance, or malfeasance in office;

520 (2) Failure at any time to possess any of the qualifications of office as provided by law;

521 (3) Violation of one or more provisions of Code Section 20-2-63;

522 (4) Violation of the oath of office contained in Code Section 20-2-72;

523 (5) Abandonment of office or neglect to perform the duties of office; or

524 (6) Failure for any other cause to perform the duties of office as required by law.

525 (b) In the event a member of the board is sought to be removed or suspended pursuant to
 526 this Code section, complaints or board referrals shall be submitted and handled in
 527 accordance with Code Section 20-2-75.

528 20-2-77.

529 (a) The local board or school system shall not discharge, threaten, or otherwise
 530 discriminate against a complainant or an employee or official acting on behalf of a
 531 complainant regarding compensation, terms, conditions, location, or privileges of
 532 employment because:

533 (1) The complainant or employee or official acting on behalf of the complainant reports
534 or is about to report, verbally or in writing, a violation or a suspected violation of one or
535 more provisions contained in Code Section 20-2-63, the code of ethics oath contained in
536 Code Section 20-2-72, or applicable state or federal law; or
537 (2) A complainant or employee or official acting on behalf of the complainant is
538 requested by the ethics commission to participate in an investigation, hearing, or inquiry
539 held by the ethics commission or any related court action;
540 provided, however, that this subsection shall not apply to a complainant or an employee or
541 official acting on behalf of a complainant who knowingly makes a false report.
542 (b) Nothing in this Code section shall limit or prohibit a local school system from taking
543 disciplinary action against a whistleblower as a result of the whistleblower's misconduct
544 that may be revealed, discovered, or uncovered as a result of a report or an attempted report
545 of an ethics violation."

546 **SECTION 5.**

547 This Act shall become effective upon its approval by the Governor or upon its becoming law
548 without such approval.

549 **SECTION 6.**

550 All laws and parts of laws in conflict with this Act are repealed.