

# *CLAS* School **Leader**

The Official Publication of CLAS  
Fall Issue 2020  
Volume 48, No. 4



  
*Navigating*  
**LEADERSHIP**  
IN THE **NEW** *Normal*





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Fall Issue 2020

# CLAS School Leader

## Mission Statement

The mission of the Council for Leaders in Alabama Schools is to coordinate and facilitate the resources of all members for the advancement of public education.

## Acknowledgments

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## About CLAS

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## Leading in the



"It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness,..." These words from Charles Dickens resonate through the ages and land on our ears in late 2020. As school leaders, we are tasked with issues great and small during the best and worst of times. You are doing this without a template or a net, and for the most part you are all doing a great job. No one knows what the second semester holds for us, but we do know that our leadership is critical for everyone to get through the best and worst of times.

One thing that we do know, is that while taking care of everyone else, remember to take care of yourself. Everyone is stretched thin; everyone is stressed, and everyone needs to be shown and to show compassion more than ever. One of our best speakers during the last two years has been Robert Hudson. He is an Alabamian and an educator, and he truly understands the importance of taking care of oneself so that others can be cared for properly.

Robert always shares lists on how to take care of yourself, and I want to highlight a few of his ideas, and I will sprinkle in a few of my own as well. See if you can tell which are his and which are mine. The list is not exhaustive, and actually, the list is neither his nor mine; however, I still believe you will be able to discern the difference between what Robert would share and what I would share.

 *Get enough sleep* usually 7-8 hours nightly

If you can't get enough sleep, get several pairs of dark glasses for the daytime.

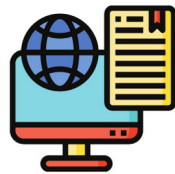
get at least 20 minutes at least 3 times weekly *Exercise*

If you can't get enough exercise, buy smaller shirts to make people think you are getting enough exercise.



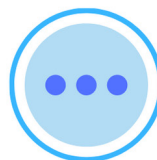
*Quiet Time* 

**BELIEVE IN YOURSELF**



*Believe everything you see on TV & the internet*

*Learn to say "NO"  more often*



*Learn that more is not necessarily better*



# Times!



Way overspend on purchases

Do something you enjoy every day



Smile as much as possible and laugh more

Slow down

You move too fast. You got to make the morning last.

*apologies to Simon and Garfunkel*



Express gratitude



Worry less

Listen more  
Talk less



These axioms can be beneficial to everyone who employs them on a regular basis. The key is intentionality and consistency. Go slow to go fast and before you know it, you will have a better outlook on your current situation, and you will be able to help others deal with their situation.

Thank you for all you do for those under your care! You are all ROCK STARS in my book!

Yours Truly,



## Vic Wilson, Ed.D.

*Vic Wilson is the Executive Director of the Council for Leaders in Alabama Schools. He joined the CLAS staff in July of 2017.*

*Vic has 27 years in public education as a teacher, assistant principal, principal, superintendent, and now as the executive director of CLAS.*

*Vic is married to Felecia Dailey Wilson, and they are the parents of Dailey (23), Emma (19), and Paul (16).*

*Aside from spending time with his family, Vic loves reading, sports, and the arts.*

@Othell

# CUE THE upgrade!

Have you logged in to your new member portal at [members.clasleaders.org](https://members.clasleaders.org)? If not:

- Click the Sign Up link at the bottom of the login box.
- Enter your email address and preferred password.
- You will receive an email to verify your account and will be able to access your CLAS account.
- Now you are ready to renew your membership and register for events!



# Do You Want to Retire but Still Remain Active in Education?

The Alabama Ethics Act prohibits any person who, prior to his or her retirement, held a position of authority with the board of education from accepting part-time or re-employment with the same board of education until two years have passed.<sup>1</sup>

<sup>1</sup> *Alabama Code Section 36-25-13(d)*

## QUESTION

Under this statute, may you retire from your Board of Education and then return, but still provide limited services to the same school district?

## ANSWER

This past year has seen three opinions from the Alabama Ethics Commission concerning the two-year “revolving door” statute.<sup>1</sup> The statute prohibits “any person who negotiates or approves grants, contracts, or awards” from employment with the same governmental agency from which they retired for two years. The test on whether the two year restriction applies is whether the employee held a position of authority. A person with a position of

<sup>1</sup> *Alabama Ethics Commission Advisory Opinions 2019-11, 2020-02, and 2020-03*

authority is someone who can: influence hiring or firing decisions of the board of education, such as someone who interviewed applicants or influenced a recommendation for the hiring of applicants, or someone who actually made those recommendations; or someone who had the ability to influence purchasing or contracting decisions, or; someone who had the authority to make decisions regarding or influencing the award of grants or “awards.”<sup>2</sup>

In Advisory Opinion 98-44, the Ethics Commission held that a retired speech-language pathologist could contract on a part-time basis with her former school system, recognizing that the retiree did not have authority to do any of the above when employed. The Ethics Commission also cited an example of a retired French teacher in a rural school system who might contract with the same school system because otherwise students in that school system would not be able to take French classes.

If you are a principal, Alabama law requires a principal to “make written advisory recommendations to the chief executive officer [the superintendent] regarding the appointment, assignment, promotion, transfer, and cancellation of contracts of all personnel assigned to any school or campus under

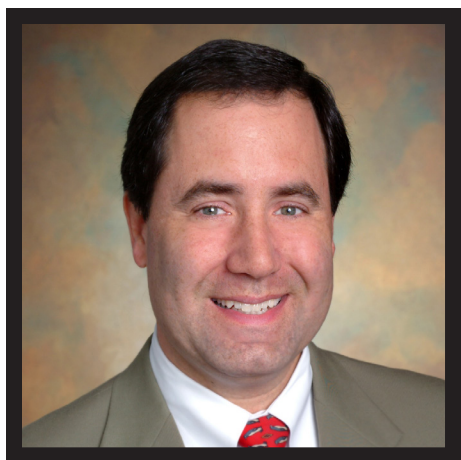
<sup>2</sup> *Alabama Ethics Commission Advisory Opinion 2017-10, page 3, interpreting Alabama Code Section 36-25-13(d).*





his or her responsibility.”<sup>3</sup> That means a principal has authority to influence hiring. An assistant principal might also be able to influence hiring. Under those circumstances, the principal (and perhaps the assistant principal) cannot substitute teach at his or her former school. Under Alabama Ethics Commission Advisory Opinion 2019-11, perhaps that principal (or assistant principal) could substitute teach at another school. The statute says that “any person who negotiates or approves contracts, grants, or *awards*” (italics added) must wait two years before returning to the same government agencies. The word “*awards*” seems to indicate something different from what we in education view as “awards.” Whereas we think of awards as recognizing academic or other educational achievement, not an award of money. Nevertheless, without clarification from the Legislature (or the Alabama Ethics Commission), a conservative interpretation of the statute could include that membership on an academic awards committee puts that person in a position of authority.<sup>4</sup>

The Alabama Legislature enacted a three month “carve out” on the two-year revolving door. For the first 90 days following retirement, the retiree may return to work for the same school district provided that the retiree has a contract where the retiree receives no more pay (when combined with retirement) than the retiree previously made *and* the contract is submitted and approved by the director of the Ethics Commission prior to the retiree beginning work.<sup>5</sup>



## Mark Boardman

*Mark Boardman is an attorney who represents governments and employees of state and local governments, including 123 boards of education. In addition, he also defends individuals before the Alabama Ethics Commission.*

*Boardman has served as a past president of the Alabama Council of School Board Attorneys. He also served two years as president of the Alabama Association of Municipal Attorneys.*

*Boardman is a frequent presenter for CLAS as well as other education entities.*

<sup>3</sup> *Alabama Code Section 16-24B-4(d)*

<sup>4</sup> *Alabama Code Section 36-25-13(d)*, first sentence.

<sup>5</sup> *Alabama Code Section 36-25-13(d)(1) through (4)*. However, retired law enforcement officers and firefighters are governed by different rules. *Alabama Code Section 36-25-13(e)*.

# CONCLUSION

Thus, the law is clear that a teacher can come back as a temporary substitute without violating the two-year revolving door. But if you are in a position of leadership in the school, your circumstances may be different. If you were in a position of authority, you cannot come back for two years, at least to the same school.





# Emerge 2021

RESHAPING EDUCATION



## 2021 CLAS CONVENTION



THOMAS C. MURRAY



SANEE BELL

Join us for the golden 50th celebration of the CLAS Summer Convention. This extraordinary three-day event features content to inspire and guide leaders in their quest to improve school and district performance. Expand your professional growth with strategies to take your career, school, and students to the next level. You will not want to miss Alabama's largest professional learning gathering for school and district administrators.



	PRE-REGISTRATION BY MAY 8	REGISTRATION BY JUNE 12	ON-SITE JUNE 13-16
<i>Members</i>	\$ 290	\$ 325	\$ 355
<i>Non-Members</i>	\$ 470	\$ 505	\$ 535

CONVENTION.CLASLEADERS.ORG





## Bouncing Back!

I think it is probably the biggest understatement ever to say 2020 has been a difficult year. This time last year, most people in America had never heard of COVID-19 and were oblivious to the total shift in American culture that was about to happen to all of us. We were looking forward to 2020, full of optimism and hoping the year of “clarity” like 20/20 vision, would be the best year ever.

It wasn’t long before we realized that 2020 would present us with obstacles like we have never faced as a nation. On Friday, March 13, 2020 we did what I never thought I would have to do as State Superintendent of Education, and we shut down schools. It was a trying, and frankly, scary time. But as has always been the case – we bounced back.

Of course, we are all still dealing with the fallout of COVID-19, but we are wiser, stronger, and more resilient than ever. As we begin to position ourselves for a world on the other side of the COVID-19 crisis, we must consider the impact this unprecedented disruption in educational services has caused; the immediate impact, as well as the repercussions that may not be evident for years to come.

Although parents, teachers, administrators, and others did more than anyone could have expected, in terms of providing alternative methods of delivering

instruction – nothing beats a quality teacher providing in-person, quality instruction. Despite our best attempts, many children have not received the same quality of education that they would have in a traditional school setting. In fact, we believe some actually received very little quality instruction. From broadband and internet challenges to some students just not showing up at all, there is reason to believe the next school year will be met with the challenge of getting students caught up to grade-level standards; especially in our early grades.

Of the students who did not show up, many of them were kindergarteners. Alabama’s compulsory education laws do not require students to attend kindergarten. While this is each guardian’s prerogative, we have to consider the possibility that some students will show up for school in the first grade who have not had the foundational lessons of kindergarten. We will need resources (human and financial resources) to begin to make up ground lost due to the COVID-19 crisis.

Also, the Alabama State Legislature typically funds schools based on enrollment figures or Average Daily Membership (ADM) established 20 days after Labor Day each year. Because enrollment is down due to the impact of COVID-19, if funding is established as it has been in years’ past, we run the risk of receiving less funding during a time when state education leader’s need the support the most. I will

## Dr. Eric Mackey

*Dr. Eric G. Mackey currently serves as the Alabama State Superintendent of Education. Prior positions include executive director of the School Superintendents of Alabama, superintendent of Jacksonville City Schools, principal, and assistant principal.*

*Throughout his career, Dr. Mackey has been an advocate for increased rigor and advanced high school courses as well as challenging elementary and middle school classes.*

*He and his wife, Robin, have three boys, John (22), Brandon (19), and Christopher (14).*

 [@egmackey](https://twitter.com/egmackey)

**Continued on page 32**





# Upcoming Professional Learning Opportunities

Information and registration is located at  
[www.clasleaders.org/PL/events](http://www.clasleaders.org/PL/events)

- JAN 13-14** **CLAS Leadership Institute**  
Be Real: Educate from the Heart  
Virtual
- JAN 20-21** **ALA-EL Winter Conference**  
Virtual
- JAN 23** **CLAS Aspiring Administrators Conference**  
Virtual
- JAN 25-26** **AASCD Winter Conference:**  
Virtual
- JAN 27-28** **CLAS Assistant Principals Conference:**  
Gulf Shores, AL & Virtual
- JAN 27-29** **AASPA Winter Conference:**  
Montgomery, AL & Virtual
- FEB 1-3** **SSA Legislative Conference:**  
Montgomery, AL
- FEB 3** **CLAS Lunch & Learn Webinar:**  
Lenses for Ethical Leadership
- FEB 4** **CLAS Culture Training Day 1 of 2:**  
Tuscaloosa, AL & Virtual
- FEB 9** **CLAS Leadership Institute**  
Staying out of Legal Hot Water: Practical Tips for  
Avoiding Special Education Legal Disputes  
Virtual
- FEB 17-18** **CLAS Assistant Principals Conference:**  
Florence, AL & Virtual
- FEB 18** **AASCD Curriculum & Instruction Bootcamp:**  
Virtual
- FEB 21-23** **ALA-CASE Spring Conference:**  
Birmingham, AL
- FEB 23** **CLAS Aspiring Administrators Conference**  
Virtual
- FEB 24-25** **CLAS Assistant Principals Conference:**  
Prattville, AL & Virtual
- MAR 2** **CLAS Lunch & Learn Webinar:**  
Tried and True ELL Practices
- MAR 3** **CLAS Law Conference:**  
Prattville, AL & Virtual
- MAR 3-5** **AAPASS Spring Conference:**  
Mobile, AL & Virtual
- MAR 4** **CLAS Culture Training Day 2 of 2:**  
Tuscaloosa, AL & Virtual



**MAR 10** **CLAS Leadership Institute**  
Help Me, Help You - The 3-Step Approach to Problem-Solving with Kids that Every Teacher Needs to Know (and Use)!  
Virtual

**MAR 11** **CLAS Leadership Institute**  
Help Me, Help You - The 3-Step Approach to Problem-Solving with Kids that Every Teacher Needs to Know (and Use)!  
Virtual

**APR 6** **CLAS Lunch & Learn Webinar:**  
Using Data to Inform Decisions

**APR 13-17** **ACTA Spring Conference**  
Orange Beach, AL

**APR 13** **CLAS Leadership Institute**  
Social Fatigue  
Mobile, AL

**APR 14** **CLAS Leadership Institute**  
Social Fatigue  
Prattville, AL

**APR 15** **CLAS Leadership Institute**  
Social Fatigue  
Hoover, AL

**MAY 6** **CLAS Lunch & Learn Webinar:**  
Updates from the SDE

**JUN 13-16** **CLAS Convention 2021:**  
Birmingham, AL

**JUN 20-23** **SSA Summer Conference 2021:**  
Point Clear, AL



**CLAS is closely monitoring the COVID-19 pandemic and will offer virtual/blended options, if needed.**



# Are you monitoring your PLU progress?

[www.clasleaders.org/PL](http://www.clasleaders.org/PL)

### Access:

- PLU Status
- Professional Learning Credits
- PLU Checklists
- Online PLU Programs
- Upcoming Events



# 2020-2021 CLAS Board of Directors



2020-2021  
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Superintendent,  
Cullman City Schools



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CLAS Past President



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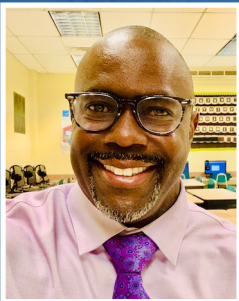
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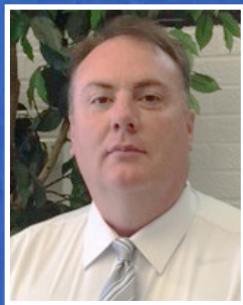
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SSA Director



Chuck Ledbetter, Jr.  
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Aaron Milner  
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Susan Patterson  
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NEW Interactive Floor!



## Virtual Learning Environments Professional Learning Program



Amplify Childhood Literacy!



Remember the Interactive Playground?

Ask About Our Flat Panel Special Pricing!

Albertville City Schools STEM Bus



Albertville City Schools Superintendent, Dr. Boyd English stated, " ..The ACS STEM Bus allows us to introduce students and the greater community to STEM education....Partnering with PowerUpEDU allowed us to complete our STEM Bus Project completely, in a quest to maximize the positive impact that STEM instruction has on our students. PowerUpEDU is more than a simple partner...PowerUpEDU has become a valuable part of the Aggie Family!"

Pictured l to r: Miranda Battles, AP Evans ES; Dr. Boyd English, ACS Superintendent; Robert Sims, Principal Evans ES; Maggie Phillips, PowerUpEDU; Dr. Cynthia McCarty, ALBOE District Rep.

Contact Alabama PowerUpEDU Education Consultant, Laura Russell  
205.203.8800 or [laura@powerupedu.com](mailto:laura@powerupedu.com)  
[www.PowerUpEDU.com](http://www.PowerUpEDU.com)





# Benefits You Can Bank On!



## Individual/Institutional Membership

**Cost: \$284**  
**Value: \$4,280**



## Aspiring Admin/Emeritus/ At Large Membership

**Cost: \$75**  
**Value: \$694**



### Professional Learning

- Discounts on CLAS Conferences
- CLAS Lunch & Learn Webinar Series
- Transcript Consultation



### Book Summaries

All CLAS members receive a complimentary subscription to The Main Idea - a monthly email of education-related book summaries.

**\$645**

**\$3586**

**\$49**

*\*Available to Individual/Institutional Members*

*Prices based on industry estimates. Emeritus members retain accumulated legal defense funds provided there is no lapse in membership.*

### Legal Services\*



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*\*Title II funds cannot be used to pay for legal defense (\$30)*



Your CLAS membership dues are a solid investment in your career, both now and in the future. With the substantial savings and benefits CLAS members receive, it's only a matter of time before you completely recoup your membership fee.

**Exclusive to Members**

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- Legislative Representation and Advocacy Efforts\*
- Opportunities for Involvement in Legislative Efforts
- Notification of Upcoming Events

*\*Legislative efforts are not funded through membership dues.*

**Invaluable**

**Join/Renew at [clasleaders.org/membership](http://clasleaders.org/membership)**





**Dr. Vic Wilson**

 **@othell**

## 2021 Legislative Insights

The last 9 months have brought uncertainty with scheduled events. Likewise, the next three months is trending in the same uncertain outlook. The 2021 Alabama Legislative Session is scheduled to begin in early February, and we feel certain that it will begin on time. However, we are not certain of what the session will hold for the legislators and the public.

When the 2020 session was forced into a hiatus, Speaker McCutcheon and Senator Marsh both worked hard to ensure that the important business, namely the budgets, could be completed. Alabama was very fortunate to have excellent budgets – under the circumstances – in the general and education trust funds. Many of our neighboring states were forced into large cuts in budgets due to uncertainty. However, due to excellent planning on the part of the legislators and everyone involved in the budget process, we were able to have a budget that allows us to function without too many cuts. Kudos to everyone involved.

Thankfully, the 2021 numbers are also looking promising; however, the end result remains to be seen, and sadly, could be negatively impacted by the ongoing pandemic. We continue to engage with other educational entities, the SDE, and the legislators on legislative issues and budget concerns, and we will do so until we have a signed budget by the governor in the Spring of 2021.

The CLAS board passed the 2021 Legislative Platform at the December board meeting. For the most part, the platform is the same as last year. We oppose bills that take from the ETF, and we support fully funding the foundation program so that schools can meet the needs of students. You can view the legislative platform beginning on the next page.

We added a very important point on budget concerns. CLAS is in favor of making necessary ADM adjustments to ‘hold harmless’ LEAs that may have lost students strictly due to COVID while adding flexibility to increase funds for the LEAs who saw an ADM increase. This position mirrors that of SSA. In fact, our platform is completed after SSA approves their platform so that our organizations can do everything possible to be on the same page relative to legislation and budget concerns.

A few key issues that were in line to be discussed in 2020 and could be forthcoming in the 2021 Regular Session of the Alabama Legislature are as follows:

- Teacher Bill of Rights
- School Discipline Bill
- Modification of Tier II/Creation of Tier III
- COVID Immunity
- Mental Health Services Coordinator
- School Board Governance Bill
- Open Records

Also, we expect some legislation to address broadband/connectivity for all areas of the state. The list is certainly not exhaustive, and more bills will be dropped before and during the session. As those arise, we will keep you updated on the session and the CLAS position for each bill.

As we get closer to the session and gain more insight on the process, we will be planning our events and CLAS Hill Days. Keep in mind, these might be CLAS ZOOM Hill Days.





2021

**CLAS**  
SM

[www.clasleaders.org](http://www.clasleaders.org)

# LEGISLATIVE PLATFORM



**Vic Wilson, Ed.D.**  
Executive Director  
[vic@clasleaders.org](mailto:vic@clasleaders.org)

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# POLICY POSITIONS - Teaching and Learning



## CURRENT UNITS

CLAS **supports** state funding for the actual costs of salary and benefits for current units for school systems experiencing a high growth rate after the average daily membership (ADM) reporting period.



## CERTIFICATION

CLAS **supports** clearer and simpler processes for certifying educators as well as alternative approaches that supplement the instructional program and address educator shortage.



## LOCAL CONTROL

CLAS **supports** flexibility in budgeting and funding and believes that decisions concerning public schools are best made at the local level where schools are accountable to parents and the community.



## FOUNDATION PROGRAM

CLAS **supports** fully funding The Foundation Program as a priority before funding or creating additional programs.



## EDUCATION ADVANCEMENT AND TECHNOLOGY FUND

CLAS **supports** the distribution of any unappropriated revenue in this fund as a block grant, based on ADM, to local school systems for expenditures identified in the law: repairs or deferred maintenance of facilities; classroom instructional support; transportation; school security measures; and, the acquisition of educational technology and equipment.



## ENROLLMENT

CLAS **supports** legislation that aligns the age of attendance for city and county school systems to serve every child between the ages of 6 and 17.



## TAX EXEMPTIONS/ CREDITS

CLAS **opposes** new tax exemptions or tax credits in the Education Trust Fund (ETF) and **supports** the review and repeal of existing exemptions that are harmful to the State budgets.



## OPEN ENROLLMENT/ DISTRICT TRANSFERS

CLAS **opposes** any legislation that removes control of inter- or intra-district transfer policies from the local board of education.



## PRESCHOOL

CLAS **supports** equitable preschool learning opportunities for all preschoolers including those students with special needs; a common definition between the SDE and OSR for certification for Pre-K teachers; and 100% funding of teacher salary and benefits as a “first priority use” of pre-K grant funds.



## RECRUITMENT/ RETENTION

CLAS **supports** improving the state’s system for recruiting highly motivated, committed adults into the education profession by providing a competitive salary, working conditions, benefits and retirement as incentives to enter the education field.



## GOVERNANCE

CLAS believes that the school board’s primary role is the establishment of policies and to delegate to the superintendent responsibility for all administrative functions. CLAS **supports** legislation that affirms these two principles and further affirms that the hiring of school personnel is an administrative function. In addition, board member behavior should be clearly defined.



## SCHOOL ACCOUNTABILITY AND REPORTING

CLAS **supports** a school accountability program that is a multi-metric, research-based approach to determine what it means to be college ready, career ready, and life ready. We are committed to meeting the needs of a diverse student population by looking beyond a narrow focus on assessment results.



## STANDARDS

CLAS **supports** appropriate, rigorous and competitive standards for all students.



## TIER 3

CLAS **supports** revisiting the Tier 2 classification to better recruit and retain teachers, administrators, career coaches, career tech instructors, reading specialists, school nurses, mental health and guidance counselors, bus drivers, mechanics, custodians, child nutrition employees, school secretaries, and others who are a part of the education program.





## MENTAL HEALTH

CLAS **supports** funding for on-site, master’s level mental health professionals, to provide comprehensive services in schools.



# FUNDING POSITIONS

	<b>CLASS SIZE</b>	CLAS <b>supports</b> consistent annual funding to maintain reasonable class size.
	<b>COMPENSATION</b>	CLAS <b>supports</b> the examination of a budget structure that provides COLA's for employees that are tied solely to the consumer price index.
	<b>EDUCATION TRUST FUND</b>	CLAS <b>opposes</b> any attempts to use the Education Trust Fund as a direct or indirect funding source for any non-governmental and non-education agencies.
	<b>ENGLISH LANGUAGE LEARNERS (ELL)</b>	CLAS <b>supports</b> funding ELL at a minimum of \$500 per identified student.
	<b>EXTENDED CONTRACTS FOR SCHOOL PERSONNEL</b>	CLAS <b>supports</b> full state funding for extended contracts for school personnel (ACT#2007-284) essential to the opening and closing of schools and whose presence in the schools is necessary through the summer.
	<b>MERIT PAY</b>	CLAS <b>opposes</b> any state initiative that rewards or singles out individuals for performance or merit pay without additional study and analysis to determine the impact on student achievement, school climate and culture, and appropriate evaluation measures.
	<b>SALARY ADJUSTMENTS</b>	CLAS <b>supports</b> the Legislature funding the legally required 1% salary adjustment to cover actual certified employee costs as required by law (ACT#1997-238)
	<b>OTHER CURRENT EXPENSES (OCE)</b>	CLAS <b>supports</b> funding OCE on actual operational expenditures that include the salaries and benefits of support workers as well as the cost of fixed expenses such as insurance, electricity, and other utilities.
	<b>RETIREMENT</b>	CLAS <b>supports</b> maintaining the defined benefits plan administered under the Retirement Systems of Alabama (RSA) as a means for providing long-term financial stability to the state's retired public servants. CLAS <b>supports</b> ongoing efforts to reduce the long-term unfunded liability, and urges the Legislature not to repeat mistakes of the past; those made by legislative bodies in other states; or any actions which would lead to instability in the retirement structure.
	<b>SCHOOL SAFETY</b>	CLAS <b>supports</b> the legislature providing dedicated and sustained funding for SRO's, and a bond issue for school building security enhancements. We need to provide a safe and secure environment for teaching and learning.
	<b>SCHOOL NURSES</b>	CLAS <b>supports</b> the funding of school nurses as earned units in the same manner as other instructional support personnel as part of the foundation program.
	<b>TECHNOLOGY</b>	CLAS <b>supports</b> an increase in the line item for the system technology director and an additional appropriation in the ETF for the support, maintenance, and security of system and school technologies and data, which may include additional expenditures for appropriate staff, hardware, software, or contracted services, as needed.
	<b>TRANSPORTATION</b>	CLAS <b>supports</b> a fully-funded transportation program.
	<b>VOUCHERS</b>	CLAS <b>opposes</b> the use of any state tax dollars to support vouchers or education savings accounts for non-public education institutions.



*Developed by the School Superintendents of Alabama (SSA) and adopted by the Council for Leaders in Alabama Schools (CLAS)*

## ADM FUNDING

Many of our districts have experienced a drop in enrollment for the 20-day count, especially in the elementary grades. CLAS recommends that for the FY22 school year, the FY21 ADM numbers be used, at a minimum, with adjustments made for school systems with growth.

## OPERATIONS AND EXPENSES

Other Current Expenses (OCE) funding provides for basic needs like fuel, electricity, and water as well as important support personnel like cafeteria workers, custodians, and school secretaries. In addition, many local safety initiatives are paid from OCE funds.

## TRANSPORTATION

School buses transport students to and from school, field trips, and sporting events covering more than 100 million miles per year. Transportation is considered a function of the state and is designed to be fully funded at 100% of costs. State dollars for transportation do not cover actual costs. Underfunding transportation has a disparate effect on larger, rural school systems, many of which have limited local funding. Full funding for transportation is a priority.

## RETENTION AND RECRUITMENT

Alabama, like the rest of the nation, is facing a tremendous teacher shortage. We cannot compete with surrounding states in terms of salary and benefits. Last session, CLAS, in partnership with other education associations, proposed a new tier in the Retirement System to provide a competitive retirement program for our teachers. This continues to be a priority among our members.

## DIVISORS

**Class size matters!** Smaller classes make a difference in the lives of children. Parents know that having a smaller class means that each child will get more personal attention, teachers will be able to focus on individual needs, and students will have a better chance to excel. In Alabama, we lower class size by lowering the “divisors.” It is important that we set a goal of smaller class size, beginning in middle grades, where most overcrowding currently exists.

## SCHOOL NURSES

School nurses play an essential role in keeping children healthy, safe, and ready to learn. The school nurse supports student success by providing health care through assessment, intervention, and follow-up for all children within the school setting. The school nurse addresses the physical, mental, emotional, and social health needs of students and supports their achievement in the learning process. The school nurse is often the sole healthcare provider in an academic setting.

## MENTAL HEALTH/ SCHOOL COUNSELORS

School superintendents across the state say in-school mental healthcare services are needed now more than ever. According to the Alabama Department of Mental Health, students are six times more likely to complete mental health treatment in schools than in community settings.

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# A Constitutional Challenge to Alabama's Law Criminalizing Intimate Relationships Between School Employees and Students



Until 2010, the law in Alabama setting boundaries for intimate relationships between school personnel and students was the statute describing the age at which a student would be old enough to be able to give consent to enter into the relationship. The statute addressing this age was Section § 13A-6-70 Code of Alabama (1975), which states that:

- (b) Lack of consent results from either of the following:
  - (1) Forcible compulsion.
  - (2) Being incapable of consent.
- (c) A person is deemed incapable of consent if he or she is either:
  - (1) Less than 16 years old.
  - (2) Incapacitated. (Acts 1977, No. 607, p. 812, §2330; Act 2019-465, §1.)

Consequently, under the 1977 statutes describing second degree rape and second degree sodomy, a student is able to give consent to enter into the relationship at the age of sixteen. (Note: Section § 30-1-4 sets the minimum age to contract for marriage at sixteen, as well.)

In 2010, the Alabama Legislature adopted a statute which criminalized sexual contact between any school employee and any student. Section § 13A-6-81(a) Code of Alabama (1975) provides: "A person commits the crime of a school employee engaging in a sex act with a student under the age of 19 years if he or she is a school employee and engages in sexual intercourse as defined by Section 13A-6-60(1) or deviant sexual intercourse as defined by 13A-6-60(2) with a student, regardless of whether the student is male or female. Consent is not a defense to a charge under this section."

Under the 2010 statute repeated above, a school employee is defined



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*He has also been a long-time contributor to this publication.*





broadly to include not just any school employee, but also school resource officers, coaches, and volunteers. It does not matter whether the school employee is or is not in an authority relationship over the student, whether the school employee and the student are in the same school building or in the same school district, or whether the school employee works or volunteers at a private school and the student attends a public school. (A student is defined under the act as any person under age 19, enrolled in any type of K-12 school, public, private, or religious.) It also does not matter whether the student is able to give consent to a sexual relationship at age 16 with any other person. Under the latter statute, the student must be age 19 to give consent. Therefore, there was a potential contest between the two statutes: is the applicable legal age for consent 16 or 19?

Further, in 2003, the U.S. Supreme Court, in Lawrence v. Texas, 539 U.S. 558 (2003), held that a state may not criminalize consensual sexual activity conducted in private. This case made it unconstitutional, a violation of the Due Process and Equal Protection Clauses of the Fourteenth Amendment, for a state to criminalize sexual behaviors between two consenting adults. Consequently, there was also a potential constitutional challenge against the statute making it a crime for a school employee to engage in a sex act with a student under the age of 19 years, when the age of consent is otherwise 16 years. The statutory and constitutional challenges were addressed eight years after the passage of the 2010 act, in State v. S., 274 So.3d 1017 (Ala. Civ. App. 2018). Because the court report for this case was at the point in time when a teacher and a teacher aide, one male and one female, were only indicted and deserve a presumption of innocence until proven otherwise, this commentary will not mention their names or the district in which they worked.



### **Dr. Amy L. Dagley**

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*Amy Dagley is the daughter of long-time columnist for this magazine, Dr. Dave Dagley.*

The teacher and teacher aide filed motions in the circuit court, and asked the court to declare Section § 13A-6-81(a) unconstitutional. They argued that the statute violates the Due Process Clause because it criminalizes consensual sexual activity conducted in private, and because the statute is overly broad. They also argued that the statute violates the Equal Protection Clause, because it criminalizes a personal relationship between two consenting parties, where the relationship would not be criminal when between other similarly-situated parties. The circuit court held a hearing on the two employees' motions, where the parties made their arguments, but the court did not hear testimony or call witnesses. Thus, the order coming out of this hearing did not address the facts of the case, it mostly addressed whether the statute itself was unconstitutional.

The State argued that there are multiple examples where the Legislature has decreed that persons, even as adults, may not consent to sex, for example, between corrections or probation officers and people under their supervision (Section § 14-11-31), or where two adults may not

***Continued on page 30***

## COPING WITH COVID:

### Top 10 Tips for Alabama Special Education Administrators to Keep in Mind as They Navigate the 2020-2021 School Year

As many school districts across Alabama continue to struggle with the “reopening” of schools for the 2020-21 school year, decisions about how to provide appropriate educational services to students with disabilities in light of the current health and safety emergency are among the most challenging to make. Since March, Special Education Administrators have been expected to follow provisions of IDEA and Alabama law that have not been waived or changed in any way but clearly did not contemplate something like COVID-19 and its impact upon normal school operations. As a result, Administrators find themselves in the only place they can be—that is, one that encourages and supports reasonable, good faith efforts to provide a free appropriate public education to all or their students with disabilities in the best way they know how while, at the same time, keeping the health and safety of the students and staff as the top priority.

The following ten tips are designed primarily as reminders to Special Education Administrators as their school districts continue to move forward with the process of fully reopening schools for the new school year. Most of these tips are not legal—rather, they are designed as reminders of important considerations that may have been forgotten as all educators continue to make their best efforts to stay out of “special education legal hot water” in these trying times.

1

Use your best PR and “customer service” skills with parents and continue to engage them as much as possible. Encourage and work closely with your local school administrators to do the same. Parents who feel involved and valued typically do not seek the assistance of advocates and attorneys.

2

Consider reaching out to active parent advocates or attorneys in your community to include them in discussions about plans for reopening, revisiting IEPs, providing COVID-impact compensatory services, etc.

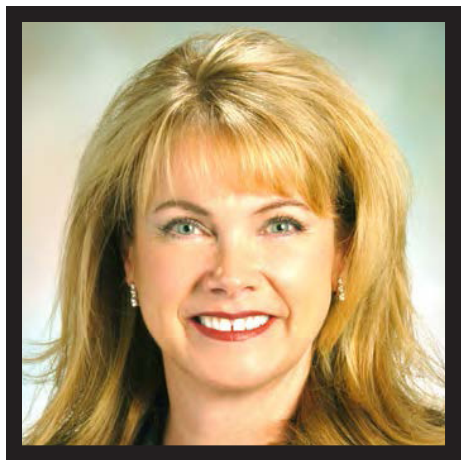
3

Demand your seat at all tables where reopening plans are being made and encourage ideas and planning to begin with students with disabilities in mind and move those ideas outward.

4

Ensure that special education and regular education personnel are not working within a “silo” or separate mentality in planning for the continuing reopening of schools and the provision of services to students with disabilities.

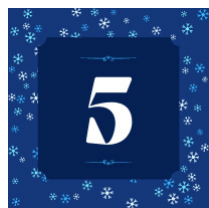




**Julie J. Weatherly, Esq.**

*Julie J. Weatherly, Esq. is the owner of Resolutions in Special Education, Inc. with offices and attorneys in Alabama and Florida. Julie is a member of the State Bars of Alabama and Georgia, and for over 30 years, has provided legal representation and consultative services to school districts and other agencies in the area of educating students with disabilities.*

*She has been a member of the faculty for many national and state legal institutes and is a frequent speaker at special education law conferences. Julie is the author of the legal update for the National CASE quarterly newsletter and is a member of LRP's Special Education Attorneys Advisory Council.*



Continue to closely monitor all service providers and their efforts to provide appropriate services and request and review progress monitoring data from all of them.



Ensure that your local school administrators are just as interested in the services provided and progress made by their students with disabilities as they are with their other students.



In cases where it has been difficult to provide IEP-based services, ascertain what you and your staff might do to address the reasons for such difficulty.



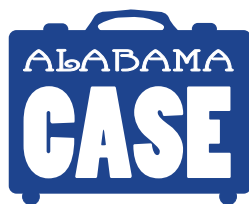
Continue to encourage consistent efforts to contact parents/students who are disengaged from learning during this time and document those efforts.



Fight for the equitable distribution of district funds to benefit students with disabilities. Parent advocates are and will continue to be watching where stimulus and other monies are going.



Let go of being right and be kind to and take care of yourself. You are an excellent educator who is doing your best and, in times like these, your best is going to have to be good enough.



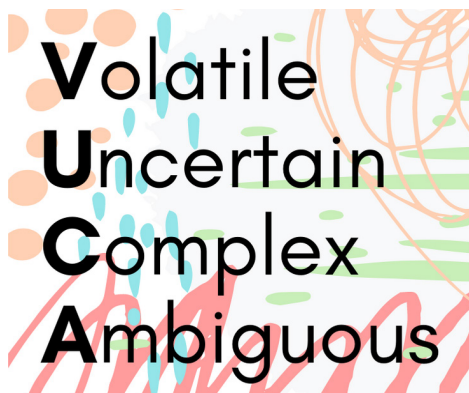
*This article is sponsored by the Alabama Council of Administrators of Special Education (ALA-CASE)*



## Leading in a V.U.C.A. World

If you are an educational leader, it is highly likely that you have never heard of VUCA during your tenure. In all my years as an educational leader, I never heard of this term until recently. I had the opportunity to attend a conference where I heard a presentation about VUCA. On that same day, Dr. Wilson and I were meeting with partners and he also mentioned the VUCA term again. Knowing that lightning does not strike twice, I felt compelled to research the term and to provide you with ways to lead in a VUCA world or should I say lead during a VUCA pandemic.

First developed by Warren Bennis and Burt Nanus and popularized by the U.S. Army War College, VUCA can be defined as a framework that leaders can use to think about how to respond in environments that are:



The COVID-19 pandemic, along with the social justice turmoil, has created a VUCA situation. Unfortunately, we have been in this environment for such a long time that it is almost starting to feel normal. As a leader, you are experiencing things you have never experienced before. Your faculty is going through the same thing as they attempt to navigate through these uncertain times. To progress during a pandemic (and everything else educators encounter), take these simple actions:

**Volatility:** Volatile environments are disruptive in nature and a place where change can occur rapidly, usually for the worse. The first step in the VUCA framework is for leaders to focus on creating space for themselves and their teams to think. By taking the time to stop, breathe and think, leaders can calm down and focus on their efforts.

**Uncertainty:** Uncertain environments are ones where there is little to no historical precedent to draw on for comparison and guidance. The COVID-19 pandemic is not the first pandemic. However, it is the first pandemic that many of us have lived through in the United States; therefore, data is sparse. The second step in the VUCA framework is for leaders to do what whatever possible to reduce uncertainty by gathering data and insights. As we go through this pandemic, take the time to focus your attention on learning from reliable sources (ADPH, Local and State Health Officers, etc.),

**Complexity:** Complex environments and/or situations have many variables that have multiple impacts in unpredictable ways. Leaders who find themselves in a complex environment know all too well that making decisions can be difficult because of "option overload." The third step in the VUCA framework is for leaders to identify discrete, manageable

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*Demica is married to Tim Sanders and they are the parents of Jaylon (17) and Kameron (14). She enjoys spending time with her family, traveling, and shopping.*

 [@demica\\_sanders](https://twitter.com/demica_sanders)



chunks of actions and remember that no one has all the answers. A series of successful small solutions will work better than delaying action while waiting on the next big thing!

**Ambiguity:** Ambiguous environments are ones in which outcomes and endpoints are not clear. The COVID-19 pandemic has caused us all to live in a space of ambiguity, which can lead to a lack of meaningful action. The fourth step in the VUCA framework is to use the test and learn approach: running small “tests” and sharing what is learned from them. This approach builds on identifying small, manageable chunks of action and keeping people engaged in a loop of meaningful action in which short term goals are clear even though long-term endpoints are not.

The final step in this framework is to rinse and repeat! As a leader, remember that the first four steps are not just sequential, they are also continual. As a leader, will need to continue to create space, gather data and insights, identify manageable chunks of action, run small tests, and lead the entire process over again and again. This time, however, VUCA will hold a different meaning:



**Vision:** Now is the time to revise the strategy to achieve the vision! Stay the course and make sure that everyone is on the same page.

**Understanding:** Fully understand the changes and their impact on all stakeholders. Assist them in developing strategies to manage the changes they are going through and understand when they struggle to do so.

**Clarity:** Communicate clearly, with openness and sincerity. Focus on the well being of everyone, especially yourself. Remember that you can not lead if you are not well.

**Adaptability and Agility:** Be flexible and agile and adapt strategies based on the current situation you are facing. Remember, this too shall pass!

If Volatility, Uncertainty, Complexity, and Ambiguity is the situation, then the response must be Vision, Understanding, Clarity, Adaptability and Agility. As you try to reframe your VUCA, remember that CLAS is right there with you! This has been a trying year for us all, but together we can get through this! As always, please remember if CLAS can ever be of any assistance to you, do not hesitate to contact us!

Citations:

Eblin Group. (2020, April 1). *A framework for leadership action in the VUCA of the pandemic.*

<https://eblingroup.com/blog/leadership-action-in-the-vuca-of-the-pandemic/>.

Ghabour, E. (2020, June 12), *A new VUCA model to train leaders to manage through COVID-19 and beyond.*

<https://trainingindustry.com/articles/leadership/a-new-vuca-model-to-train-leaders-to-manage-through-covid-19-and-beyond/>.

## Legal Forum (Continued)



consent to sex in instances of incest (Section § 13A-13-3). These situations, like teacher and student relationships, carry with them an inference of power inequality between the parties. The State further argued that Lawrence v. Texas does not apply to minors, and that the State classifies children as minors at different ages for different purposes: the age you may drive; the age you may purchase cigarettes or alcohol; the age you may vote; the age you may have sex with other adults; and the age you may have sex with school employees. An interesting point in the State's argument was the following statement:

"Now, the Alabama Code requires that with very few exceptions every child between 6 and 17 has to attend school. They're not there necessarily by choice. In society in general and parents in particular must be confident when they send their sons and daughters to school every fall and they meet a new teacher the teacher is not replenishing their dating pool." (274 So.3d 1019.)

On August 17, 2017, the circuit court entered an order recognizing a student's capacity to provide consent to sex at age 16, absent a showing that authority was used to obtain illegitimate or coerced consent. The order then detailed case law from five states with litigation over similar statutes. State v. Edwards, 288 P.3d 494 (Kan.App. 2012); Paschal v. State, 388 S.W.3d 429 (Ark. 2012); In re Shaw, 205 S.W.3d 9 (Tex.Ct.App. 2006); State v. Hirschfelder, 242 P.3d 876 (Wash. 2010); State v. McKenzie-Adams, 915 A.2d 822 (Conn. 2007). The circuit court noted that statutes in all five states (Kansas, Arkansas, Texas, Washington, and Connecticut) applied to teachers who worked in the same school as the student, and Connecticut also added to its statute teachers who worked in a school under the

same jurisdiction or school board where the student attended. Each of these statutes carried within them the inference of an authority relationship between the teacher and the student, while Alabama's statute did not. The Alabama statute was broader; it applied to all school employees, SRO's, coaches, and volunteers. The circuit court's order dismissed the indictments against the teacher and teacher aide, but gave the State leave to refile within the appropriate statute of limitations and under the proper statutes. The State of Alabama appealed.

Just weeks before taking this appeal, the Alabama Court of Criminal Appeals had heard Pruitt v. State, 272 So.3d 732 (Ala. Crim. App. 2018), in which the teacher had, under a plea agreement, pled guilty of two counts of a sex act or deviant sexual intercourse with a student under the age of 19 years, and two counts of distribution of obscene material to a minor. The criminal appeals court repeated a great deal of its analysis from the Pruitt case in the record for the case that is the subject of this commentary. In this case, the appeals case reversed the circuit court's decision holding Section § 13A-6-81(a) unconstitutional and dismissing the indictments of the two school employees, then remanded back to the circuit court. The appeals court rejected application of the constitutional principles upheld in Lawrence v. Texas, because that Supreme Court case involved adults. The appeals court underscored the plain meaning of Section § 13A-6-81(a). Where the Legislature had expressly prohibited consensual sexual contact between a school employee and a student under the age of nineteen, the plain meaning of that prohibition is that it set the age of consent in those circumstances. The last line of the statute is also instructive. It says: "Consent is not a defense to a charge under this section." It tells both parties, the school employee and the student under age 19, that neither is capable of giving consent to the relationship.





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## SDE Spotlight Continued



recommend that schools are held harmless due to the inevitable circumstances of 2020.

We must get back to assessing the educational progress our students are making. Last year, the federal government waived the standard assessments that we usually use to monitor the academic development of our students. As I write this piece, it appears that testing will be back in the spring of 2021. We have to bounce back to assessing our students, establishing solid baselines for their educational status, and continue making plans to give every child in Alabama, every chance for success, every single day.

Yes, 2020 has been a challenging year. Parents have stretched resources and coordinated schedules and educators have worked incredibly hard, been extremely innovative, and sacrificed for their students. We've all given more and worked harder than we ever imagined. I wish I could promise that 2021 will be smooth sailing. Of course, I can't. However, I do believe that regardless of the challenge, no matter the circumstance – we will bounce back.

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