

ADOPTED SENATE**SENATE SUBSTITUTE TO HB 338**

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 provide for the inclusion of methods for the
3 promotion of the safe and appropriate use of technology and responsible digital citizenship
4 in the comprehensive character education program; to revise requirements for internet safety
5 policies in public schools; to revise existing definitions and provide for new definitions; to
6 require local boards of education and governing bodies of charter schools to annually submit
7 acceptable-use policies and technology protection measures for review by the State Board
8 of Education; to provide for compliance standards and specifications for technology
9 protection measures to be used in public schools; to provide for inclusion of parental
10 measures and controls in such technology protection measures; to provide for the
11 identification and prioritization of providers of technology protection measures which meet
12 or exceed such standards and specifications; to provide for the Department of Education to
13 provide guidance and develop training programs to assist public schools; to provide for the
14 withholding of state funds allotted for public schools that have not provided for adequate
15 technology protection measures; to prohibit certain waivers; to repeal a provision regarding
16 applicability; to provide for implementation; to lower the age of eligibility from 18 to 16 for
17 certain students to be enrolled in a completion special school; to revise definitions; to provide
18 for reports of cohort graduation rates by local school system and by completion special
19 school; to provide for the payment of the costs of health insurance coverage for family

20 members of local board of education members; to provide for related matters; to repeal
21 conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 **PART I**
24 **SECTION 1-1.**

25 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
26 secondary education, is amended in Part 2 of Article 6, relating to competencies and core
27 curriculum under the "Quality Basic Education Act," by revising Code Section 20-2-145,
28 relating to the comprehensive character education program, as follows:

29 "20-2-145.

30 (a) The State Board of Education shall develop by the start of the 1997-1998 school year
31 a comprehensive character education program for levels K-12. This comprehensive
32 character education program shall be known as the 'character curriculum' and shall focus
33 on the students' development of the following character traits: courage, patriotism,
34 citizenship, honesty, fairness, respect for others, kindness, cooperation, self-respect,
35 self-control, courtesy, compassion, tolerance, diligence, generosity, punctuality,
36 cleanliness, cheerfulness, school pride, respect for the environment, respect for the creator,
37 patience, creativity, sportsmanship, loyalty, perseverance, and virtue. Such program shall
38 also address, by the start of the ~~1999-2000~~ 2025-2026 school year, methods of discouraging
39 bullying and violent acts against fellow students and methods of promoting the safe and
40 appropriate use of technology and responsible digital citizenship. Local boards shall
41 implement such a program in all grade levels at the beginning of the ~~2000-2001~~ 2025-2026
42 school year and shall provide opportunities for parental involvement in establishing
43 expected outcomes of the character education program.

44 (b) The Department of Education shall develop character education program workshops
 45 designed for employees of local school systems."

46 **SECTION 1-2.**

47 Said chapter is further amended in Part 15 of Article 6, relating to miscellaneous provisions
 48 under the "Quality Basic Education Act," by revising Code Section 20-2-324, relating to
 49 internet safety policies in public schools, as follows:

50 "20-2-324.

51 (a) As used in this Code section, the term:

52 (1) 'Acceptable-use policy' means a policy for ~~Internet usage~~ internet use adopted by a
 53 local board of education or appropriate school governing body that meets the
 54 requirements of this Code section.

55 (2) 'Child pornography' means any ~~computer depiction or other material depicting a child~~
 56 ~~under the age of 18 years engaging in sexually explicit conduct or in the simulation of~~
 57 ~~such conduct~~ visual depiction, including any live performance, photograph, film, video,
 58 picture, or computer or computer generated image or picture, whether made or produced
 59 by electronic, mechanical, or other means, of sexually explicit conduct, as such term is
 60 defined in Code Section 16-12-100, when:

61 (A) The production of the visual depiction involves a minor engaging in sexually
 62 explicit conduct;

63 (B) The visual depiction is of a minor engaging in sexually explicit conduct; or

64 (C) The visual depiction has been created, adapted, or modified to appear that an
 65 identifiable minor is engaging in sexually explicit conduct.

66 (3) 'Harmful to minors' ~~has the meaning given to such term in Code Section 16-12-100.1~~
 67 means that quality of description or representation, in whatever form, of nudity, sexual
 68 conduct, sexual excitement, or sadomasochistic abuse, when:

69 (A) Taken as a whole, it predominantly appeals to the prurient, shameful, or morbid
70 interest of minors;

71 (B) It is patently offensive to prevailing standards in the adult community as a whole
72 with respect to what is suitable material for minors; and

73 (C) Taken as a whole, it is lacking in serious literary, artistic, political, or scientific
74 value for minors.

75 (4) 'Identifiable minor' means a person:

76 (A)(i) Who was a minor at the time the visual depiction was created, adapted, or
77 modified; or

78 (ii) Whose image as a minor was used in creating, adapting, or modifying the visual
79 depiction; and

80 (B) Who is recognizable as an actual person by such person's face, likeness, or other
81 distinguishing physical characteristic or other recognizable physical feature.

82 ~~(4)(5) 'Internet' means a global network that connects computers via telephone lines,~~
83 ~~fiber networks, or both to electronic information~~ the global information system that is
84 logically linked together by a globally unique address space based on the internet
85 protocol or its subsequent extensions; that is able to support unencrypted communications
86 using the transmission control protocol/internet protocol suite, its subsequent extensions,
87 or other internet protocol compatible protocols; and that provides, uses, or makes
88 accessible, either publicly or privately, high level services layered on the communications
89 and related infrastructure described in this paragraph.

90 ~~(5) 'Obscene' has the meaning given to such term in Code Section 16-12-80.~~

91 (6) 'Obscene material' means material which meets the following requirements:

92 (A) To the average person, applying contemporary community standards, taken as a
93 whole, the material predominantly appeals to the prurient interest, that is, a shameful
94 or morbid interest in nudity, sex, or excretion;

95 (B) The material taken as a whole lacks serious literary, artistic, political, or scientific
 96 value; and

97 (C) The material depicts or describes, in a patently offensive way, sexual conduct as
 98 follows:

99 (i) Acts of sexual intercourse, heterosexual or homosexual, normal or perverted,
 100 actual or simulated;

101 (ii) Acts of masturbation;

102 (iii) Acts involving excretory functions or lewd exhibition of the genitals;

103 (iv) Acts of bestiality or the fondling of sex organs of animals; or

104 (v) Sexual acts of flagellation, torture, or other violence indicating a sadomasochistic
 105 sexual relationship.

106 ~~(6) 'Sexually explicit conduct' has the meaning given to such term in Code~~
 107 ~~Section 16-12-100.~~

108 (7) 'Technology protection measure' means a technology that inspects and analyzes
 109 unencrypted internet traffic for malware and that blocks or filters electronic access to
 110 obscene materials, child pornography, or material that is harmful to minors.

111 ~~(b)(1) No later than January 1, 2007~~ October 1, 2025, each local board of education and
 112 appropriate school governing body shall adopt an acceptable-use policy for its school
 113 system. At a minimum, an acceptable-use policy shall contain provisions which are
 114 reasonably designed to:

115 ~~(A) Prevent and prohibit students and employees of the school system from using~~
 116 ~~any computer or computer networking equipment, technology or technology related~~
 117 ~~service, and or communication services system or service operated, owned, or leased~~
 118 ~~by the school or local school system from being used for accessing, sending, receiving,~~
 119 ~~viewing, or downloading visual depictions of obscenity~~ obscene materials, child
 120 pornography, or material that is harmful to minors;

121 ~~(2)~~(B) Establish appropriate measures to be taken by the school or local school system
122 in response to:

123 (i) Students against students and school employees who willfully intentionally violate
124 the acceptable-use policy, whether or not such student or school employee was, at the
125 time of such violation, on school property, on a school bus or other school vehicle, at
126 a school related function, or elsewhere; provided, however, that such measures shall
127 include disciplinary measures; and

128 (ii) Any person who is not a student or school employee who violates the
129 acceptable-use policy, whether or not such person was, at the time of such violation,
130 on school property, on a school bus or other school vehicle, at a school related
131 function, or elsewhere;

132 (C) Provide for administrative procedures to enforce the acceptable-use policy;

133 (D) Provide for administrative procedures to address complaints regarding possible
134 violations of the acceptable-use policy which, at a minimum, require that each
135 complaint is responded to in writing by an appropriate school or local school system
136 official; and

137 ~~(3)~~(E) Provide for expedited review and resolution of a claim that the application of
138 the acceptable-use policy is denying a student or school employee access to material
139 that is not within the ~~prohibition~~ prohibitions of the acceptable-use policy.

140 (2) The acceptable-use policy provided for in paragraph (1) of this subsection may
141 include terms, conditions, and requirements deemed appropriate by the local board of
142 education or appropriate school governing body to differentiate acceptable uses among
143 elementary, middle, and high school students and among different age groups; provided,
144 however, that the rationale for each method of differentiation such board or governing
145 body chooses to include in its acceptable-use policy shall be articulated in the policy.

146 (3) Each local board of education and appropriate school governing body shall provide
147 reasonable opportunities and procedures for parents or guardians of current students to

148 confer and collaborate with school administrators and teachers regarding appropriate
149 internet access for their students.

150 (c) ~~A~~ Each local board of education, appropriate school governing body, and local school
151 superintendent shall take such steps as it deems appropriate as are necessary and
152 appropriate to implement and enforce the acceptable-use policy, which shall include, but
153 shall not be limited to:, providing for the adoption, use, and routine upgrading of
154 technology protection measures which meet or exceed compliance standards and
155 specifications established by the department.

156 ~~(1) Use of software programs reasonably designed to block access to visual depictions~~
157 ~~of obscenity, child pornography, and material that is harmful to minors; or~~

158 ~~(2) Selection of online servers that block access to visual depictions of obscenity, child~~
159 ~~pornography, and material that is harmful to minors.~~

160 (d) Each school and local school system shall provide, upon written request of a parent or
161 guardian, a copy of the acceptable-use policy adopted pursuant to subsection (b) of this
162 Code section and information regarding the administrative procedures in effect to enforce
163 such acceptable-use policy and to address complaints about such enforcement.

164 (e)(1)(A) Beginning with the 2025-2026 school year and each school year thereafter,
165 by April 1 the department shall establish compliance standards and specifications for
166 technology protection measures to be used by schools and local school systems. To the
167 extent practicable, such compliance standards and specifications for technology
168 protection measures shall include measures and controls for parents or guardians of
169 current students to supervise and manage appropriate internet access by their students
170 who are using a school issued device while not on school property, not on a school bus
171 or other school vehicle, or not at a school related function. In addition to establishing
172 such compliance standards and specifications, the department shall recommend
173 technology protection measures to be installed by schools and local school systems on
174 each computer or other electronic device issued to students for off-campus use.

175 (B) The department is authorized, in collaboration with the Department of
176 Administrative Services, to identify a nonexclusive list of providers of technology
177 protection measures that meet or exceed such standards and specifications; provided,
178 however, that the department shall no less than annually require each such provider to
179 verify that the technology protection measures it provides meet or exceed such
180 standards and specifications. The department is authorized to provide information to
181 schools and local school systems regarding state contracts with such providers of
182 technology protection measures. The department shall prioritize the identification of
183 providers of technology protection measures that include parental measures and
184 controls as provided for in subparagraph (A) of this paragraph.

185 (2)(A) The department shall provide guidance and technical assistance to assist schools
186 and local school systems in complying with the requirements of this Code section.

187 (B) No later than December 1, 2025, the department shall develop guidelines for the
188 training of school personnel. The training guidelines shall include instruction in:

189 (i) Implementing and complying with acceptable-use policies required by this Code
190 section;

191 (ii) Basic cyber security issues pertinent to schools, students, and educators,
192 including, but not limited to, phishing and multifactor authentication; and

193 (iii) Other current and emerging issues and topics which address the safe and secure
194 use of technology by students and educators.

195 ~~The Attorney General and the department shall consult with and assist any local board~~
196 ~~of education in the development and implementation of an acceptable-use policy pursuant~~
197 ~~to this Code section.~~

198 (f)(1) No later than January 31, 2007, Beginning with the 2025-2026 school year and
199 each school year thereafter, by October 15 each local board of education and appropriate
200 school governing body shall submit a copy of the acceptable-use policy adopted pursuant
201 to subsection (b) of this Code section to the State Board of Education. Such submission

202 shall also include the identification of ~~any software program or online server~~ the
203 technology protection measures that is are being utilized used to block access to material
204 in accordance with subsection (c) of this Code section.

205 (2) The State Board of Education shall review each acceptable-use policy and technology
206 protection measure and any subsequent revisions submitted pursuant to paragraph (3) of
207 this subsection. If the state board determines after review that a policy, technology
208 protection measure, or revision is not reasonably designed to achieve the requirements
209 of this Code section, the state board shall provide written notice to the local board of
210 education or appropriate school governing body explaining the nature of such
211 noncompliance, and the local board of education or appropriate school governing body
212 shall have 30 days from the receipt of written notice to correct such noncompliance. The
213 state board may provide an extension to the 30 day period on a showing of good cause.

214 (3) No revision of an acceptable-use policy submission which has been approved by the
215 state board pursuant to paragraph (2) of this subsection shall be implemented until such
216 revision is approved by the state board. If the state board fails to disapprove the revision
217 within 60 days after the submission is received, the local board of education or
218 appropriate school governing body may proceed with the implementation of the revision.

219 (4) The state board shall be authorized to withhold a portion of the state funding
220 allotment for a school or to a local school system if the local board of education that:

221 (A) Fails to timely submit an acceptable-use policy or technology protection measure
222 in accordance with paragraph (1) of this subsection;

223 (B) Submits an acceptable-use policy that is not reasonably designed to achieve the
224 requirements of this Code section; ~~or~~

225 (C) Is not enforcing or is substantially disregarding its acceptable-use policy;:

226 (D) Is using technology protection measures which do not meet or exceed standards
227 and specifications established by the department to block access to material in
228 accordance with subsection (c) of this Code section; or

229 (E) Is not using any technology protection measures to block access to material in
230 accordance with subsection (c) of this Code section.

231 (5) If the state board disapproves an acceptable-use policy ~~of a local board of education~~
232 or any revision thereof or notifies ~~the~~ a local board of education or appropriate school
233 governing body that it is subject to the withholding of funding pursuant to paragraph (4)
234 of this subsection, the local board of education or appropriate school governing body may
235 appeal the decision to the superior court of the county where ~~the local board of education~~
236 such board or governing body is situated.

237 (g)(1) The state board shall be responsible for conducting investigations and making
238 written determinations as to whether a local board of education or governing body of a
239 charter school has violated the requirements of this Code section.

240 (2) If the state board determines that a local board of education or appropriate school
241 governing body is in violation of the requirements of this Code section, it shall direct ~~the~~
242 ~~local board of education~~ such board or governing body to acknowledge and correct the
243 violation within 30 days and to develop a corrective plan for preventing future
244 recurrences.

245 (h)(1) Notwithstanding any other provision of this Code section to the contrary, an
246 administrator or supervisor of a school or local school system, or designee thereof, may
247 disable the ~~software program or online server that is being utilized~~ technology protection
248 measure that is being used to block access to material or take other reasonable steps for
249 an adult or for a minor who provides written consent from his or her parent or guardian
250 to enable access to the ~~Internet~~ internet for bona fide research or other lawful purpose.

251 (2) Nothing in paragraph (1) of this subsection shall be construed to permit any person
252 to have access to material the character of which is illegal under federal or state law.

253 (i) This Code section shall not be subject to waivers pursuant to Code Section 20-2-82 for
254 a strategic waivers school system, Code Section 20-2-244 for a local board of education,
255 Code Section 20-2-2063.2 for a charter system, or Code Section 20-2-2065 for a charter

256 school established pursuant to Article 31 or Article 31A of this chapter, a charter system,
 257 or schools within a charter system, or any state special school. A local board of education
 258 which is fulfilling the requirements of the federal Children's Internet Protection Act, P.L.
 259 106-554, is not required to comply with this Code section."

260

PART II

261

SECTION 2-1.

262 Said chapter is further amended in Article 31C, the "Completion Special Schools Act," by
 263 revising paragraphs (5) and (6) of Code Section 20-2-2096.1, relating to definitions, as
 264 follows:

265 "(5) 'Dropout' means an individual 16 years of age or older who previously dropped out
 266 of school according to the uniform definition of 'dropout' provided for in subsection (f)
 267 of Code Section 20-14-33.

268 (6) 'Enrollment eligible student' means:

269 (A) An individual ~~18~~ 16 years of age or older who is eligible for enrollment in
 270 appropriate education programs as provided in subsection (a) of Code Section
 271 20-2-150, who meets the definition of dropout provided in paragraph (5) of this Code
 272 section, and who is not currently enrolled in a public school in this state; or

273 (B) An individual who is attending a United States Department of Defense Youth
 274 Challenge Academy or who is in the custody of a correctional facility, detention
 275 facility, jail, prison, or other lawful place of confinement for the period of such
 276 attendance or custody."

277 **SECTION 2-2.**

278 Said chapter is further amended in said article by adding a new subsection to Code Section
279 20-2-2096.2, relating to adoption of policies, procedures, regulations and other such
280 requirements, to read as follows:

281 "(c)(1) The state board shall, in consultation with the Office of Student Achievement,
282 adopt policies, procedures, regulations, and other such requirements by which the
283 Department of Education shall prepare a report of cohort graduation rates by local school
284 system and by completion special school.

285 (2) For purposes of the report required in paragraph (1) of this subsection:

286 (A) Enrollment eligible students who are enrolled in a completion special school:

287 (i) During the period of each such student's four-year cohort, shall be included with
288 the local school system in which such student would be enrolled based on his or her
289 residence; and

290 (ii) Outside the period of the four-year cohort, shall be included with the completion
291 special school in which they are enrolled; and

292 (B) Enrollment eligible students who are attending a United States Department of
293 Defense Youth Challenge Academy or who are in the custody of a correctional facility,
294 detention facility, jail, prison, or other lawful place of confinement for the period of
295 such attendance or custody shall be included with the completion special school in
296 which they are enrolled.

297 (3) For purposes of this Code section, a student's four-year cohort shall be measured
298 from October 1 of the calendar year four years immediately preceding the calendar year
299 of the regular date of graduation of such cohort.

300 (4) By December 1 each year, the Department of Education shall publish on its public
301 website and deliver to the State Board of Education and the Office of Student
302 Achievement the report required by paragraph (1) of this subsection for the immediately
303 preceding school year."

PART III**SECTION 3-1.**

304
305
306 Code Section 20-2-55 of the Official Code of Georgia Annotated, relating to per diem,
307 insurance, and expenses of local board members, is amended by revising paragraph (1) of
308 subsection (b) as follows:

309 "(b)(1) A local board of education is authorized to provide group medical and dental
310 insurance for its members who elect to participate. Such insurance may be provided
311 through a group policy secured by the local school district, a group policy secured by
312 several local school districts, a policy secured by an organization of local school boards,
313 or in accordance with Code Section 45-18-5 providing for the inclusion of members of
314 the local board of education and their spouses and dependents within any health insurance
315 plan or plans established under Article 1 of Chapter 18 of Title 45. It shall be the duty
316 of the board to make the employer contributions required for the operation of such plan
317 or plans. Except as provided in paragraph (3) of this subsection, a board providing such
318 insurance shall pay no greater percentage of the cost of that insurance than the percentage
319 of the cost paid as an employer contribution by the state for the health insurance plan for
320 state employees pursuant to Article 1 of Chapter 18 of Title 45. The remainder of such
321 insurance costs, ~~and all the costs of any coverage for family members,~~ shall be paid as an
322 employee contribution by the board member. It shall be the duty of the board to deduct
323 from the salary or other remuneration of qualified members or otherwise collect such
324 payment from the qualified members or dependents."

SECTION 3-2.

325
326 All laws and parts of laws in conflict with this Act are repealed.