

A BILL

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act must be known and may be cited as the “Charter School Accountability Act”.

SECTION 2. Section 59-40-40(4) of the S.C. Code is amended to read:

() Charter management company means any not-for-profit organization that (A) is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time, and (B) contracts with a charter school for educational design, implementation or whole school management services.

() Education management company means any for-profit organization that contracts with a charter school for educational design, implantation or whole school management services.

(4) ~~“Sponsor/Authorizer”~~ means the South Carolina Public Charter School District Board of Trustees, the local school board of trustees in which the charter school is to be located, as provided by law, a public institution of higher learning as defined in Section 59-103-5, or an independent institution of higher learning as defined in Section 59-113-50, from which the charter school applicant requested its charter and which granted approval for the charter school’s existence. Only those public or independent institutions of higher learning, as defined in this subsection, ~~who register~~ registered with the ~~South Carolina State~~ Department of Education as of July 1, 2022, or approved by an application process developed by the State Board of Education pursuant to this chapter after July 1, 2022, may serve as charter school ~~sponsors/authorizers~~, and the department shall maintain a directory of those institutions. The ~~sponsor-authorizer~~ of a charter school is the charter school’s Local Education Agency (LEA) and a charter school is a school within that LEA. The ~~sponsor-authorizer~~ retains responsibility for special education services and shall ensure that students enrolled in its charter schools are served in a manner consistent with LEA obligations under applicable federal, state, and local law.

() Whole school management services means the financial, business, operation and administrative functions for a school.

SECTION (X). Section 59-40-50(B)(3) of the S.C. Code is amended to read:

(3) adhere to the same financial audits, audit procedures, and audit requirements as are applied to public schools, and post their annual audit in a prominent location on its website;

(X) notify and provide a copy of any executed or amended charter or education management contracts to the authorizer. Contracts must also be posted in a prominent location on its website;

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2 SECTION 3. Section 59-40-55(A) and (B) of the S.C. Code is amended to read:

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4 (A) In order to promote the quality of charter school outcomes and oversight, the charter school
5 ~~sponsor-authorizer~~ shall adopt ~~national industry standards of quality charter schools and shall authorize~~
6 ~~and implement practices~~ and implement policies, procedures, and practices that ensure good
7 governance and accountability and are consistent with those standards the charter school authorizer's
8 powers and duties as an LEA as provided in this chapter.

9 (B) A charter school ~~sponsor-authorizer~~ shall:

10 (1) approve charter applications that meet the requirements specified in Sections 59-40-50 and
11 59-40-60;

12 (2) decline to approve charter applications according to Section 59-40-70(C);

13 (3) negotiate and execute sound charter contracts with each approved charter school;

14 (4) monitor, in accordance with charter contract terms, the performance and legal/fiscal
15 compliance of charter schools to include collecting and analyzing data to support ongoing evaluation
16 according to the charter contract;

17 (5) conduct or require oversight activities that enable the ~~sponsor-authorizer~~ to fulfill its
18 responsibilities outlined in this chapter, including conducting appropriate inquiries and investigations,
19 only if those activities are consistent with the intent of this chapter, adhere to the terms of the charter
20 contact, and do not unduly inhibit the autonomy granted to public charter schools;

21 (6) collect, in accordance with Section 59-40-140(H), an annual report from each of its ~~sponsored~~
22 ~~authorized~~ charter schools and submit ~~the reports to the Department of Education~~ an annual the report
23 on the performance of each of its sponsored charter schools and sponsor performance to the State Board
24 of Education before June ~~December~~ thirtieth annually;

25 (7) notify the charter school of perceived problems if its performance or legal compliance appears
26 to be unsatisfactory and provide reasonable opportunity for the school to remedy the problem, unless
27 the problem warrants revocation and revocation timeframes apply;

28 (8) take appropriate corrective actions or exercise sanctions short of revocation in response to
29 apparent deficiencies in charter school performance or legal compliance. These actions or sanctions
30 may include requiring a school to develop and execute a corrective action plan within a specified
31 timeframe;

32 (9) determine whether each charter contract merits renewal, nonrenewal, or revocation;

33 (10) provide to parents and the general public information about charter schools authorized by the
34 ~~sponsor-authorizer~~ as an enrollment option within the district in which the charter school is located to
35 the same extent and through the same means as the district in which the charter school is located
36 provides and publicizes information about all public schools in the district. A charter school shall notify

1 its ~~sponsor-authorizer~~ of its enrollment procedures and dates of its enrollment period no less than sixty
2 days before the first day of its enrollment period; ~~and~~

3 (11) permanently close any charter school at the conclusion of the school year after receiving the
4 lowest performance level rating as defined by the federal accountability system for three consecutive
5 years in accordance with Section 59-40-110(E);

6 (12) post in a prominent location on its website all charter school applications, renewal applications
7 and any charter or education management contracts associated with the charter schools;

8 (13) post in a prominent location on its website their budget as an authorizer, including revenues,
9 source of revenue and expenditures. If the authorizer has charged fees to a charter school for services,
10 those fees must be listed by individual school;

11 (14) review and notify the charter schools of any perceived problems on all charter or education
12 management contracts;

13 ~~(C) The South Carolina Public Charter School District~~ A charter school authorizer may retain no more
14 than two percent of the total state appropriations for each charter school it authorizes to cover the costs
15 for overseeing its charter schools. An authorizer may offer additional services however the charter
16 school shall be under no obligation to purchase those services from the authorizer. A charter school
17 may not be penalized or have its charter revoked based upon their failure to purchase offered services
18 from the authorizer. ~~The authorizer's administrative fee does not include costs incurred in delivering~~
19 ~~services that a charter school may purchase at its discretion from the authorizer.~~ The authorizer's fee is
20 not applicable to federal money or grants received by the charter school. The authorizer shall use its
21 funding provided pursuant to this section exclusively for the purpose of fulfilling authorizer obligations
22 in accordance with this chapter.

23 (D) The State Board of Education shall conduct regular reviews to monitor and evaluate the
24 performance of all charter school authorizers, informed by the annual report provided for in this section.
25 The review process must include an examination of how authorizers meet standards and practices, an
26 evaluation of each authorizer's charter schools performance, and review of each authorizer's record of
27 renewal, revocation and authorization decisions. The State Board of Education shall issue citations of
28 concern to the authorizer and in the case of continuous poor performance may terminate a charter school
29 authorizer's registration. The State Board of Education shall allow an authorizer the ability to have a
30 hearing prior to any consideration of registration termination. All appeals from the State Board of
31 Education's decisions to terminate registration shall be made to the Administrative Law Court.

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33 Section (X). Section 59-40-60(F)(8) of the S.C. code is further amended to read:

34 (8) a description of the governance and operation of the charter school, including a detailed school

1 start-up plan, resumes and background information on the charter committee members, the capacity
2 and experience of the school leadership and management team, any involvement with the replication
3 of existing successful public charter schools, ~~any proposed management company or educational~~
4 ~~service provider responsibilities~~, and the nature and extent of parental, professional educator, and
5 community involvement in the governance and operation of the charter school;

6 () a copy of any proposed charter or education management contracts contemplated by the charter
7 school. The contract must include a term sheet that sets forth the length of the contract, the roles and
8 responsibilities of the governing board of the charter school, the staff of the charter school and the staff
9 of the management company, the scope of services and resources to be provided by the management
10 company, the performance evaluation measures and timelines, the compensation structure, including
11 clear identification of all fees to be paid to the charter management organization, the methods of
12 contract oversight and enforcement, the conditions of renewal and termination of the contract and
13 assurances that the governing board of the charter school, at all times, maintains independent fiduciary
14 oversight and authority over the school budget and ultimate responsibility for the school's performance.

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16 SECTION (X). Section 59-40-70(B) of the S.C. Code is amended to read:

17 (B) The board of trustees or area commission from which the applicant is seeking sponsorship shall
18 rule on the application for a charter school in a public hearing, upon reasonable public notice, within
19 not less than forty five days nor more than ninety days after receiving the application. ~~If there is no~~
20 ~~ruling within ninety days, the application is considered approved.~~ Once the application has been
21 approved by the board of trustees or area commission, the charter school may open at the beginning of
22 the following year. However, before a charter school may open, the State Department of Education
23 shall verify the accuracy of the financial data for the school within forty-five days after approval.

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25 SECTION 4. Section 59-40-75 of the S.C. Code, as last amended by Act 32 of 2021, is further
26 amended to read:

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28 Section 59-40-75. (A) A member of ~~the South Carolina Public Charter School District or of the~~
29 ~~governing board or sponsor of the~~ an authorizer or charter school governing board who is indicted in
30 any court for any crime, or has waived the indictment if permitted by law, may be suspended by the
31 Governor, who shall appoint another in his stead until he is acquitted, or the charges are dismissed. In
32 case of conviction, the office must be declared vacant by the Governor and the vacancy filled as
33 ~~provided by law~~ in the same manner as provided for full term appointments.

34 (B) Notwithstanding another provision of law to the contrary, members of an authorizer or charter
35 ~~school board of directors~~ governing board who willfully commit or engage in an act of malfeasance,
36 misfeasance, chronic unexcused absenteeism, conflicts of interest, misconduct, or persistent neglect of

1 duty in office, or are deemed medically incompetent or medically incapacitated, ~~may be removed from~~
2 ~~office~~ must be subject to removal by the Governor upon any of the forgoing causes being made to
3 appear to the satisfaction of the Governor. Before removing ~~the~~ any such officer, the Governor shall
4 inform him in writing of the specific charges brought against him and give him an opportunity on
5 reasonable notice to be heard. Vacancies occurring in the membership of any governing board of
6 ~~directors~~ as a result of removal pursuant to this subsection must be filled in the manner provided in the
7 ~~charter school's bylaws of the charter school or sponsor, as applicable.~~ same manner as provided for
8 full term appointments.

9 (C) Whenever it appears to the satisfaction of the Governor that probable cause exists to charge a
10 member of the ~~South Carolina Public Charter School District~~ or of the governing board of an authorizer
11 or a ~~the~~ charter school who has the custody of public or trust funds with embezzlement or the
12 appropriation of public or trust funds to private use, then the Governor shall direct his immediate
13 prosecution by the proper officer.

14 (D) An individual is prohibited from serving as a member of the governing board of either a charter
15 school or charter school authorizer if the individual, an immediate family member, or the individual's
16 spouse is a full or part owner or principal with an entity with whom the charter school or authorizer
17 contracts, directly or indirectly, for professional services, goods or facilities or is an employee of the
18 charter school or authorizer.

19 (E) An individual is prohibited from employment in a charter school if the individual, an immediate
20 family member, or the individual's spouse is employed by the authorizer of the charter school.

21 For the purpose of this section immediate family member means a child, a spouse or an individual
22 claimed by the individual as a dependent for income tax purposes.

23 SECTION (X). Section 59-40-90 of the S.C. Code, is amended to read:

24 ~~Section 59-40-90. A final decision of the school district or a public or independent institution of higher~~
25 ~~learning sponsor may be appealed by any party to the Administrative Law Court as provided in Sections~~
26 ~~1-23-380(B) and 1-23-600(D).~~ An appeal of any final decision made pursuant to this Chapter must be
27 made to the Administrative Law Court as provided in Sections 1-23-380(B) and 1-23-600(D).

29 SECTION 5. Section 59-40-115 of the S.C. Code is amended to read:

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31 Section 59-40-115. (A) A charter school voluntarily may terminate its charter and contract with a the
32 ~~sponsor-authorizer~~ before the expiration of the ten-year term of the contract ~~if all parties under contract~~
33 ~~with the charter school agree to the dissolution.~~ A charter school that terminates its contract with a
34 sponsor directly may seek application for the length of time remaining on its original contract from
35 another sponsor by a majority vote of the charter school board, which constitutes a dissolution event of

1 the corporation.

2 (B) In order for a charter school to transfer its charter to another authorizer, it must obtain the
3 approval of its current authorizer and the proposed new authorizer pursuant to procedures in this
4 section.

5 (1) A charter school shall submit a written request to the current authorizer to transfer its charter
6 to a different authorizer before September first. The transfer must be effective on July first of the
7 following year.

8 (2) The proposed new authorizer shall issue a written final decision approving or denying the
9 request to transfer before October thirty-first. ~~The request may be denied for any reason that is not~~
10 ~~arbitrary, capricious, discriminatory, or otherwise violative of law.~~ **The request to transfer may be**
11 **denied by the proposed new authorizer for any reason however if the proposed authorizer determines**
12 **the charter school's request to transfer is, to avoid accountability, prohibited by law or untimely the**
13 **transfer must be denied.** A copy of the final decision must be served on the charter school applying to
14 transfer, the current authorizer, and the State Department of Education before November fifth.

15 (3) If the proposed new authorizer approves the request to transfer, the current authorizer shall
16 issue a final decision approving or denying the request to transfer before December thirty-first. The
17 authorizer ~~may, but is not required to,~~ **must** permit the charter school to submit materials or information
18 to support its transfer request, all of which must be submitted at least five business days before the
19 board hearing. ~~No hearing is required~~ **A hearing must be granted if a charter school makes a request at**
20 **least five business days before the board hearing.** If an authorizer fails to comply with this section, the
21 State Department of Education may compel the authorizer to comply with this section by withholding
22 the authorizer's fees related to the charter school seeking to transfer until a final decision is issued.

23 (4) Items (1) through (3) must be conducted in the year in which the request was submitted
24 following proper notice, public discussion, and a vote by the board during a public meeting in
25 accordance with the Freedom of Information Act.

26 (5) The current authorizer ~~shall~~ **must** deny a request to transfer to the proposed new authorizer if
27 the current authorizer determines the charter school's request to transfer is to avoid accountability,
28 prohibited by law, untimely, or other good cause to deny the transfer exists.

29 (6) Good cause to deny the charter school's transfer request includes, but is not limited to:

30 (a) violations of the charter, contract, or applicable law, that have not been resolved by the
31 charter school;

32 (b) receipt of the lowest performance level rating under the state or federal accountability system
33 **at any grade level** during the past two academic years by the charter school seeking to transfer;

34 (c) more than ~~one~~ **two** transfer requests by the charter school within a ~~five~~-**ten**-year period; or

35 (d) the charter school has operated less than ~~three~~ **two** years with the current authorizer.

36 (7) The final decision of the current authorizer is appealable to the Administrative Law Court.

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SECTION 6. Section 59-40-150 of the S.C. Code is amended to read:

Section 59-40-150. (A) The Department of Education shall disseminate information to the public, directly and through ~~sponsors~~authorizers, on how to form and operate a charter school and how to utilize the offerings of a charter school.

(B) At least annually, the department shall provide upon request a directory of all charter schools authorized under this chapter with information concerning the educational goals of each charter school, the success of each charter school in meeting its educational goals, and procedures to apply for admission to each charter school.

(C) The department shall fulfill all duties of the State Education Agency (SEA) for each authorizer and shall provide technical assistance, oversight, and guidance to authorizers for compliance with LEA responsibilities to the same extent as other LEAs in this State. Sanctions issued by the department against an authorizer may be appealed to the Administrative Law Court and must be stayed pending resolution of the appeal.

(D) The department shall annually review the policies, procedures, and performance of each authorizer for compliance with the provisions of this chapter, state regulations, and other state and federal law.

(E) The department shall bear the cost of complying with this section.

SECTION 7. Section 59-40-180 of the S.C. Code is amended to read:

Section 59-40-180. The State Board of Education shall promulgate regulations and develop guidelines necessary to implement the provisions of this chapter, including standards to determine compliance with this chapter and an application process for new authorizers and charter schools to include a timeline for submission of applications that will allow for final decisions, including Administrative Law Court appeal, by December first of the year preceding the charter school's opening to be issued consistent with budget and funding needs.

SECTION (X). The Code Commissioner is directed to change all references in Title 59 of the 1976 Code from the "Charter School Sponsor", "Sponsor(s)" and "School Sponsor(s)" to the "Charter School Authorizer", "Authorizer(s)" and "School Authorizer(s)", as appropriate.

SECTION 8. This act takes effect upon approval by the Governor.

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