

AN ACT

To amend Chapter 14 of Title 20 of the Official Code of Georgia Annotated, relating to the Education Coordinating Council, so as to provide for the establishment of the Opportunity School District; to provide for definitions; to authorize the Opportunity School District to assume the supervision of public elementary and secondary schools that are qualifying; to provide for a superintendent for the district; to provide criteria; to provide for rating of schools; to provide for intervention models; to provide for opportunity schools seeking state charter school status; to provide for successful opportunity schools to exit state supervision; to provide for funding; to provide for applicability; to provide for support services and flexibility for schools on warning, schools on probation, and qualifying schools that are not selected; to repeal a provision relating to appropriate levels of intervention for failing schools; to provide for conforming amendments; to provide for related matters; to provide for contingent effectiveness; to provide for automatic repeal under certain conditions; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 14 of Title 20 of the Official Code of Georgia Annotated, relating to the Education Coordinating Council, is amended by adding a new article to read as follows:

"ARTICLE 3

20-14-100.

As used in this article, the term:

- (1) 'Office' means the Office of Student Achievement.
- (2) 'Opportunity school' means a public elementary or secondary school under the supervision of the Opportunity School District.
- (3) 'Opportunity School District' or 'OSD' means the state-wide district established pursuant to this article.
- (4) 'OSD charter school' means an opportunity school authorized by the State Charter Schools Commission pursuant to Article 31A of Chapter 2 of this title.
- (5) 'OSD Superintendent' means the superintendent of the Opportunity School District appointed by the Governor pursuant to Code Section 20-14-102.

(6) 'Qualifying school' means a public elementary or secondary school that earns a rating of F pursuant to Code Section 20-14-104 for a minimum of three consecutive years.

(7) 'School on probation' means a public elementary or secondary school that earns a rating of F pursuant to Code Section 20-14-104 for two consecutive years.

(8) 'School on warning' means a public elementary or secondary school that earns a rating of F pursuant to Code Section 20-14-104 for one year.

20-14-101.

(a) The Opportunity School District is hereby created pursuant to the authority granted in Article VIII, Section V, Paragraph VIII of the Georgia Constitution. The Opportunity School District shall be authorized to assume the supervision, management, and operation of public elementary and secondary schools which have been determined to be qualifying pursuant to this article.

(b) The Opportunity School District shall be established within the Office of Student Achievement.

20-14-102.

(a) The Governor shall appoint a superintendent, to be confirmed by the Senate, to serve as the executive officer of the Opportunity School District. The OSD Superintendent shall serve at the pleasure of the Governor and shall have such qualifications as set forth in subsection (b) of Code Section 20-2-101 and salary as determined by the Governor. The OSD Superintendent shall be an employee of the office but shall report directly to the Governor.

(b) The OSD Superintendent shall develop guidelines and procedures for the operation of the OSD. The OSD Superintendent shall annually provide a report to the General Assembly on all aspects of operation, including the selection, intervention chosen, and progress of the opportunity schools. The report shall also be published on the office website.

20-14-103.

(a) The Opportunity School District shall be authorized to select up to 20 qualifying schools to add to the OSD in any single school year. The Opportunity School District shall have no more than 100 schools under its supervision at any given time. The schools selected for inclusion in the OSD should represent geographic diversity, including urban and rural schools.

(b) Selection of up to 20 qualifying schools to add to the OSD in any single school year shall be based on an analysis of performance over the most recent three-year period with

emphasis on student growth and progress and other considerations, including geographic clusters of qualifying schools, feeder patterns with multiple eligible schools, current turn-around efforts, availability of qualified partners, and community engagement and support. The school selection process shall include a public hearing to allow for parent and community input and the final selection of which schools are transferred into the OSD shall be in the sole discretion of the OSD Superintendent.

(c) The OSD Superintendent shall have the sole discretion in determining the timing and sequencing of transferring qualifying schools to the OSD, which may take into consideration the capacity of the OSD in successfully overseeing each school. Prior to transferring any qualifying school to the OSD, the OSD Superintendent shall conduct an evaluation of the school to determine the factors contributing to the school's performance and shall conference with the school principal, local board of education members, and the local school superintendent to share the findings of the evaluation and discuss options for remediation in a joint effort between the OSD and the local school system. The OSD Superintendent shall evaluate and identify the qualifying schools selected for intervention no later than April 1 prior to the initial school year in which the OSD intervention model will be implemented. The specific intervention model in subsection (a) of Code Section 20-14-105 most appropriate for each school based on the findings of the evaluation shall be identified by the OSD Superintendent no later than July 1 of the effective school year and published on the office website.

(d) The OSD Superintendent is authorized to waive specifically identified State Board of Education rules, regulations, policies, and procedures, or provisions of Chapter 2 of this title for opportunity schools. The goal for each waiver shall be improvement of student performance. The OSD Superintendent is not authorized to waive any federal, state, and local rules, regulations, court orders, and statutes relating to civil rights; insurance; the protection of the physical health and safety of school students, employees, and visitors; conflicting interest transactions; the prevention of unlawful conduct; any laws relating to unlawful conduct in or near a public school; any reporting requirements pursuant to Code Section 20-2-320 or this chapter; the requirements of Code Section 20-2-211.1 relating to fingerprint and criminal background checks; state accountability requirements, including but not limited to teacher and leader evaluation pursuant to Code Section 20-2-210; or the requirements in subsection (c) of Code Section 20-2-327. A school that has received a waiver shall remain subject to the provisions of Part 3 of Article 2 of this chapter, the requirement that it shall not charge tuition or fees to its students except as may be authorized for local boards by Code Section 20-2-133. All opportunity schools shall comply with all applicable constitutional and statutory nondiscrimination requirements.

(e) In the event that a qualifying school selected to be an opportunity school pursuant to this article is an existing charter school or is currently subject to any school level requirements included in a charter system contract or a contract executed pursuant to Article 4 of Chapter 2 of this title, the authority of the OSD shall supersede any such charter or contract with respect to the qualifying school and the State Board of Education and affected local board of education shall take all necessary steps to modify or cancel any such charter or contract with respect to the qualifying school to effectuate this.

20-14-104.

The office shall annually, for purposes of this article, determine a rating of A, B, C, D, or F for each public elementary and secondary school in this state based on student achievement, achievement gap closure, and student growth. Such ratings shall be based on the state accountability system approved by the State Board of Education.

20-14-105.

(a) An opportunity school may be subject to any of the following intervention models, as determined by the OSD Superintendent:

- (1) Direct management of the opportunity school by the OSD;
- (2) Shared governance of the opportunity school by the OSD and the local board of education pursuant to a contract in which the local board of education operates the school and the OSD Superintendent has the authority to direct changes to be made at the school;
- (3) Reconstitution of the school as an OSD charter school in which the OSD works in collaboration with the State Charter Schools Commission to build capacity of petitioning governing boards and charter school applications to establish a charter that will be approved by the State Charter Schools Commission; or
- (4) Closure of an opportunity school which is not enrolled at full capacity and reassigning the students to a nonqualifying school within the local school system. School closure shall be the intervention of last resort.

(b) The OSD Superintendent shall establish and implement a process for gaining community feedback and input to inform his or her decision regarding the most appropriate intervention model for a particular school.

(c)(1) For opportunity schools under the intervention models in paragraphs (2) and (3) of subsection (a) of this Code section, the school principal or OSD charter school governing board shall be authorized to make decisions about school finance, human capital, and curriculum and instruction for the opportunity school; provided, however, that the OSD Superintendent may direct school principals to make certain decisions under the intervention model in paragraph (2) of subsection (a) of this Code section. For such

schools, the OSD Superintendent and staff shall provide appropriate training and support to develop effective leadership in such areas.

(2) For opportunity schools under the intervention model in paragraph (1) of subsection (a) of this Code section, the OSD shall be authorized to have a direct role in making decisions about school finance, human capital, and curriculum and instruction for the opportunity school while developing the leadership capacity in such schools.

(3) For opportunity schools under the intervention models in paragraphs (1) and (2) of subsection (a) of this Code section, the existing local school councils may remain in place or may be reconstituted under the guidance of the opportunity school principal so long as they still meet the requirements in Code Section 20-2-86 regarding the composition of the council. The school council shall serve as an advisory board for the principal.

(4) For opportunity schools under the intervention model in paragraph (3) of subsection (a) of this Code section, parents and advisory board members shall be eligible for consideration to fill specific roles on the governing board.

(d) All opportunity schools shall remain open to enrollment in the same manner with the same attendance zone as prior to becoming an opportunity school.

(e) An opportunity school may purchase services from the OSD, the local board of education, or an education service provider for routine student support and operational services for an opportunity school. The opportunity school shall solicit and preferentially consider qualified local contractors and service providers. The local board of education shall be required to cooperate fully with the opportunity school, whether under the control of the OSD or the State Charter Schools Commission, to make available at a reasonable cost all appropriate services requested. Such services may include, but are not limited to, transportation, cafeteria services, custodial services, alternative education, broadband, utilities, special education services, test administration services, and student information services. The local board of education shall be required to make immediately available to the opportunity school, at no cost, the student records for all students of that school.

(f) Opportunity schools shall develop and provide for positive behavioral interventions and supports, which means an evidence based data-driven framework to reduce the disciplinary incidents, increase a school's sense of safety, and support improved academic outcomes through a multitiered approach, using disciplinary data and principles of behavior analysis to develop school-wide, targeted, and individualized interventions and supports. Additionally, opportunity schools shall develop and provide for response to intervention, which means a framework of identifying and addressing the academic and behavioral needs of students through a tiered system.

(g) Opportunity schools shall develop and provide for integrated student supports that target academic and nonacademic barriers to achievement and, where appropriate, shall form partnerships to implement proven or innovative strategies.

(h) The OSD Superintendent or OSD charter school governing board shall select and hire the school principal for an opportunity school. Within the limits of the school budget, the school principal shall select staff members in accordance with guidance from the OSD or OSD charter school governing board. Before finalizing staffing recommendations, the principal, the OSD Superintendent, or the OSD charter school governing board shall interview all existing staff members at the qualifying school and review student growth and performance data for those staff members for whom it is available. The OSD or OSD charter school governing board shall have the authority to decide whether any leader, teacher, or staff member previously assigned to a qualifying school selected to become an opportunity school shall continue as an employee of the opportunity school. Any such employees retained shall become employees of the OSD or OSD charter school governing board, on the principal's recommendation, and be under their control. Any teacher subject to Code Section 20-2-942 who is not given the option to continue as an employee for the opportunity school shall remain an employee of the local board of education. The local board of education may determine whether or not to continue the employment of any teacher who is not given the option to continue as an employee for the opportunity school, subject to Code Section 20-2-942. Local boards of education may use the authority contained in Code Section 20-2-943 to reassign staff and in Code Section 20-2-948 to implement their reduction in force policy.

20-14-106.

(a) For opportunity schools other than OSD charter schools, the OSD Superintendent shall set clear goals, empower and equip teachers and school leaders to meet the goals, and hold such teachers and school leaders accountable to meet the goals. The OSD Superintendent shall approve appropriate waivers for the qualifying school pursuant to subsection (d) of Code Section 20-14-103.

(b) For opportunity schools that become OSD charter schools, the State Charter Schools Commission shall set such goals and hold such teachers and school leaders accountable.

(c) The OSD Superintendent shall select, approve, or remove the school principal for opportunity schools and the governing board members for opportunity schools which become OSD charter schools.

(d)(1) Each OSD charter school shall have a governing board that is involved in school-level governance of the school. The governing board shall be organized and operated as a nonprofit corporation under the laws of this state. The OSD charter school

shall be a public, nonsectarian, nonreligious, nonprofit school that is not home based, provided that a school's nonprofit status shall not prevent the school from contracting for the services of a for profit entity.

(2) The members of the governing board for an OSD charter school shall come from the community and shall meet the following qualifications:

- (A) Must be a United States citizen;
- (B) Must be a resident of Georgia; and
- (C) Must not be an employee of the opportunity school.

(3) The OSD Superintendent, after soliciting and considering recommendations from the local legislative delegation, shall make the final selection of governing board members for OSD charter schools and shall ensure that the boards possess the financial, legal, and educational expertise needed to successfully run a school.

(e) The OSD Superintendent shall enter into an agreement with the school principal, the OSD charter school governing board, or the local board of education regarding specific goals for each opportunity school related to higher academic outcomes for students, quality careers for graduates, safe and positive learning environments for children, parent and community engagement, and the efficient and effective use of taxpayer dollars.

20-14-107.

(a) In an effort to ensure high quality charter petitions for opportunity schools seeking OSD charter school status, the OSD Superintendent shall:

- (1) Solicit, screen, and select or approve OSD charter school governing board members; and
- (2) Assist the OSD charter school governing board members in charter petition development and review; provided, however, that such assistance shall conclude upon approval by the State Charter Schools Commission of the opportunity school as an OSD charter school.

(b) In an effort to provide opportunity schools seeking OSD charter school status with necessary support, the State Charter Schools Commission shall solicit, screen, and select education service providers, including independent consultants, education management organizations, charter management organizations, and other support organizations, that can partner with the OSD charter school governing boards to support or operate such OSD charter schools.

(c) The State Charter Schools Commission shall establish a separate application cycle for opportunity schools seeking OSD charter school status. Such application cycle shall allow commission staff and commission members to evaluate the needs of an opportunity school,

match them with an education service provider, and work with both parties to ensure the execution of a viable curricular model and educational program.

(d) Upon renewing a state charter, an OSD charter school shall no longer be considered a part of the OSD but shall be subject to the terms of its charter and the provisions of Article 31A of Chapter 2 of this title. The local board of education shall be required to continue any and all facility use and service provision agreements previously in place with the OSD regarding any such OSD charter school as long as the OSD charter school continues to operate in that facility.

(e) If an opportunity school is not approved or renewed by the State Charter Schools Commission as an OSD charter school, the school shall remain under or return to the supervision of the OSD, and the OSD Superintendent shall reevaluate the school's performance and determine the appropriate intervention pursuant to subsection (a) of Code Section 20-14-105 for the school. If an initial charter petition by an opportunity school to become an OSD charter school is denied by the State Charter Schools Commission, the opportunity school may submit another charter petition in a subsequent cycle. If a renewal charter petition by an opportunity school to continue as an OSD charter school is denied by the State Charter Schools Commission at the end of its initial term, the governing board of the school may not elect to seek approval from the local board of education as a local charter school.

20-14-108.

(a) Facilities of qualifying schools that are transferred to the supervision of the OSD as opportunity schools shall come under the control of the OSD. The OSD Superintendent may assign the facility for use by an OSD charter school governing board to operate the opportunity school. The OSD or the OSD charter school governing board shall be responsible for paying the pro-rata bond indebtedness of the school. The contents of the facility, including but not limited to textbooks, technology, media resources, instructional equipment, and all other resources shall remain with the facility and be available for use by the opportunity school. In the event that the OSD Superintendent closes a qualifying school, the local board of education shall not use the facility to open a school with the same grade span or attendance zone that is substantially the same for three years.

(b) The OSD or OSD charter school governing board shall be responsible for the routine maintenance and repair of the facilities and property, such that they are maintained in the same manner prior to the school's transition to the OSD. The OSD or OSD charter school governing board shall be responsible for reasonable costs for all utilities at an opportunity school as provided in subsection (d) of Code Section 20-14-105.



(c) The local board of education shall continue to be responsible for extensive repairs, as determined by the State Properties Commission, to buildings or facilities considered capital expenses. Any fixtures, improvements, or tangible assets added to a school building or facility by the OSD while the school is an opportunity school shall remain with the school building or facility upon its return to the control of the local board of education pursuant to Code Section 20-14-109.

20-14-109.

(a) An opportunity school shall remain under the supervision of the OSD for a minimum of five consecutive years or, for an OSD charter school, for the term of the initial charter for such school; provided, however, that if an opportunity school earns, for three consecutive years, a rating above an F pursuant to Code Section 20-14-104, it shall be removed from the OSD. If an opportunity school that becomes an OSD charter school that subsequently earns a rating above an F for three consecutive years, it shall no longer be subject to the oversight of the OSD but shall remain under the authority of the State Charter Schools Commission and shall operate according to the terms of its charter.

(b) An opportunity school shall remain under the supervision of the OSD for no more than ten years. Renewal of a charter for an opportunity school shall result in the exit of the school from the OSD. For other opportunity schools, the OSD Superintendent shall engage the school, the school community, and the school's local board of education in a negotiation to determine the best transition plan for the school to leave the supervision of the OSD.

(c) An opportunity school that becomes an OSD charter school shall work with the State Charter Schools Commission to renew and continue an effective charter or, if ineffective as a charter school, shall return to the governance of the OSD. If a successful OSD charter school does not wish to remain under the authorization of the State Charter Schools Commission for a subsequent charter term after demonstrating effective performance, the State Charter Schools Commission and the OSD shall coordinate the development of a transition plan back to the governance of the local board of education, which may include, but is not limited to, approval by the local board of education as a local charter school.

20-14-110.

(a) The OSD shall be treated as a single local education agency; provided, however, that opportunity schools that are OSD charter schools shall be treated individually as single local education agencies in accordance with Code Section 20-2-2090. The State Charter Schools Commission shall annually provide an analysis of the performance of opportunity schools that are OSD charter schools. The commission shall work with the OSD

Superintendent to determine additional assistance that may be needed to improve the performance of the school.

(b) The OSD shall be responsible for data reporting for all opportunity schools under the intervention model in paragraph (1) of subsection (a) of Code Section 20-14-105. The local board of education shall be responsible for data reporting for all opportunity schools under the intervention model in paragraph (2) of subsection (a) of Code Section 20-14-105. OSD charter schools shall be subject to data reporting in accordance with Code Section 20-2-2090. For all opportunity schools, the entity responsible for data reporting shall comply with the requirements of Code Section 20-2-740.

20-14-111.

(a) Funding for an opportunity school shall be an amount equal to the sum of:

(1) QBE formula earnings, QBE grants, and federal grants earned by the school based on the school's enrollment, school profile, and student characteristics. QBE formula earnings shall include the salary portion of direct instructional costs, the adjustment for training and experience, the nonsalary portion of direct instructional costs, earnings for psychologists and school social workers, school administration, facility maintenance and operation, media centers, additional days of instruction in accordance with Code Section 20-2-184.1, and staff development and shall include the portion of funds that are calculated as the local five mill share pursuant to Code Section 20-2-164;

(2) A proportional share of state categorical grants, non-QBE state grants, state equalization grants, and all other state and federal grants; and

(3) An amount determined by OSD for each student enrolled in such school equal to a proportional share of local revenue from the local school system in which the school is located.

(b) The OSD may withhold up to 3 percent of the amount determined pursuant to subsection (a) of this Code section for each opportunity school for use in administering the duties required pursuant to this article; provided, however, that any amount withheld pursuant to this subsection shall be spent solely on expenses incurred by the OSD in performing the duties required by this article. For opportunity schools that are OSD charter schools, the 3 percent withheld shall be shared equally between the OSD and the State Charter Schools Commission for the initial term of the charter.

(c) The total allotment of state and federal funds to the local school system in which an opportunity school is located shall be calculated as otherwise provided in Article 6 of Chapter 2 of this title with an ensuing reduction equivalent to the amount of funds appropriated to the opportunity schools pursuant to paragraph (3) of subsection (a) of this Code section.

(d) Opportunity schools that become OSD charter schools and subsequently exit the OSD shall continue to be eligible for the same level of funding provided for in this Code section that they were eligible for while under the authority of the OSD.

(e) The General Assembly may appropriate additional funds to be allocated among the opportunity schools within the OSD at the discretion of the OSD Superintendent for necessary and innovative purposes. In addition, private funds may be solicited and accepted by the OSD to support opportunity schools.

20-14-112.

(a) The State Board of Education is authorized to waive specifically identified State Board of Education rules, regulations, policies, and procedures, or provisions of Chapter 2 of this title for schools on warning, schools on probation, and qualifying schools not selected as opportunity schools. The goal for each waiver shall be improvement of student performance. Notwithstanding subsection (g) of Code Section 20-2-244, the State Board of Education is authorized to waive the provisions referenced in paragraphs (1) through (4) of subsection (g) of Code Section 20-2-244 for schools on warning, schools on probation, and qualifying schools not selected as opportunity schools and is also authorized to waive any other state board rule, regulation, policy, procedure, or provision of Chapter 2 of this title for such schools pursuant to Code Section 20-2-244. Any waivers granted pursuant to this subsection may be renewable annually based on student performance. The State Board of Education shall coordinate with the OSD Superintendent in determining appropriate waivers for a qualifying school that was not selected as an opportunity school to enable school improvement services and technical assistance by the department pursuant to subsection (b) of this Code section. The State Board of Education shall communicate to the OSD Superintendent any waivers granted to a school on warning or a school on probation. Any waivers granted pursuant to this subsection shall not preclude the school from being selected in subsequent years for inclusion in the OSD.

(b) The Department of Education shall provide school improvement services and technical assistance to schools on warning, schools on probation, and qualifying schools not selected for intervention by the OSD Superintendent pursuant to this article which may include, but is not limited to, appointing a Department of Education school improvement team to:

- (1) Conduct a comprehensive on-site evaluation of the school to determine the cause for the school's low performance and lack of progress that includes presentations by the chairperson of the local board of education, the school principal, a parent member of the local school council, and other school personnel;
- (2) Recommend actions, including reallocation of resources and technical assistance, changes in school procedures or operations, professional learning focused on student

achievement for instructional and administrative staff, intervention for individual administrators or teachers, instructional strategies based on scientifically based research, waivers from state statutes or rules, adoption of policies and practices to ensure all groups of students meet the state's proficiency level, extended instruction time for low-performing students, strategies for parental involvement, incorporation of a teacher mentoring program, smaller class size for low-performing students, or other actions the team considers appropriate;

(3) Assist in the development of an intensive school improvement plan focused on student achievement; and

(4) Monitor the progress of the school in implementing the intensive school improvement plan focused on student achievement.

20-14-113.

This article shall be applicable beginning with school year 2017-2018."

## **SECTION 2.**

Said chapter is further amended by repealing Code Section 20-14-41, relating to appropriate levels of intervention for failing schools, master or management team, school improvement team, annual reports, data revision, and hearings.

## **SECTION 3.**

Code Section 20-2-84 of the Official Code of Georgia Annotated, relating to the accountability, flexibility, and consequences components of contracts, is amended by revising paragraph (1) of subsection (c) as follows:

"(1) Interventions or sanctions for failure to meet identified levels of achievement or for not showing specified levels of progress; and"

## **SECTION 4.**

Code Section 20-2-186 of the Official Code of Georgia Annotated, relating to the allocation of funds for local systems to pay beginning salaries of superintendents, secretaries, accountants, nurses, and certain other personnel, is amended by revising subsection (c) as follows:

"(c) Notwithstanding any provision of this Code section to the contrary, no local system shall earn funds under this Code section, except for funds for nurses, accountants, visiting teachers, school psychologists, and secretaries, if the local board of education has not implemented in a failing school within the system the interventions, that are prescribed by the State Board of Education or the office pursuant to their respective authority."

**SECTION 5.**

Code Section 20-2-2068 of the Official Code of Georgia Annotated, relating to termination of a charter for a charter school, is amended by revising subparagraph (a)(2)(A) as follows:

"(A) A failure to comply with any recommendation or direction of the state board with respect to any intervention prescribed by the state board pursuant to the charter;"

**SECTION 6.**

(a) This Act shall become effective on January 1, 2017, only if an amendment to the Constitution is ratified at the November, 2016, general election expressly allowing the General Assembly to authorize the establishment of an Opportunity School District to provide for state intervention for failing schools.

(b) If such an amendment to the Constitution is not so ratified, then this Act shall not become effective and shall stand repealed by operation of law on January 1, 2017.

**SECTION 7.**

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