

1 SB170  
2 204312-4  
3 By Senators Figures, Smitherman, Singleton, Coleman-Madison,  
4 Marsh, Scofield, Gudger, Allen, Livingston, Reed and Jones  
5 RFD: Education Policy  
6 First Read: 02-FEB-21

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 To create the Building Exceptional School Board  
12 Teams (BEST) Act; to provide further for boardsmanship  
13 standards, training, and discipline of elected and appointed  
14 members of local boards of education; to amend Sections 16-8-1  
15 and 16-11-2, Code of Alabama 1975, relating to the composition  
16 of city and county boards of education; and to repeal Section  
17 16-1-41.1, Code of Alabama 1975, relating to the School Board  
18 Governance Improvement Act of 2012.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Sections 1 to 8, inclusive, shall be  
21 known and may be cited as the Building Exceptional School  
22 Board Teams (BEST) Act.

23 Section 2. For the purposes of Sections 1 to 8,  
24 inclusive, the following terms shall have the following  
25 meanings:

26 (1) BOARD MEMBER. A member of a local board of  
27 education.

1 (2) BOARDSMANSHIP. The effective discharge of duties  
2 as a member of a local board of education in keeping with the  
3 highest standards of stewardship and principles of public  
4 service as provided in Sections 1 to 8, inclusive.

5 (3) CENSURE. A public statement of disapproval for  
6 conduct which violates Sections 1 to 8, inclusive, or other  
7 applicable law, regulation, or policy.

8 (4) LOCAL BOARD OF EDUCATION. A city or county board  
9 of education whether elected or appointed. The term does not  
10 include special boards or charter school boards.

11 (5) NEGLECT OF DUTY. A failure to do what is  
12 required by law, regulation, or policy.

13 (6) PEER REVIEW PANEL. A panel of board members  
14 convened by the State Superintendent of Education to review  
15 matters arising under Sections 1 to 8, inclusive.

16 (7) REGULAR MEETING. A regularly scheduled meeting  
17 held by a local board of education. The term does not include  
18 a special called meeting, work session, disciplinary hearing,  
19 or other gathering held by a local board of education.

20 (8) SANCTION. A penalty imposed beyond a censure.

21 (9) SCHOLASTIC YEAR. The period beginning with the  
22 first day of July and ending with the last day of June each  
23 year.

24 (10) WILLFUL MISCONDUCT. An intentional act or  
25 omission in violation of law, regulation, policy, or generally  
26 accepted rule of conduct. The term generally refers to  
27 multiple instances of inappropriate behavior, but a single

1 incident may be sufficient to establish willful misconduct if  
2 the behavior is severe.

3 Section 3. (a) In conjunction with and as a  
4 precondition to the installation of any elected or appointed  
5 board member, and in addition to all other requirements  
6 imposed by law, prospective board members shall be required  
7 for each term of office to affirm publicly and in writing all  
8 of the following principles of educational governance:

9 (1) That each decision, action, and vote taken or  
10 made as a board member shall be based solely on the needs and  
11 interests of students or the system.

12 (2) That no decision, action, or vote shall be taken  
13 or made to serve or promote the personal, political, or  
14 pecuniary interests of the member.

15 (3) That each decision, action, and vote shall be  
16 based on the interests of the school system as a whole.

17 (4) That the views of all board members and of the  
18 local superintendent of education shall be considered before  
19 making a decision or taking an action on any measure or  
20 proposal before the local board of education.

21 (5) That, except to the extent otherwise provided by  
22 law, each board member shall take formal action upon the  
23 written recommendation of and in consultation with the local  
24 superintendent of education, and may not individually or  
25 jointly attempt to direct or corrupt the operations of the  
26 school system in a manner that is inconsistent with the

1 discharge of the statutory functions and responsibilities of  
2 the local superintendent of education.

3 (6) That each board member shall actively promote  
4 public support for the school system and a sound statewide  
5 system of public education, and shall endorse ideas,  
6 initiatives, and programs that are designed to improve the  
7 quality of public education for all students.

8 (7) That each board member shall attend scheduled  
9 meetings and actively participate in school system functions,  
10 activities, and training programs that promote quality  
11 boardsmanship unless good cause is shown.

12 (b) In addition to those duties specifically  
13 provided by law, a local board of education shall do all of  
14 the following:

15 (1) In concert with the local superintendent of  
16 education, establish a vision for the school system by  
17 adopting goals that address student needs, advance student  
18 performance, and monitor implementation of policies and  
19 programs by reviewing data.

20 (2) Adopt written policies and programs, upon the  
21 recommendation of the local superintendent of education, to  
22 further the educational goals of the system and respond to  
23 system needs.

24 (3) Act on personnel recommendations submitted by  
25 the local superintendent of education in a timely manner,  
26 based on student needs and system finances, without regard to  
27 personal preferences or political interests.

1           (4) In concert with the local superintendent of  
2 education, consider and approve operating budgets for the  
3 system aligned with the goals and objectives of the local  
4 board of education.

5           (5) Advocate for the needs, resources, and interests  
6 of public school students and refer stakeholders and  
7 constituents to the local superintendent of education so that  
8 these issues may be addressed by school system personnel.

9           (6) Maintain the confidentiality imposed by law,  
10 regulation, or policy including, but not limited to, matters  
11 that are subject to attorney client privilege, matters  
12 discussed in executive session pursuant to the Alabama Open  
13 Meetings Act, matters related to student records and  
14 information protected by the Federal Educational Rights and  
15 Privacy Act, and other documents and information protected by  
16 public disclosure laws.

17           (7) These duties should not be construed to limit or  
18 change the duties of a local board of education as found in  
19 the Code of Alabama 1975.

20           (c) The State Board of Education shall adopt a model  
21 code of conduct for members of local boards of education and  
22 each local board of education shall adopt a code of conduct  
23 that includes, at a minimum, the model code of conduct adopted  
24 by the State Board of Education. The State Superintendent of  
25 Education shall develop and issue regulations to implement the  
26 requirements of Sections 1 to 8, inclusive, including any  
27 regulations deemed necessary and appropriate to ensure that

1 procedures to be followed in connection with the imposition of  
2 sanctions authorized under Sections 1 to 8, inclusive, conform  
3 to applicable legal standards.

4 (d) In order to further the implementation of sound  
5 principles of boardsmanship within and among the local boards  
6 of education in the state, the State Superintendent of  
7 Education shall develop continuing education and training  
8 programs for board members to enhance the understanding of the  
9 role of each board member in assuring the effective provision  
10 of educational services. The programs shall be developed in  
11 cooperation with the Alabama Association of School Boards  
12 pursuant to Section 16-1-6, Code of Alabama 1975.

13 (e) This section is cumulative and in addition to  
14 any other provision of law governing the training,  
15 performance, and accountability of local boards of education  
16 and board members in the state.

17 Section 4. (a) A board member who fails to satisfy  
18 the standards of boardsmanship as provided in Sections 1 to 8,  
19 inclusive, or other law, under circumstances that constitute  
20 neglect of duty or willful misconduct, may be subject to the  
21 following disciplinary actions:

22 (1) Censure.

23 (2) Sanction.

24 (3) Removal from the local board of education.

25 (b) A local board of education may censure or  
26 sanction its own board members consistent with the procedures  
27 in Sections 1 to 8, inclusive. The local board of education

1 may also request the State Superintendent of Education to take  
2 additional disciplinary action.

3 (c) Before disciplinary action by the State  
4 Superintendent of Education may be requested by a board  
5 member, one or more board members shall first initiate, or  
6 attempt to initiate, disciplinary proceedings before the local  
7 board of education. The State Superintendent of Education may  
8 unilaterally initiate disciplinary action under this section  
9 consistent with procedures provided in Sections 1 to 8,  
10 inclusive. The State Superintendent of Education may adopt  
11 guidelines, procedures, and forms to implement this section.

12 Section 5. (a) (1) To ensure the effectiveness of  
13 regular meetings and the adequate representation of residents,  
14 each board member shall be present to conduct the business of  
15 the local board of education. A board member should make every  
16 reasonable effort to attend regular meetings.

17 (2) If a board member is absent for three  
18 consecutive regular meetings or more than six regular meetings  
19 during a scholastic year, excluding absences caused by  
20 military service, the local board of education, or its  
21 designee, shall give notice to the State Superintendent of  
22 Education. If the reason for the absences is known, that  
23 information should be provided to the State Superintendent of  
24 Education.

25 (3) Upon receipt of notice of excessive absences,  
26 the State Superintendent of Education may appoint a peer  
27 review panel to determine whether further review is warranted.

1           (b) (1) Pursuant to Sections 16-8-1 and 16-11-2, Code  
2 of Alabama 1975, a board member shall be a resident of the  
3 district he or she represents.

4           (2) The State Superintendent of Education may  
5 appoint a peer review panel to consider residency challenges  
6 and make recommendations to the State Superintendent Education  
7 to declare the seat vacant.

8           (3) Residency challenges may be submitted to the  
9 State Superintendent of Education by the local board of  
10 education, a board member, or an adult resident living within  
11 the geographical boundaries of the local board of education.  
12 Challenges shall be accompanied by a refundable surety bond in  
13 the amount of two hundred fifty dollars (\$250). Any individual  
14 filing a challenge shall provide a factual basis for the  
15 challenge, and any supporting evidence, if available.

16           (4) This subsection shall not impair the ability of  
17 the Attorney General, a local district attorney, or a citizen  
18 to file a quo warranto action in the local circuit court.

19           (c) (1) The State Superintendent of Education may set  
20 annual training requirements for board members. The State  
21 Superintendent of Education may grant waivers of the annual  
22 training requirements to individual board members upon request  
23 based on hardship or other valid reason.

24           (2) If a board member fails to comply with training  
25 requirements, the local board of education shall withhold any  
26 compensation paid to that board member until the training  
27 requirement is satisfied or a waiver is granted. The

1 withholding shall become effective September 1 following the  
2 training year ending June 30. Compensation shall be released  
3 in full once the training requirement is satisfied or a waiver  
4 is granted. Compensation shall be forfeited if the board  
5 member is out of compliance at the end of his or her term or  
6 service on the local board of education.

7 (3) The State Superintendent of Education shall  
8 report any board member who has failed to complete the  
9 training requirements to the State Board of Education at the  
10 September State Board of Education meeting following the  
11 training year ending June 30. The names shall be posted on the  
12 website of the State Department of Education. Once the member  
13 is in compliance or a waiver has been granted, the website  
14 shall be updated to reflect that status.

15 (4) The State Superintendent of Education may  
16 appoint a peer review panel to consider whether additional  
17 discipline is warranted.

18 (d) Within three business days, a board member shall  
19 report conviction of a misdemeanor offense, excluding minor  
20 traffic offenses, to the State Superintendent of Education.  
21 The State Superintendent of Education may convene a peer  
22 review panel to determine if further action is necessary.  
23 Failure to notify the State Superintendent of Education of a  
24 conviction does not preclude the State Superintendent of  
25 Education from convening a peer review panel.

26 Section 6. (a) When one or more board members  
27 believe action is warranted for a suspected violation of

1 Sections 1 to 8, inclusive, a board member shall make a motion  
2 to initiate proceedings in an open meeting. The motion shall  
3 be supported by a written summary of the factual basis for  
4 making the motion and the law, regulation, policy,  
5 affirmation, duty, or code of conduct provision allegedly  
6 violated. A majority of the membership of the local board of  
7 education shall vote to begin proceedings.

8 (b) Written notice of the proposed action shall be  
9 provided to the board member by the local superintendent of  
10 education in his or her role as secretary of the local board  
11 of education. The notice shall include a written summary of  
12 the factual basis for making the motion and the law,  
13 regulation, policy, affirmation, duty, or code of conduct  
14 provision allegedly violated. The board member shall have 14  
15 calendar days to request a hearing, submit a written response,  
16 or accept the proposed action of the local board of education.

17 (c) If the board member requests a hearing, the  
18 hearing shall be scheduled no sooner than 30 calendar days  
19 from the date of the request. If the board member submits a  
20 written response, accepts the proposed action, or fails to  
21 timely respond, the local board of education may vote on the  
22 proposed action at the next regular meeting. Any hearing  
23 convened under this subsection shall be public and any  
24 evidence submitted shall be subject to public disclosure,  
25 unless deemed confidential by any other law.

26 (d) The local board of education may vote to take no  
27 action or censure, sanction, or refer the board member to the

1 State Superintendent of Education for further action. Any vote  
2 shall be by a majority of the membership of the local board of  
3 education.

4 Section 7. (a) (1) Each State Board of Education  
5 member shall appoint a board member from his or her state  
6 board district to serve in the pool of peer review panel  
7 members. Each appointed peer review panel member shall serve a  
8 term in the pool that corresponds with the term of office of  
9 the appointing State Board of Education member. To be eligible  
10 for appointment as a peer review panel member, a board member  
11 shall have served at least one full term on a local board of  
12 education. If a peer review panel member resigns from the pool  
13 or ceases to be a member of a local board of education, the  
14 State Board of Education member from that district shall  
15 appoint a replacement peer review panel member to serve for  
16 the remainder of the unexpired term.

17 (2) The State Superintendent of Education may  
18 convene a peer review panel to consider violations arising  
19 under Sections 1 to 8, inclusive.

20 (3) To convene a peer review panel, the State  
21 Superintendent of Education shall randomly select three peer  
22 review panel members from the pool, excluding the peer review  
23 panel member who resides in the same State Board of Education  
24 district as the subject board member, to consider the matter.  
25 A peer review panel member who has a conflict of interest or  
26 other legitimate reason to decline serving on a particular  
27 matter shall submit a request the State Superintendent to be

1 excused. Upon granting the request, the State Superintendent  
2 of Education shall randomly select another peer review panel  
3 member to serve.

4 (4) The State Superintendent of Education may  
5 appoint an attorney experienced in education law to conduct  
6 any necessary investigation and to present evidence and  
7 information to the peer review panel.

8 (5) The peer review panel shall provide a board  
9 member with the opportunity to offer a defense.

10 (6) Hearings before a peer review panel shall  
11 provide minimum due process consisting of notice of the  
12 allegations and an opportunity to request a hearing. Hearings  
13 before a peer review panel shall be considered confidential. A  
14 transcript or recording shall be prepared for any matter which  
15 results in a hearing before the peer review panel. Documents,  
16 evidence, and transcripts shall remain confidential until such  
17 time as the matter is disposed of by the State Superintendent  
18 of Education or State Board of Education.

19 (7) Peer review panel members may meet  
20 electronically to consider any matter.

21 (8) Following review, a peer review panel shall  
22 recommend any action to the State Superintendent.

23 (9) No peer review panel member shall be paid for  
24 his or her service, but shall be reimbursed for actual mileage  
25 and other reasonable expenses.

26 (b) (1) Upon the referral of a written complaint by a  
27 majority vote of the local board of education, or when, in the

1 judgment of the State Superintendent of Education, sufficient  
2 cause exists to do so, and subject to the conditions  
3 hereinafter specified, the State Superintendent of Education  
4 may investigate serious and substantial allegations of neglect  
5 of duty, willful misconduct, or other conduct which violates  
6 Sections 1 to 8, inclusive, or other law on the part of a  
7 board member or board members of a local board of education.

8 (2) The State Superintendent of Education may  
9 unilaterally refer matters to a peer review panel to determine  
10 if action is warranted. The State Superintendent of Education  
11 shall provide written notice to the board member which shall  
12 include a statement of the facts alleged and the law,  
13 regulation, policy, affirmation, duty, or code of conduct  
14 provision allegedly violated. The board member shall have 14  
15 calendar days to request a hearing, submit a written response,  
16 or accept the proposed action of the State Superintendent of  
17 Education. If the board member requests a hearing, the hearing  
18 shall be scheduled no sooner than 30 calendar days after the  
19 date of the request is received. If the board member submits a  
20 written response, accepts the proposed action, or fails to  
21 timely respond, the peer review panel may vote on the proposed  
22 action.

23 (3) The peer review panel may vote to take no action  
24 or to censure, sanction, or recommend to the State Board of  
25 Education that the board member be removed from the local  
26 board of education. Any vote shall be by a majority of the  
27 peer review panel. A transcript or recording shall be prepared

1 for any matter which results in a hearing before a peer review  
2 panel. Documents, evidence, and transcripts or recordings  
3 shall remain confidential until such time as the matter is  
4 disposed of by the State Board of Education. Once a matter is  
5 disposed of, any testimony or evidence shall be subject to  
6 public disclosure, unless the testimony or evidence is deemed  
7 confidential by another law or regulation.

8 (4) The State Superintendent of Education shall  
9 present the recommendation of the peer review panel to the  
10 State Board of Education. The State Board of Education may  
11 approve any of the recommended penalties of the panel, amend  
12 the recommendation to a lesser penalty, or order the matter  
13 closed with no further action. Potential recommended penalties  
14 may include any of the following:

15 a. A formal censure or sanction of the board member  
16 including, but not limited to, withholding any compensation.

17 b. Removal of the board member from the local board  
18 of education for failing to satisfy mandated residency  
19 requirements.

20 c. Removal of the board member from the local board  
21 of education for failing to satisfy mandated training and  
22 attendance requirements.

23 d. Removal of the board member from the local board  
24 of education for conduct found to constitute neglect of duty  
25 or willful misconduct.

26 Section 8. (a) (1) Nothing in this subsection shall  
27 preclude a negotiated resolution of any action that may be

1 proposed or initiated by the State Superintendent of Education  
2 under this section, provided that the resolution is suitably  
3 memorialized, executed, made a matter of public record, and is  
4 consistent with the purposes of this section.

5 (2) No action shall be imposed under this section on  
6 the basis of the exercise of personal, political, or other  
7 rights of a board member that are protected by the United  
8 States Constitution or by any state or federal law.

9 (3) No sanction, other than as may be imposed by  
10 written agreement with the board member, shall be effective  
11 until it is approved by majority vote of the State Board of  
12 Education.

13 (4) This subsection shall not impair the ability of  
14 the Attorney General, local district attorney, or a citizen to  
15 file an impeachment action pursuant to Section 36-11-1, Code  
16 of Alabama 1975, or other action allowed by law.

17 (b) A board member subject to action under Sections  
18 1 to 8, inclusive, may retain counsel at his or her own  
19 expense. A local board of education is not liable or  
20 responsible for paying any legal fees accrued by a board  
21 member to defend proceedings initiated under Sections 1 to 8,  
22 inclusive.

23 Section 9. Sections 16-8-1 and 16-11-2 of the Code  
24 of Alabama 1975, are amended to read as follows:

25 "§16-8-1.

1           "(a) The county board of education shall be composed  
2 of five members, who shall be elected by the qualified  
3 electors of the county.

4           "(b) County boards of education unless otherwise  
5 provided by law may use the provisions of this subsection to  
6 establish single member election districts with one board  
7 member elected from each district. School boards exercising  
8 this option may establish five or seven such districts. Such  
9 plan shall be considered only after two weeks public notice  
10 has been given, outlining generally the school districts under  
11 consideration. The members so elected, or appointed in the  
12 event of a vacancy, shall be residents of the school district.  
13 Such residency shall have been established at least one year  
14 before the general election at which the candidate is to be  
15 elected, or appointed in the event of a vacancy. Whenever a  
16 member of a county board of education moves his or her  
17 domicile from the district he or she represents, he or she  
18 shall cease to be a member of the county board of education,  
19 and a vacancy shall occur. The member shall provide notice of  
20 the move to the secretary of the local board of education  
21 before the commencement of business at the first meeting of  
22 the local board of education following the move. The  
23 boundaries of such single member districts shall be determined  
24 by a majority vote of the county board of education. The  
25 county board of education shall apportion the districts  
26 according to the last federal decennial census for the county  
27 utilizing the principle of equal representation. Thereafter,

1 each county board of education choosing to implement single  
2 member election districts shall reapportion those districts  
3 within six months following the publication of the results of  
4 each federal decennial census.

5 "(c) No person shall be eligible for election or  
6 appointment as a member of a county board of education unless  
7 he or she satisfies all of the following qualifications:

8 "(1) Is a person of good moral character.

9 "(2) Has obtained a high school diploma or its  
10 equivalent.

11 "(3) Is not employed by that county board of  
12 education, unless serving as a member of the county board of  
13 education on April 20, 2012.

14 "(4) Is not serving on the governing board of a  
15 private elementary or secondary educational institution.

16 "(5) Is not on the National Sex Offender Registry or  
17 the state sex offender registry.

18 "(6) Has not been convicted of a felony.

19 "(7) Has not been previously removed from a local  
20 board of education for conduct found to be neglect of duty or  
21 willful misconduct by the State Board of Education.

22 "§16-11-2.

23 "(a) ~~The provisions of this~~ This chapter shall apply  
24 to city boards of education unless otherwise provided by local  
25 law pursuant to Amendment 659 to the Constitution of Alabama  
26 of 1901, or any other provision of the Constitution of Alabama  
27 of 1901.

1           "(b) The general administration and supervision of  
2 the public schools and educational interest of each city shall  
3 be vested in a city board of education, to be composed of five  
4 members who shall be residents of the city, and who shall not  
5 be members of the city council or commission. In any Class 4  
6 municipality which has adopted a mayor-council form of  
7 government pursuant to Chapter 43B (commencing with Section  
8 11-43B-1) of Title 11, the city board of education may be  
9 composed of seven members.

10           "(c) No person shall be eligible for election or  
11 appointment as a member of a city board of education unless he  
12 or she satisfies all of the following qualifications:

13           "(1) Is a person of good moral character.

14           "(2) Has obtained a high school diploma or its  
15 equivalent.

16           "(3) Is not employed by that city board of  
17 education.

18           "(4) Is not serving on the governing board of a  
19 private elementary or secondary educational institution.

20           "(5) Is not on the National Sex Offender Registry or  
21 the state sex offender registry.

22           "(6) Has not been convicted of a felony.

23           "(7) Has not been previously removed from a local  
24 board of education for conduct found to be neglect of duty or  
25 willful misconduct by the State Board of Education.

26           "~~(d)~~ (d) In those cities where the members of the  
27 city board of education are elected or appointed to represent

1 a district, whenever a member of a city board of education  
2 moves his or her domicile from the district he or she  
3 represents, he or she shall cease to be a member of the city  
4 board of education, and a vacancy shall occur. The member  
5 shall provide notice of the move to the secretary of the city  
6 board of education before the beginning of business at the  
7 first meeting of the city board of education following the  
8 move.

9 ~~"(e)~~ (e) Any city or town which has had the general  
10 administration and supervision of the public schools and  
11 educational interests of the city or town vested in a city  
12 board of education for a period of 20 years or more prior to  
13 August 15, 1951, may, except as may be provided by law,  
14 continue to have general administration and supervision of the  
15 public schools and educational interest under a local board of  
16 education regardless of any past or future federal census."

17 Section 10. All laws or parts of laws which conflict  
18 with this act are repealed, and specifically, Section  
19 16-1-41.1, Code of Alabama 1975, the School Board Governance  
20 Improvement Act of 2012, is repealed.

21 Section 11. This act shall become effective January  
22 1, 2022, following its passage and approval by the Governor,  
23 or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate  
committee on Education Policy..... 02-FEB-21

Read for the second time and placed on the calen-  
dar..... 10-FEB-21

Read for the third time and passed as amended .... 25-FEB-21

Yeas 31  
Nays 0

Patrick Harris,  
Secretary.