

House Bill 327

By: Representatives Coleman of the 97th, Dudgeon of the 25th, England of the 116th, Dickson of the 6th, and Kaiser of the 59th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to
2 elementary and secondary education, so as to enact the "Flexibility and Accountability Act
3 for Student Achievement"; to provide for legislative intent; to provide for definitions; to
4 categorize each school system as a Category 1, Category 2, or Category 3 school system; to
5 establish requirements; to provide for specified flexibility and accountability for Category
6 1 school systems; to provide for full flexibility for Category 2 school systems; to provide for
7 Category 3 school systems as charter systems; to provide for statutory construction; to
8 provide for grants; to provide for mediation; to provide for rules and regulations; to revise
9 provisions relating to waivers to improve student performance; to provide for related matters;
10 to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
14 secondary education, is amended by repealing Article 4, relating to increased flexibility for
15 local school systems, and inserting in lieu thereof the following:

16 style="text-align:center">"ARTICLE 4

17 20-2-80.

18 This article shall be known and may be cited as the 'Flexibility and Accountability Act for
19 Student Achievement.'

20 20-2-81.

21 The General Assembly finds that the state's current flexibility options should be
22 streamlined and synthesized to form a more cohesive state-wide flexibility and
23 accountability structure. The General Assembly has determined that the state should focus

24 its efforts on supporting struggling schools and school systems, while allowing successful
 25 schools and school systems the flexibility to continue their efforts unfettered by state
 26 oversight.

27 20-2-82.

28 For purposes of this article, the term:

29 (1) 'Category 1 school system' or 'strategic school system' means a local school system
 30 which:

31 (A) Has a school system rating of less than 80, unless such rating threshold is increased
 32 by the state board; or

33 (B) Does not meet the criteria of a Category 2 school system and has not elected to
 34 become a Category 3 school system.

35 (2) 'Category 2 school system' or 'high performing school system' means a local school
 36 system which:

37 (A) Has a school system rating greater than or equal to 80, unless such rating threshold
 38 is increased by the state board; and

39 (B)(i) Has at least 90 percent of its schools with a school rating greater than or equal
 40 to 80, or for school systems with fewer than ten schools, no more than one school
 41 with a school rating of less than 80; provided, however, that such rating thresholds
 42 may be increased by the state board; or

43 (ii) Demonstrates significant growth through a CCRPI growth score.

44 (3) 'Category 3 school system' or 'charter system' means a local school system which has
 45 become a charter system pursuant to Code Section 20-2-2063.2.

46 (4) 'CCRPI' means the College and Career Ready Performance Index established by the
 47 State Board of Education for purposes of determining individual school and school
 48 system ratings in accordance with Code Section 20-14-33.

49 (5) 'Rating' means the individual school and school system ratings determined annually
 50 by the Office of Student Achievement pursuant to Code Section 20-14-33 and based on
 51 the CCRPI.

52 (6) 'State board' means the State Board of Education.

53 20-2-83.

54 (a)(1) Beginning in school year 2015-2016, each local school system shall be categorized
 55 as a Category 1, Category 2, or Category 3 school system pursuant to school system
 56 ratings determined in accordance with this article.

57 (2) Initial school system ratings shall be based on the higher of:

58 (A) A two-year average of CCRPI scores for each school system, based on the
 59 2012-2013 and 2013-2014 CCRPI for individual schools and averaged to determine the
 60 school system rating; or

61 (B) The most recent CCRPI for the school system.

62 (3) Subsequent ratings shall be based on the higher of:

63 (A) A three-year average of CCRPI scores for each school system, based on the
 64 previous three years CCRPI for individual schools and averaged to determine the
 65 school system rating; or

66 (B) The most recent CCRPI for the school system.

67 (b) A Category 1 or Category 2 school system may elect, at any time, to seek a charter
 68 with the state board to establish the local school system as a charter system in accordance
 69 with Code Section 20-2-2063.2 and become a Category 3 school system.

70 (c) On and after July 1, 2013, a school system that has a contract with the state board
 71 which was executed pursuant to the provisions of this article as they existed on June 30,
 72 2013, shall be entitled to continue to be subject to the rights and responsibilities contained
 73 in the contract between such school system and the state board through the expiration of
 74 the contract term; provided, however, that the state board may extend the term of any such
 75 contract to June 30, 2015, if the initial term of the contract expires between July 1, 2013,
 76 and such date. Upon termination or expiration of any such contract and extension, if
 77 applicable, such school system shall be subject to the provisions of this article with respect
 78 to Category 1, Category 2, and Category 3 school systems. Any such school system may
 79 elect to convert to a Category 1, Category 2, or Category 3 school system, as appropriate,
 80 in accordance with this article, prior to the expiration of its contract if approved by the state
 81 board.

82 20-2-84.

83 (a) A Category 1 school system, in its discretion, shall:

84 (1) Request increased flexibility and be subject to increased accountability by submitting
 85 a waiver request and strategic plan to the state board in accordance with this Code
 86 section; or

87 (2) Remain subject to all education laws, rules, regulations, and policies, including
 88 accountability requirements.

89 (b) In order to receive increased flexibility pursuant to paragraph (1) of subsection (a) of
 90 this Code section, a school system shall articulate in a strategic plan how the requested
 91 waivers will enable the school system to make progress toward specific goals relating to
 92 student achievement outcomes. The strategic plan shall include proposed performance
 93 goals and performance measures and benchmarks for evaluating improvement and

94 achievement and monitoring progress toward student achievement outcomes. The school
95 system may request varied flexibility and accountability measures for schools or groups of
96 schools, upon approval by the state board. A Category 1 school system which has been
97 granted a waiver by the state board pursuant to Code Section 20-2-244 which is in effect
98 on June 30, 2015, shall include such waiver in its flexibility request submitted pursuant to
99 this Code section. A Category 1 school system which receives increased flexibility
100 pursuant to paragraph (1) of subsection (a) of this Code section shall be subject to strong
101 oversight and monitoring from the Department of Education to ensure:

102 (1) The implementation of the strategic plan;

103 (2) The appropriate use of the increased flexibility; and

104 (3) Improved local capacity.

105 (c) The state board shall have the authority to approve or deny the proposed flexibility
106 requested pursuant to this Code section. In the event that the state board denies the
107 proposed flexibility, the local board of education shall work with the department for further
108 revisions to its strategic plan and waiver request and resubmission to the state board.

109 (d) A Category 1 school system that receives increased flexibility pursuant to this Code
110 section shall retain such flexibility for a period of three years, regardless of subsequent
111 school system ratings within the three-year period, unless:

112 (1) The school system does not adhere to its strategic plan, in which case, flexibility may
113 be revoked but oversight and monitoring by the Department of Education will continue;

114 or

115 (2) During its three-year term, the school system attains the criteria of a Category 2
116 school system, in which case, it may elect, in accordance with state board rules, to
117 become a Category 2 school system and avail itself of the automatic exemptions provided
118 for in Code Section 20-2-84.1.

119 (e) Except as otherwise provided by Code Section 20-2-84.2, the state board shall be
120 authorized to waive for Category 1 school systems the provisions of this title and
121 specifically identified rules, regulations, policies, and procedures relating to schools;
122 provided, however, that the state board shall be authorized to waive the following
123 provisions only upon a determination that the school system's strategic plan includes high
124 standards of achievement:

125 (1) Class size requirements in Code Section 20-2-182;

126 (2) Expenditure controls in Code Section 20-2-171 and categorical allotment
127 requirements in Article 6 of this chapter; provided, however, that this shall not include
128 expenditure requirements relating to school nurses pursuant to paragraph (5) of
129 subsection (a) of Code Section 20-2-186;

130 (3) Certification requirements in Code Section 20-2-200; and

131 (4) Salary schedule requirements in Code Section 20-2-212.

132 20-2-84.1.

133 (a) A Category 2 school system shall be automatically exempt from the provisions of this
 134 title and rules, regulations, policies, and procedures relating to schools, except as otherwise
 135 provided by Code Section 20-2-84.2.

136 (b) A Category 2 school system shall retain such exemption for a period of three years,
 137 regardless of whether the school system continues to meet the criteria to be a Category 2
 138 school system. Upon expiration of three years, the school system shall be subject to
 139 categorization based upon its current school system rating.

140 20-2-84.2.

141 (a) All Category 1 and Category 2 school systems shall be subject to:

142 (1) Federal, state, and local rules, regulations, court orders, and statutes relating to civil
 143 rights; insurance; the protection of the physical health and safety of school students,
 144 employees, and visitors; conflicting interest transactions; and the prevention of unlawful
 145 conduct;

146 (2) Laws relating to unlawful conduct in or near a public school;

147 (3) The provisions of Part 3 of Article 2 of Chapter 14 of this title;

148 (4) The reporting requirements of Code Section 20-2-160, subsection (e) of Code Section
 149 20-2-161, Code Section 20-2-320, and Code Section 20-2-740;

150 (5) The requirement that a local board of education shall not charge tuition or fees to its
 151 students except as may be authorized for local boards by Code Section 20-2-133;

152 (6) The provisions of Code Section 20-2-1050 requiring a brief period of quiet reflection;

153 (7) The provisions of Code Section 20-2-211.1, relating to fingerprint and criminal
 154 background checks;

155 (8) The provisions of subsection (c) of Code Section 20-2-327, relating to individual
 156 graduation plans; and

157 (9) The expenditure requirements relating to school nurses pursuant to paragraph (5) of
 158 subsection (a) of Code Section 20-2-186.

159 (b) All Category 3 school systems shall be subject to the provisions of Code Section
 160 20-2-2065.

161 (c) All Category 1, Category 2, and Category 3 school systems shall be subject to periodic
 162 verification and inspection by the state board and the Office of Student Achievement to
 163 confirm that such school systems are complying with the requirements of this article and
 164 any flexibility and accountability measures approved by the state board pursuant to this
 165 article or Code Section 20-2-2063.2.

166 20-2-84.3.

167 (a) Nothing in this article shall preclude the establishment of a charter school or the
168 conversion of an existing school to a charter school within a Category 1 or Category 2
169 school system.

170 (b) Nothing in this article shall be construed to waive any obligations a local school system
171 or the state board has with respect to any grant agreement or any federal reporting or
172 monitoring requirements.

173 20-2-84.4.

174 Subject to appropriations, the state board may establish one or more grant programs,
175 subject to funding criteria established by the state board, which may include, but not be
176 limited to:

177 (1) Providing for innovation grants to assist school systems in implementing innovative
178 practices pursuant to this article; and

179 (2) Providing for grants to Category 2 school systems to mentor Category 1 school
180 systems in attaining specific goals relating to student achievement outcomes.

181 20-2-84.5.

182 The state board shall identify and make recommendations for additional accountability and
183 improvement measures for schools and school systems that are not performing adequately
184 to the Governor, President of the Senate, Speaker of the House of Representatives, and
185 chairpersons of the Senate Education and Youth Committee and the House Committee on
186 Education no later than December 31, 2013.

187 20-2-84.6.

188 (a) The Governor shall designate a member of his or her staff to be authorized to mediate
189 between the state board and a local board of education in the event that such parties cannot
190 agree on the parameters of any waiver granted pursuant to this article or pursuant to Code
191 Section 20-2-2063.2, for a Category 3 school system.

192 (b) Such designee shall report annually to the General Assembly, no later than December
193 31 of each year, on the matters brought to such designee's attention and the resolution of
194 such matters.

195 20-2-84.7.

196 The state board shall establish rules, regulations, and guidelines to effect the
197 implementation of this article."

198 **SECTION 2.**

199 Said chapter is further amended by revising paragraph (2) of subsection (a) and paragraph
200 (1) of subsection (b) of Code Section 20-2-211.1, relating to clearance certificates issued by
201 the Professional Standards Commission, as follows:

202 "(2) 'Educator' means a teacher, school or school system administrator, or other education
203 personnel who would, if not exempted pursuant to a charter under Article 31 or 31A of
204 this chapter or ~~an~~ increased flexibility ~~contract~~ as a Category 1 or Category 2 school
205 system under Article 4 of this chapter, be required to hold a professional educator
206 certificate, license, or permit issued by the Professional Standards Commission and
207 persons who have applied for but have not yet received such a certificate, license, or
208 permit."

209 "(b)(1) On and after January 1, 2011, all educators employed by a local unit of
210 administration shall hold a valid clearance certificate; provided, however, that an
211 educator who possesses a professional educator certificate as of January 1, 2011, shall not
212 be required to obtain a clearance certificate until his or her professional educator
213 certificate is up for renewal. A local unit of administration may employ an educator who
214 does not already hold a valid clearance certificate, provided the individual has applied for
215 a clearance certificate, for a maximum of 20 days in order to allow for the receipt of the
216 results of the criminal record check and issuance of the clearance certificate. The
217 requirements of this Code section shall be in addition to professional educator certificate
218 requirements unless such educator is employed by a school which is exempt from teacher
219 certification requirements pursuant to a charter under Article 31 or 31A of this chapter
220 or ~~an~~ increased flexibility ~~contract~~ as a Category 1 or Category 2 school system under
221 Article 4 of this chapter."

222 **SECTION 3.**

223 Said chapter is further amended by revising Code Section 20-2-244, relating to waivers to
224 improve student performance, as follows:

225 "20-2-244.

226 (a) The State Board of Education is authorized to waive specifically identified state rules,
227 regulations, policies, and procedures, or provisions of this chapter, upon the request of a
228 local school board and in accordance with this Code section. The goal for each waiver
229 shall be improvement of student performance. It is the intent of the General Assembly that
230 the authority under this Code section is supplemental to the authority to grant waivers to
231 Category 1, Category 2, and Category 3 school systems pursuant to Article 4 of this
232 chapter, and that this authority is intended to be utilized only when special circumstances
233 warrant, as determined by the state board.

234 (b) The State Board of Education is not authorized to waive any federal, state, and local
235 rules, regulations, court orders, and statutes relating to civil rights; insurance; the protection
236 of the physical health and safety of school students, employees, and visitors; conflicting
237 interest transactions; the prevention of unlawful conduct; any laws relating to unlawful
238 conduct in or near a public school; any reporting requirements pursuant to Code Section
239 20-2-320 or Chapter 14 of this title; the requirements of Code Section 20-2-211.1; or the
240 requirements in subsection (c) of Code Section 20-2-327. A school or school system that
241 has received a waiver shall remain subject to the provisions of Part 3 of Article 2 of
242 Chapter 14 of this title, the requirement that it shall not charge tuition or fees to its students
243 except as may be authorized for local boards by Code Section 20-2-133, and shall remain
244 open to enrollment in the same manner as before the waiver request.

245 (c) The provisions of this Code section shall not apply to charter schools.

246 (d) The board shall require a written application for a waiver that shall include, at a
247 minimum:

248 (1) Identification of the specific state rules, regulations, policies, and procedures, or
249 provisions of this chapter that are requested for waiver;

250 (2) A description of the policies and procedures the school or school system shall
251 substitute for the waived state rules, regulations, policies, and procedures, or provisions;

252 (3) A description of how the proposed waiver will improve student performance;

253 (4) A description of the students who will be affected by the proposed waiver, including
254 their estimated number, current performance, grade level, and any common demographic
255 traits;

256 (5) A list of schools by name that will be affected by the proposed waiver, and a
257 description of each school, including current performance, grade levels, and demographic
258 traits of the students of each such school;

259 (6) Methods for collection of data, and for measuring and evaluating any change in
260 student performance resulting from the proposed waiver;

261 (7) The period of time for which the proposed waiver is requested and the proposed
262 starting date; and

263 (8) A resolution from the local school board approving the waiver request.

264 (e) The State Board of Education may grant or deny a waiver request, or grant a waiver
265 request subject to specified modifications in the waiver request.

266 (f) A waiver may be granted in accordance with this Code section for any period of time
267 not to exceed five years. The State Board of Education shall require reports regarding the
268 effect of the waiver at least annually, and may require more frequent reports if necessary
269 to monitor the effect of the waiver effectively. The State Board of Education shall report

270 annually to the General Assembly regarding the waivers granted, the effect of each waiver,
271 and any recommendations for legislative changes generated by successful waivers.

272 (g) On and after July 1, 2008, except as provided for in subsection (h) of this Code section,
273 the State Board of Education shall not authorize any waivers or variances pursuant to this
274 Code section to any local school system for the following:

275 (1) Class size requirements in Code Section 20-2-182; provided, however, that the state
276 board shall be authorized to waive class size requirements pursuant to this Code section
277 on and after July 1, 2008, in the event that a local school system can demonstrate a
278 hardship pursuant to a waiver request;

279 (2) Expenditure controls in Code Section 20-2-171 and categorical allotment
280 requirements in Article 6 of this chapter;

281 (3) Certification requirements in Code Section 20-2-200; or

282 (4) Salary schedule requirements in Code Section 20-2-212.

283 A local school system which has received a waiver or variance pursuant to this Code
284 section prior to ~~entering into a contract~~ receiving flexibility pursuant to Article 4 of this
285 chapter shall be required to include such waiver or variance in such ~~contract~~ flexibility
286 request.

287 (h) The State Board of Education shall be authorized to provide a blanket waiver or
288 variance of the class size requirements in Code Section 20-2-182 for all local school
289 systems for a specified school year in the event that a condition of financial exigency
290 occurs, as determined by the state board. For purposes of this subsection, 'financial
291 exigency' means circumstances which cause a shortfall in state appropriations and local
292 revenue for operation of local school systems as compared with projected expenditures
293 over the same period and such shortfall would have a material adverse effect on the
294 operation of public schools. Subsections (c) and (f) of this Code section shall not apply to
295 blanket waivers or variances issued pursuant to this subsection."

296 **SECTION 4.**

297 Said article is further amended by revising Code Section 20-2-2063.2, relating to charter
298 systems, as follows:

299 "20-2-2063.2.

300 (a) The state board shall be authorized to enter into a charter with a local board to establish
301 a local school system as a charter system.

302 (b) A local board seeking to create a charter system must submit a petition to the state
303 board. Prior to submitting such petition, the local board shall:

304 (1) Adopt a resolution approving the proposed charter system petition;

305 (2) Conduct at least two public hearings and provide notice of the hearings in the same
306 manner as other legal notices of the local board; and

307 (3) Send a notice to each principal within the local school system of the hearings with
308 instructions that each school shall distribute the notice to faculty and instructional staff
309 members and to the parent or guardian of each student enrolled in the school.

310 The local board may revise its proposed charter system petition, upon resolution, as a result
311 of testimony at the public hearings or for other purposes.

312 (c) Prior to approval or denial of a charter petition for a charter system, the state board
313 shall receive and give all due consideration to the recommendation and input from the
314 Charter Advisory Committee established in Code Section 20-2-2063.1. The state board
315 shall approve the charter if the state board finds, after receiving input from the Charter
316 Advisory Committee, that the petition complies with the rules, regulations, policies, and
317 procedures promulgated pursuant to Code Section 20-2-2063 and the provisions of this
318 title, is in the public interest, and promotes school level governance.

319 (d) All schools within an approved charter system shall be system charter schools except
320 as otherwise provided in subsections (f) and (g) of this Code section.

321 (e)(1) Subject to appropriations by the General Assembly or other available funding, the
322 state board, after receiving input and recommendations from the Charter Advisory
323 Committee, shall disburse planning grants to local school systems which desire to
324 become charter systems. Such grants will be disbursed in accordance with any applicable
325 guidelines, policies, and requirements established by the state board.

326 (2) Subject to specific appropriations by the General Assembly for this purpose, the state
327 board shall disburse implementation grants in the amount of \$125,000.00 or such other
328 amount as determined by the state board to each charter system. The state board shall be
329 authorized to approve up to five petitions for charter systems during fiscal year 2008, and
330 may approve up to a maximum number of petitions in following years as may be
331 established pursuant to board rules and as subject to availability of funding for
332 implementation grants.

333 (f) A system charter school shall not be precluded from petitioning to become a conversion
334 charter school, in accordance with Code Section 20-2-2064, not subject to the terms of the
335 system charter. In the event a system charter school becomes a conversion charter school,
336 the system charter shall be amended to reflect that such school is no longer bound by the
337 system charter.

338 (g) An existing conversion or start-up charter school within a local school system which
339 is petitioning to become a charter system shall have the option of continuing under its own
340 existing charter, not subject to the terms of the system charter, or of terminating its existing

341 charter, upon agreement by the local board and state board, and becoming subject to the
342 system charter as a charter system school.
343 (h) On and after July 1, 2015, charter systems shall be designated as Category 3 school
344 systems pursuant to Article 4 of this chapter."

345 **SECTION 5.**

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