

Effective 1/24/2018

Part 8
Implementing Federal or National Education Programs

53E-3-801 Definitions.

As used in this part:

- (1)
 - (a) "Cost" means an estimation of state and local money required to implement a federal education agreement or national program.
 - (b) "Cost" does not include capital costs associated with implementing a federal education agreement or national program.
- (2) "Education entities" means the entities that may bear the state and local costs of implementing a federal program or national program, including:
 - (a) the state board;
 - (b) the state superintendent;
 - (c) a local school board;
 - (d) a school district and its schools;
 - (e) a charter school governing board; and
 - (f) a charter school.
- (3) "Federal education agreement" means a legally binding document or representation that requires a school official to implement a federal program or set of requirements that originates from the U.S. Department of Education and that has, as a primary focus, an impact on the educational services at a district or charter school.
- (4) "Federal programs" include:
 - (a) the No Child Left Behind Act;
 - (b) the Individuals with Disabilities Education Act Amendments of 1997, Public Law 105-17, and subsequent amendments; and
 - (c) other federal educational programs.
- (5) "National program" means a national or multi-state education program, agreement, or standards that:
 - (a) originated from, or were received directly or indirectly from, a national or multi-state organization, coalition, or compact;
 - (b) have, as a primary focus, an impact on the educational services at a public school; and
 - (c) are adopted by the state board or state superintendent with the intent to cause a local school official to implement the national or multi-state education program, agreement, or standards.
- (6) "No Child Left Behind Act" means the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.
- (7) "School official" includes:
 - (a) the state board;
 - (b) the state superintendent;
 - (c) employees of the state board and the state superintendent;
 - (d) local school boards;
 - (e) school district superintendents and employees; and
 - (f) charter school governing board members, administrators, and employees.

Amended by Chapter 186, 2019 General Session

53E-3-802 Federal programs -- School official duties.

- (1) School officials may:
 - (a) apply for, receive, and administer funds made available through programs of the federal government;
 - (b) only expend federal funds for the purposes for which they are received and are accounted for by the state, school district, or charter school; and
 - (c) reduce or eliminate a program created with or expanded by federal funds to the extent allowed by law when federal funds for that program are subsequently reduced or eliminated.
- (2) School officials shall:
 - (a) prioritize resources, especially to resolve conflicts between federal provisions or between federal and state programs, including:
 - (i) providing first priority to meeting state goals, objectives, program needs, and accountability systems as they relate to federal programs; and
 - (ii) subject to Subsection (4), providing second priority to implementing federal goals, objectives, program needs, and accountability systems that do not directly and simultaneously advance state goals, objectives, program needs, and accountability systems;
 - (b) interpret the provisions of federal programs in the best interest of students in this state;
 - (c) maximize local control and flexibility;
 - (d) minimize additional state resources that are diverted to implement federal programs beyond the federal money that is provided to fund the programs;
 - (e) request changes to federal educational programs, especially programs that are underfunded or provide conflicts with other state or federal programs, including:
 - (i) federal statutes;
 - (ii) federal regulations; and
 - (iii) other federal policies and interpretations of program provisions; and
 - (f) seek waivers from all possible federal statutes, requirements, regulations, and program provisions from federal education officials to:
 - (i) maximize state flexibility in implementing program provisions; and
 - (ii) receive reasonable time to comply with federal program provisions.
- (3) The requirements of school officials under this part, including the responsibility to lobby federal officials, are not intended to mandate school officials to incur costs or require the hiring of lobbyists, but are intended to be performed in the course of school officials' normal duties.
- (4)
 - (a) As used in this Subsection (4):
 - (i) "Available Income Tax Fund revenue surplus" means the Income Tax Fund revenue surplus after the statutory transfers and set-asides described in Section 63J-1-313.
 - (ii) " Income Tax Fund revenue surplus" means the same as that term is defined in Section 63J-1-313.
 - (b) Before prioritizing the implementation of a future federal goal, objective, program need, or accountability system that does not directly and simultaneously advance a state goal, objective, program need, or accountability system, the state board may:
 - (i) determine the financial impact of failure to implement the federal goal, objective, program need, or accountability system; and
 - (ii) if the state board determines that failure to implement the federal goal, objective, program need, or accountability system may result in a financial loss, request that the Legislature mitigate the financial loss.

- (c) A mitigation requested under Subsection (4)(b)(ii) may include appropriating available Income Tax Fund revenue surplus through an appropriations act, including an appropriations act passed during a special session called by the governor or a general session.
- (d) This mitigation option is in addition to and does not restrict or conflict with the state's authority provided in this part.

Amended by Chapter 456, 2022 General Session

53E-3-803 Notice of voidableness of federal education agreements or national programs.

A federal education agreement or national program that may cost education entities more than \$500,000 annually from state and local money to implement, that is executed by a school official in violation of this part, is voidable by the governor or the Legislature as provided in this part.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-804 Governor to approve federal education agreements or national programs.

- (1) Before legally binding the state by executing a federal education agreement or national program that may cost education entities more than \$500,000 annually from state and local money to implement, a school official shall submit the proposed federal education agreement or national program to the governor for the governor's approval or rejection.
- (2) The governor shall approve or reject each federal education agreement or national program.
- (3)
 - (a) If the governor approves the federal education agreement or national program, the school official may execute the agreement.
 - (b) If the governor rejects the federal education agreement or national program, the school official may not execute the agreement.
- (4) If a school official executes a federal education agreement or national program without obtaining the governor's approval under this section, the governor may issue an executive order declaring the federal education agreement or national program void.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-805 Legislative review and approval of federal education agreements or national programs.

- (1)
 - (a) Before legally binding the state by executing a federal education agreement or national program that may cost education entities more than \$1,000,000 annually from state and local money to implement, the school official shall:
 - (i) submit the proposed federal education agreement or national program to the governor for the governor's approval or rejection as required by Section 53E-3-804; and
 - (ii) if the governor approves the federal education agreement or national program, submit the federal education agreement to the Executive Appropriations Committee of the Legislature for its review and recommendations.
 - (b) The Executive Appropriations Committee shall review the federal education agreement or national program and may:
 - (i) recommend that the school official execute the federal education agreement or national program;

- (ii) recommend that the school official reject the federal education agreement or national program; or
 - (iii) recommend to the governor that the governor call a special session of the Legislature to review and approve or reject the federal education agreement or national program.
- (2)
- (a) Before legally binding the state by executing a federal education agreement or national program that may cost education entities more than \$5,000,000 annually to implement, a school official shall:
 - (i) submit the proposed federal education agreement or national program to the governor for the governor's approval or rejection as required by Section 53E-3-804; and
 - (ii) if the governor approves the federal education agreement or national program, submit the federal education agreement or national program to the Legislature for its approval in an annual general session or a special session.
 - (b)
 - (i) If the Legislature approves the federal education agreement or national program, the school official may execute the agreement.
 - (ii) If the Legislature rejects the federal education agreement or national program, the school official may not execute the agreement.
 - (c) If a school official executes a federal education agreement or national program without obtaining the Legislature's approval under this Subsection (2):
 - (i) the governor may issue an executive order declaring the federal education agreement or national program void; or
 - (ii) the Legislature may pass a joint resolution declaring the federal education agreement or national program void.

Renumbered and Amended by Chapter 1, 2018 General Session

53E-3-806 Cost evaluation of federal education agreements or national programs.

- (1) Before legally binding the state to a federal education agreement or national program that may cost the state a total of \$500,000 or more to implement, a school official shall estimate the state and local cost of implementing the federal education agreement or national program and submit that cost estimate to the governor and the Executive Appropriations Committee of the Legislature.
- (2) The Executive Appropriations Committee may:
 - (a) direct its staff to make an independent cost estimate of the cost of implementing the federal education agreement or national program; and
 - (b) affirmatively adopt a cost estimate as the benchmark for determining which authorizations established by this part are necessary.

Renumbered and Amended by Chapter 1, 2018 General Session