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124th Session, 2021-2022

**H. 5093**

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Summary: Charter Schools

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**VERSIONS OF THIS BILL**

[3/9/2022](file:///p:\pprever\2021-22\5093_20220309.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59‑40‑112 SO AS TO PROVIDE MEANS FOR THE VOLUNTARY TERMINATION OF CHARTER SCHOOLS; TO AMEND SECTIONS 59‑40‑40, 59‑40‑50, 59‑40‑55, 59‑40‑60, 59‑40‑65, 59‑40‑70, 59‑40‑75, AS AMENDED, 59‑40‑80, 59‑40‑90, 59‑40‑100, 59‑40‑110, 59‑40‑115, 59‑40‑120, 59‑40‑140, 59‑40‑145, 59‑40‑150, 59‑40‑155, 59‑40‑170, 59‑40‑180, 59‑40‑190, AND 59‑40‑220, ALL RELATING TO THE SOUTH CAROLINA CHARTER SCHOOLS ACT OF 1996, SO AS TO GENERALLY REVISE PROVISIONS CONCERNING THE SPONSORSHIP, OVERSIGHT, GOVERNANCE, AND OPERATION OF CHARTER SCHOOLS; AND TO REPEAL SECTION 59‑40‑160 RELATING TO CERTAIN EVALUATIONS AND IMPACT STUDIES OF CHARTER SCHOOLS AND SECTION 59‑40‑200 RELATING TO THE EFFECT OF THE ESTABLISHMENT OF THE SOUTH CAROLINA PUBLIC CHARTER SCHOOL DISTRICT ON PENDING AND FUTURE APPLICATIONS FOR CHARTER SCHOOLS AT THE TIME OF THE FORMATION OF THE DISTRICT.

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

SECTION 1. Chapter 40, Title 59 of the 1976 Code is amended by adding:

“Section 59‑40‑112. A charter school may voluntarily terminate its charter by submitting a written resolution from its board of directors to its sponsor, which is an act of dissolution of the charter school. The charter board of directors is responsible for performing all duties and responsibilities required by the closure protocol of the school and the South Carolina Non‑Profit Corporation Act of 1994.”

SECTION 2. Section 59‑40‑40 of the 1976 Code is amended to read:

“Section 59‑40‑40. As used in this chapter:

(1) A ‘charter school’ means a public, nonreligious, nonhome‑based, nonmember, public nonprofit corporation ~~forming a school that operates by sponsorship of a public school district, the South Carolina Public Charter School District, or a public or independent institution of higher learning, but is accountable to the board of trustees, or in the case of technical colleges, the area commission, of the sponsor which grants its charter~~ that has been awarded a charter by a sponsor to form a public, accredited, nonreligious, nonhome‑based school operating under the oversight and authority of the sponsor that awarded the charter. Nothing in this chapter prohibits charter schools from offering virtual services pursuant to state law and subsequent regulations defining virtual schools.

(2) A charter school:

(a) ~~is, for purposes of state law and the state constitution, considered a public school and part of the South Carolina Public Charter School District, the local school district in which it is located, or is sponsored by a public or independent institution of higher learning;~~

~~(b)~~ is subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services; however, an applicant may seek to form a single gender charter school without regard to the gender makeup of that proposed charter school;

(~~c~~b) must be administered and governed by a governing body in a manner agreed to by the charter school applicant and the sponsor, the governing body to be selected as provided in Section 59‑40‑50(B)(9);

(~~d~~c) may not charge tuition or other charges pursuant to Section 59‑19‑90(8) except as may be allowed by the sponsor and is comparable to the charges of the local school district in which the charter school is located;

(~~e~~d) is subject to the same fixed asset inventory requirements as are traditional public schools.

(3) ‘Applicant’ means the ~~person who or~~ nonmember, public nonprofit ~~corporate entity~~ corporation that ~~desires to form a charter school~~ seeks a charter to operate a charter school and files the necessary application with ~~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, or the board of trustees or area commission of a public or independent institution of higher learning. The applicant also must be the person who or the nonprofit corporate entity that applies to the Secretary of State to organize the charter school as a nonprofit corporation~~ a sponsor. The applicant must have applied for, but is not required to have received, approval of tax exempt status from the Internal Revenue Service at the time it submits the application.

(4) ‘Sponsor’ 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. Prior to accepting applications to sponsor charter schools in accordance with this chapter, an institution of higher learning that was not registered to sponsor charter schools as of July 1, 2021, must apply to and be approved by the State Department of Education to be a sponsor in accordance with the regulations which must be promulgated by the department. The regulations shall include a requirement that the college is in good standing financially. ~~Only those public or independent institutions of higher learning, as defined in this subsection, who register with the South Carolina Department of Education may serve as charter school sponsors, and~~ The department shall maintain a directory of ~~those~~ approved institutions. The sponsor 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 ~~retains responsibility for special education and shall ensure that students enrolled in its charter schools are served in a manner consistent with LEA obligations~~ shall provide monitoring, oversight, and technical assistance as required by all LEAs under applicable federal~~, state, and local~~ law, including but not limited to, special education, and this chapter.

(5) ‘Certified teacher’ means a person currently certified by the State of South Carolina to teach in a public elementary or secondary school or who currently meets the qualifications outlined in Sections 59‑27‑10 and 59‑25‑115.

(6) ‘Noncertified teacher’ means an individual considered appropriately qualified for the subject matter taught and who has completed at least one year of study at an accredited college or university and meets the qualifications outlined in Section 59‑25‑115. The department shall establish procedures for the registration and clearance of all noncertifed teachers working in charter schools pursuant to this chapter. Individuals seeking to register as a noncertifed teacher shall submit the required documentation and fees to the department, which must include, but are not limited to: (a) a completed registration form, (b) any associated fee, (c) transcripts, which must be subject to department review, and (d) FBI, South Carolina Law Enforcement Division, and National Association of State Directors of Teacher Education and Certification Clearinghouse checks. Individuals who have had their certificate revoked or suspended without reinstatement must not be considered to be a noncertifed teacher.

(7) ~~‘Charter committee’ means the governing body of a charter school formed by the applicant to govern through the application process and until the election of a board of directors is held. After the election, the board of directors of the corporation must be organized as the governing body and the charter committee is dissolved~~ ‘Charter school board’ means the board of directors of a charter school that is established after the first election of a newly formed charter school and must comply with Section 59‑40‑50 (B)(11)*.*

(8) ‘Local school district’ means any school district in the State except the South Carolina Public Charter School District, any public or independent institution of higher learning sponsor, and ~~does not include~~ special school districts.

(9) ~~‘Charter school contract’ means a fixed term, renewable contract between a charter school and a sponsor that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.~~

~~(10)~~ ‘Resident public school’ means the school, other than a charter school, within whose attendance boundaries the charter school student’s custodial parent or legal guardian resides.

(10) ‘Core curriculum’ is defined in:

(a) kindergarten through eighth grades as English/language arts, mathematics, science, and social studies; and

(b) ninth through twelfth grades as a course required for high school graduation.”

SECTION 3. Section 59‑40‑50 of the 1976 Code is amended to read:

“Section 59‑40‑50. (A) Except as otherwise provided in this chapter or otherwise specifically included in statute or regulation, a charter school is exempt from all provisions of law and regulations applicable to a public school, a school board, or a district, although a charter school may elect to comply with one or more of these provisions of law or regulations.

(B) A charter school must:

(1) adhere to the same health, safety, civil rights, and disability rights requirements as are applied to all public schools ~~operating in the same school district or, in the case of the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor, the local school district in which the charter school is located~~;

(2) meet, but may exceed, the same minimum student attendance requirements as are applied to public schools;

(3) adhere to the same financial audits, audit procedures, ~~and~~ audit requirements, procurement requirements, and accounting standards as are applied to public schools. The school shall submit its annual audit to its sponsor by November first of each year. The failure of a school to submit the audit timely is a material breach of the charter and is subject to sanctions short of revocation or, if not timely corrected, revocation proceedings pursuant to this chapter. The sponsor shall notify the department if a charter school does not submit its audit by September first;

(4) be considered a school district for purposes of tort liability under South Carolina law, except that the tort immunity does not include acts of intentional or wilful racial discrimination by the governing body or employees of the charter school. Employees of charter schools must be relieved of personal liability for any tort or contract related to their school to the same extent that employees of ~~traditional public schools in their school district or, in the case of the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor, the local school district in which the charter school is located are relieved~~ local school districts;

(5) in its discretion hire noncertified teachers in a ratio of up to twenty‑five percent of its entire teacher staff~~; however, if it is a converted charter school, it shall hire in its discretion noncertified teachers in a ratio of up to ten percent of its entire teacher staff. However, in either a new or converted charter school, a teacher teaching in the core academic areas as defined by the federal No Child Left Behind law must be certified in those areas or possess a baccalaureate or graduate degree in the subject he or she is hired~~ to teach core curriculum classes. For classes that are not part of the core curriculum, charter schools may employ noncertified teachers without limitation to number. All noncertified and certified teachers who are teaching courses outside of their certification area must possess subject matter competency through completion of college‑level work, advanced certification, experience, or credentialing. Part‑time noncertified teachers are considered pro rata in calculating this percentage based on the hours which they are expected to teach and support staff, teaching assistants, and administrative staff shall not be included in this calculation unless they are teaching a core curriculum class in addition to other duties. Any teacher, regardless of certification status, who resigns, is suspended, or is terminated amid allegations of unprofessional conduct, must be reported to the department by the sponsor. An educator whose South Carolina educator certificate has been suspended or revoked must not be employed as a noncertified teacher. If a noncertified teacher commits an offense covered by the Code of Conduct as promulgated by the State Board of Education, then the State Board of Education is authorized to revoke the educator’s registration;

(6) ~~hire or contract for, in its discretion,~~ employ administrative staff, including a school leader, to oversee the daily operation of the school. At least one of the administrative staff must be certified or experienced in the field of school administration;

(7) perform criminal history record checks as applicable to all public schools for all school personnel, governing board of directors, volunteers, and other individuals who regularly come into contact with students, as defined in Section 59‑19‑117;

(8) admit all children eligible to attend public school to a charter school, subject to space limitations, except in the case of an application to create a single gender charter school or, in the case of a charter school designated as an Alternative Education Campus, pursuant to Section 59‑40‑111, with an explicit mission and purpose of specializing in providing evidence‑based, specific educational or behavioral health services for educationally disadvantaged students with a demonstrated need for such services. Demonstrated need may include, but not be limited to, as documented in an Individualized Education Program (IEP), 504 plan, a medical or psychological diagnosis, or documentation that the student is not meeting grade‑specific standards in literacy as documented by the student’s school. For purposes of this section, educationally disadvantaged students are those students as defined by the Every Student Succeeds Act (ESSA). Evidence‑based services must include, but are not limited to, services to students who need evidence‑based, specialized, multi‑sensory instruction in literacy or other services included in the students’ IEP or 504 plan. This specialized mission and purpose must be defined in the school’s charter ~~and charter contract~~ as approved by the sponsor and as allowed by ESSA. However, it is required that the racial composition of the charter school enrollment reflect that of the local school district in which the charter school is located or that of the targeted student population of the local school district that the charter school proposes to serve, to be defined for the purposes of this chapter as differing by no more than twenty percent from that population. This requirement is also subject to the provisions of Section 59‑40‑70(D). If the number of applications exceeds the capacity of a program, class, grade level, or building, students must be accepted by lot, and there is no appeal to the sponsor. In the case of a charter school designated as an Alternative Education Campus, pursuant to Section 59‑40‑111, that is serving educationally disadvantaged students, if the number of applicants exceeds the capacity of a program, class, grade level, or building, students may be accepted by weighted lot as allowed by ESSA with mission‑aligned preference and the process clearly described in their charter and charter contract approved by their sponsor, and there is no appeal to the sponsor;

~~(8)~~ ~~not limit or deny admission or show preference in admission decisions to any individual or group of individuals, except in the case of an application to create a single gender charter school, in which case gender may be the only reason to show preference or deny admission to the school; a charter school may give enrollment priority to a sibling of a pupil currently enrolled and attending, or who, within the last six years, attended the school for at least one complete academic year. A public charter school shall give enrollment preference to students enrolled in the public charter school the previous school year. An enrollment preference for returning students excludes those students from entering into a lottery. A charter school also may give priority to children of a charter school employee and children of the charter committee, if priority enrollment for children of employees and of the charter committee does not constitute more than twenty percent of the enrollment of the charter school. In the case of a charter school designated as an Alternative Education Campus, pursuant to Section 59‑40‑111, mission‑aligned preference may be given to educationally disadvantaged students as specifically defined in their charter and charter contract approved by their sponsor and as allowed by ESSA. In addition, a charter school located on a federal military installation or base where the appropriate authorities have made buildings, facilities, and grounds on the installation or base available for use by the charter school as its principal location also may give enrollment priority to otherwise eligible students who are dependents of military personnel living in military housing on the base or installation or who are currently stationed at the base or installation not to exceed fifty percent of the total enrollment of the charter school. This priority is in addition to the other priorities provided by this item, but no child may be counted more than once for purposes of determining the percentage makeup of each priority;~~

(9) during each school year, notify the sponsor of the charter school’s enrollment procedures and dates of the annual enrollment period no less than sixty days before the first day of the school accepting student applications for enrollment;

(10)(a) not limit or deny admission or show preference in admission decisions to any individual or group of individuals, except:

(i) in the case of an application to create a single gender charter in which case gender may be the only reason to show preference or deny admission to the school;

(ii) a charter school may give enrollment priority to the siblings of a pupil currently enrolled and attending, and siblings of a pupil selected in the lottery;

(iii) a public charter school shall give enrollment priority to students enrolled in the public charter school the previous school year;

(iv) a charter school may give enrollment priority to children of a charter school employee and children of charter school board directors if priority enrollment for these groups does not constitute more than twenty percent of the enrollment of the charter school;

(v) in the case of a charter school designated as an Alternative Education Campus, pursuant to Section 59‑40‑111, mission‑aligned priority may be given to educationally disadvantaged students as specifically defined in their charter approved by the sponsor and as allowed by federal law; and

(vi) a charter school located on a federal military installation or base where the appropriate authorities have made buildings, facilities, and grounds on the installation or base available for use by the charter school as its principal location may give enrollment priority to otherwise eligible students who are dependents of military personnel living in military housing on the base or installation or who are currently stationed at the base or installation. Dependents of military personnel may not exceed fifty percent of the total enrollment of the charter school at the time of the lottery;

(b) in the case of priorities in subitems (a)(i) through (vi), no child may be counted more than once for the purposes of determining the percentage makeup of each priority and will exclude those students from entering the lottery;

(~~9~~11) ~~consist of~~ be governed by a board of directors of seven or more individuals with the exact number specified in or fixed in accordance with the bylaws. A charter school board must meet the following criteria:

(a) members of a board of directors may serve a term of two years, and may serve additional terms. ~~A choice of the membership of the board must take place every two years~~. The charter school’s bylaws must require staggered terms for board members. An election for two or more board positions must take place every two years, at a minimum;

(b) at least fifty percent of the members of the charter school board as specified by the bylaws must be individuals who have a background in K‑12 education or in business, and the bylaws of the charter school also must provide for the manner of selection of these members. All directors serving on a charter school board must be citizens of the United States and legal residents of this State. A person who has been convicted of a felony, any crime involving the neglect or abuse of a child, forgery, theft of money, or embezzlement of money may not serve on a charter school board. No person that has been subject to discipline by the State Board of Education for educator misconduct may serve on a charter school board if the board’s sanctions are still in place;

(c) ~~In addition~~ beginning with the first election of a charter school board of directors, which must occur on or before the 135th school day of the school’s first year serving students, at least fifty percent of the members of the board as specified by the bylaws must be elected by the employees and the parents or guardians of students enrolled in the charter school. ~~Parents or guardians shall have one vote for each student enrolled in the charter school. All members must be residents of the State of South Carolina. A person who has been convicted of a felony must not be elected to a board of directors. If the board of directors consists of an odd number of members, the extra member must be an individual who has a background in K‑12 education or in business~~ There must be one vote cast for each open board seat in the election for each student enrolled in the charter school. The parent or guardian of a student shall designate one parent or guardian to cast the vote on behalf of his student. Each employee, including those with a student enrolled at the school, only may have one vote. An employee with a student enrolled at the school must be the designated parent or guardian to cast the vote on behalf of his student. If an employee has multiple students enrolled at the school, the employee will have the same number of votes as students he has enrolled;

(d) a single nonprofit corporation may hold more than one charter and the board of directors of the corporation may oversee more than one charter school if each school is overseen by a charter school board of directors and each board is separate and distinct from any other for the purposes of fiscal accountability and academic performance. The nonprofit corporation shall provide for pro‑rata representation based on student population for each school on the corporation’s board of directors;

(~~10~~12) be subject to the Freedom of Information Act, including the charter school and its governing body. A board of directors of a charter school shall notify its sponsor of any ~~regular~~ meeting of the board at least ~~forty‑eight~~ twenty‑four hours prior to the date on which it is to occur;

(~~11~~13) be subject to the ethics and government accountability requirements for public members and public employees ~~as contained in~~ and must adopt a conflict of interest policy and a code of ethics consistent with the provisions of Chapter 13, Title 8, and this title. For purposes of this subsection, employees of the charter school board are considered public employees. The charter ~~contract in accordance with Section 59‑40‑60(B)~~ must contain a statement of assurance of ethical compliance on behalf of the school. The charter school board minutes must:

(a) be kept in compliance with the South Carolina Freedom of Information Act and other applicable law;

(b) include all information recommended by Robert’s Rules of Order to be included in meeting minutes; and

(c) include record of any motions or discussions related to procurement, conflict of interest issues, and issues related to compliance with ethics and government accountability deliberations outside of executive session.

(C)(1) If a charter school denies admission to a student, the student may appeal the denial to the sponsor. The decision is binding on the student and the charter school.

(2) If a charter school suspends or expels a student, other charter schools or the local school district in which the charter school is located has the authority but not the obligation to refuse admission to the student.

(3)(a) A charter school is eligible for federally sponsored, state‑sponsored or district‑sponsored interscholastic leagues, competitions, awards, scholarships, grants, and recognition programs for students, educators, administrators, staff, and schools to the same extent as all other public schools.

(b) A charter school student is eligible to compete for, and if selected, participate in any ~~extracurricular~~ interscholastic activities, as defined in Section 59‑63‑100, not offered by the student’s charter school which are offered at the ~~resident public school he would otherwise attend~~ public school located within the attendance boundaries in which the residence of the student is located. A charter school student is eligible to compete for, and if selected, participate in an activity governed by the South Carolina High School League offered at the resident public school he would otherwise attend if the league‑governed activity is not offered at the student’s charter school.

(c) A charter school student is eligible for extracurricular activities at the student’s resident public school consistent with eligibility standards as applied to full‑time students of the resident public school.

(d) A school district or resident public school may not impose additional requirements on a charter school student to participate in extracurricular activities that are not imposed on full‑time students of the resident public school.

(e) Charter school students shall pay the same fees as other students to participate in extracurricular activities.

(f) Charter school students shall be eligible for the same fee waivers for which other students are eligible.

(D) The State is not responsible for student transportation to a charter school unless the charter school is designated by the local school district as the only school selected within the local school district’s attendance area. However, a charter school may enter into a contract with a school district or a private provider to provide transportation to the charter school students.

(E) The South Carolina Public Charter School District Board of Trustees may not use program funding for transportation.”

SECTION 4. Section 59‑40‑55 of the 1976 Code is amended to read:

“Section 59‑40‑55. (A) In order to promote the quality of charter school outcomes and oversight, the charter school sponsor shall adopt ~~national industry standards of quality charter schools and shall authorize~~ and implement policies, procedures, and practices consistent with ~~those standards~~ sponsor’s powers and duties as an LEA and under this chapter. The sponsor annually shall submit its charter school policies and procedures to the department, which shall verify that the sponsor has adopted and implemented adequate policies, procedures, and practices as part of its annual report on sponsor compliance.

(B) A charter school sponsor shall:

(1) ensure that students enrolled in its charter schools are served in a manner consistent with all LEA obligations under applicable federal law and the requirements of this chapter;

(2) approve charter applications pursuant to Section 59‑40‑70 that meet the requirements specified in Sections 59‑40‑50 and 59‑40‑60;

(~~2~~3) decline to approve charter applications according to Section 59‑40‑70(C);

(~~3~~4) ~~negotiate and execute sound charter contracts with each approved charter school~~ evaluate and determine whether to approve amendments to the charter;

(~~4~~5) monitor and oversee performance of charter schools to verify that that students enrolled in charter schools it sponsors are served in a manner consistent with all LEA obligations under applicable federal law and the requirements of this chapter;

(6) monitor, in accordance with charter ~~contract~~ terms and applicable federal and state statutes and regulations, the academic performance and legal/fiscal compliance of charter schools to include collecting and analyzing data to support ongoing evaluation according to the charter ~~contract~~;

(~~5~~7) conduct or require oversight activities that enable the sponsor to fulfill its responsibilities outlined in this chapter, including conducting appropriate inquiries and investigations, only if those activities are consistent with the intent of this chapter~~, adhere to the terms of the charter contact, and do not unduly inhibit the autonomy granted to public charter schools~~;

(~~6~~8) collect, in accordance with Section 59‑40‑140(~~H~~I), an annual report from each of its sponsored charter schools and submit ~~the reports~~ a report on the performance of each individual school and sponsor, as evidenced by the school’s performance reported by the federal and state accountability system, to the State Department of Education;

(~~7~~9) notify the charter school of ~~perceived problems if its~~ noncompliance in the charter school’s academic performance, fiscal compliance or legal compliance, or other charter requirements ~~appears to be unsatisfactory~~ and provide reasonable opportunity for the charter school to ~~remedy the problem, unless the problem warrants revocation and revocation timeframes apply~~ correct the noncompliance prior to revocation unless the noncompliance warrants summary revocation. The sponsor shall notify a charter school’s leader and board chair by means of written communication consistent with the timelines under the Freedom of Information Act if action is to be taken regarding the charter school;

(~~8~~10) take appropriate corrective actions or exercise sanctions short of revocation in response to ~~apparent deficiencies in charter school~~ noncompliance in a charter school’s academic performance, fiscal compliance, or legal compliance. These actions or sanctions may include, but are not limited to, requiring a school to develop and execute a corrective action plan within a specified timeframe, placing the school in noncompliance or other formal status established by sponsor, withholding funding until the school has complied with sponsor’s corrective actions necessary to protect funding or ensure the legal or fiscal compliance of school expenditures, or freezing enrollment until the noncompliance is remedied;

(~~9~~11) determine whether each charter ~~contract~~ merits renewal, nonrenewal, or revocation based on school‑level performance data, compliance with applicable law, and adherence to the terms of the charter;

(~~10~~12) provide to parents and the general public on the sponsor’s website information about charter schools authorized by the sponsor as an enrollment option ~~within the district in which the charter school is located to the same extent and through the same means as the district in which the charter school is located provides and publicizes information about all public schools in the district. A charter school shall notify its sponsor of its enrollment procedures and dates of its enrollment period no less than sixty days before the first day of its enrollment period~~; ~~and~~

(~~11~~13) permanently close any charter school at the conclusion of the school year after receiving the lowest performance level rating at either the elementary, middle, or high school grade levels as defined by the federal or state accountability system for three consecutive years in accordance with ~~Section 59‑40‑110(E)~~ this chapter, provided the first year of a school serving students must be excluded for the purposes of this section; and

(14) notify the department at the same time the sponsor notifies the school of the sponsor’s intent to issue sanctions, revoke a charter, or consider a transfer request.

(C) Within ten business days after receiving written notice from the sponsor that a charter school must complete a corrective action or comply with a sanction short of revocation, the charter school may challenge a corrective action or sanction short of revocation by submitting a written appeal to the sponsor’s governing board requesting that the sponsor board reverse, alter, or amend the corrective action or sanction at a public meeting of the sponsor’s governing board;

(1) the sponsor board shall permit the charter school to present information at its board meeting in support of the request including, but not limited to, presentation of witnesses and evidence, if the written materials submitted are sufficient to create a question as to whether the sanction or corrective action is appropriate and the sponsor board, in its discretion, believes additional information is needed;

(2) a decision by the sponsor board to affirm, reverse, alter, or amend the corrective action or sanction short of revocation is not a final decision and is not appealable to the Administrative Law Court or any other court of law;

(3) failure by the charter school to comply with a corrective action or sanction is grounds for revocation and, upon the sponsor’s revocation of the charter, the charter school may appeal the revocation to the Administrative Law Court, which may overturn the revocation on the basis that the corrective action or sanction issued was arbitrary, capricious, or in violationof law.

(D) The South Carolina Public Charter School District, or a public or independent institution of higher learning sponsor, ~~may~~ shall retain ~~no more than~~ two percent of the total state appropriations for each charter school it authorizes to cover the costs for overseeing its charter schools. The sponsor’s administrative fee does not include costs incurred in delivering services that a charter school may purchase at its discretion from the sponsor. The sponsor’s fee is not applicable to federal money or grants received by the charter school. The sponsor shall use its funding provided pursuant to this section exclusively for the purpose of fulfilling sponsor obligations in accordance with this chapter.”

SECTION 5. Section 59‑40‑60 of the 1976 Code is amended to read:

“Section 59‑40‑60. (A) An approved charter application constitutes ~~an~~ a charter and a legally binding contractual agreement between the charter school and the sponsor.

(B) ~~A contract between the charter school and the sponsor must be executed and must reflect all provisions outlined in the application as well as the roles, powers, responsibilities, and performance expectations for each party to the contract. A contract must include the proposed enrollment procedures and dates of the enrollment period of the charter school. All agreements regarding the release of the charter school from school district policies must be contained in the contract. The Department of Education shall develop a contract template to be used by charter schools and the sponsor. The template must serve as a foundation for the development of a contract between the charter school and the sponsor.~~

~~(C)~~ A material revision of the terms of the ~~contract between the charter school and the sponsor~~ charter only may be made ~~only~~ with the approval of both ~~parties~~ the sponsor and the charter school.

~~(D)~~ ~~Except as provided in subsection (F), an applicant who wishes to form a charter school shall:~~

~~(1) organize the charter school as a nonprofit corporation pursuant to the laws of this State;~~

~~(2) form a charter committee for the charter school which includes one or more teachers; and~~

~~(3) submit a letter of intent and a written charter school application to the board of trustees or area commission from which the committee is seeking sponsorship.~~

(~~E~~C) ~~A charter committee~~ An applicant is responsible for and has the power to:

(1) submit a letter of intent and an application to operate as a charter school~~, sign a charter school contract,~~ and ensure compliance with all of the requirements for charter schools provided by law;

(2) employ ~~and contract with~~ teachers, administrators, and nonteaching employees, contract for nonteaching and nonadministrative services, and develop pay scales, performance criteria, and discharge policies for its employees. All teachers whether certified or noncertified must undergo the background checks and other investigations required for certified teachers, as provided by law, before they may teach in the charter school; and

(3) decide all other matters related to the operation of the charter school, including budgeting, curriculum, and operating procedures.

(~~F~~D) The charter school application, based on an application template with compliance guidelines developed by the State Department of Education, must include:

(1) an executive summary, not to exceed two pages;

(2) the mission statement of the charter school, which must be consistent with the principles of the General Assembly’s purposes pursuant to Section 59‑40‑20;

(3) the goals, objectives, and academic performance standards to be achieved by the charter school, and a description of the charter school’s admission policies and procedures;

(4) evidence that an adequate number of parents or legal guardians with students eligible to attend the proposed school pursuant to Section 59‑40‑50 support the formation of a charter school and justify the projected per pupil allocation in the application budget;

(5) a description of the charter school’s educational program, including how it will meet or exceed the academic performance standards and expectations, including academic standards adopted by the State Board of Education and how the instructional design, learning environment, class size and structure, curriculum, and teaching methods enable each pupil to achieve these standards;

(6) a description of the charter school’s plan for evaluating pupil achievement and progress toward meeting the outlined educational program, accomplishment of the school’s achievement standards in addition to state assessments, the timeline for meeting these standards, and the procedures for taking corrective action if that pupil achievement falls below the standards;

(7) evidence that the plan for the charter school is economically sound, a proposed budget for the term of the charter to include a justification of the projected per pupil allocation, a description of the manner in which an annual audit of the financial and administrative operations of the charter school, including any services provided by the sponsor, is to be conducted;

(8) a description of the governance and operation of the charter school, including a detailed school start‑up plan, resumes and background information on the ~~charter committee members~~ applicant’s board of directors, the capacity and experience of the proposed school leadership and management team, any involvement with the replication of existing successful public charter schools, any proposed management company or educational service provider responsibilities, and the nature and extent of parental, professional educator, and community involvement in the governance and operation of the charter school;

(9) a description of the charter school’s admission policies and procedures, recruitment plan, and plan for how the charter school plans to ensure that the enrollment of the school is similar to the racial composition of the local school district in which the charter school is to be located or the targeted student population of the local school district that the charter school proposes to serve and provide assurance that the school does not conflict with any school district desegregation plan or order in effect for the school district in which the charter school is to be located;

(10) a description of how the charter school plans to meet the transportation needs of its pupils;

(11) a description of the ~~building, facilities, and equipment~~ proposed facility needs, construction plans, and any unique equipment required for implementing the school’s education program, and how they ~~shall~~ would be obtained;

(12) an explanation of the relationship that shall exist between the proposed charter school and its employees, which must include a requirement that all teachers and administrators are employees of the charter school, including a staffing chart aligned with the budget and student enrollment projections, descriptions of evaluation procedures, and evidence that the terms and conditions of employment have been addressed with affected employees;

(13) ~~a description of a reasonable grievance and termination procedure, as required by this chapter, including notice and a hearing before the governing body of the charter school. The application must state~~ a statement of whether ~~or not~~ the provisions of Article 5, Chapter 25, Title 59 apply to the employment and dismissal of teachers at the charter school;

(14) a description of student rights and responsibilities, including behavior and discipline standards, and a reasonable hearing procedure, including notice and a hearing before the board of directors of the charter school before expulsion;

(15) an assumption of liability by the charter school for the activities of the charter school and an agreement that the charter school must indemnify and hold harmless the sponsor, its servants, agents, and employees, from any and all liability, damage, expense, causes of action, suits, claims, or judgments arising from injury to persons or property or otherwise which arises out of the act, failure to act, or negligence of the charter school, its agents and employees, in connection with or arising out of the activity of the charter school; ~~and~~

(16) a description of the types and amounts of insurance coverage to be obtained by the charter school;

(17) in the case of a proposed charter school submitting an application indicating an intent to contract with an education service provider (‘ESP’) charging fees or claiming reimbursement exceeding three percentof the charter school’s annual revenues, the application must, with respect to the service provider, include evidence of:

(a) past performance managing charter schools;

(b) prior noncompliance by the ESP or schools it manages in this State or any other state;

(c) a detailed description of the scope of duties and tasks to be performed by the ESP; and

(d) a copy of the proposed contractual agreement which must include the fee to be paid for each duty or task to be performed by the ESP, the source of funding for payment to the ESP, reimbursable amounts to be paid to the ESP, any indebtedness due to the ESP or that could become due to the ESP, and any other material terms of the relationship between the charter school and the ESP.

(18) The charter school must disclose any relationship that creates the appearance of a conflict of interest, a potential conflict of interest, or a conflict of interest with the ESP, its vendors, the board of directors of the applicant, and any relatives of same. If the ESP is being reimbursed for services provided by a vendor considered to be an affiliate or a subsidiary of the ESP, related to the ESP’s officers or directors, or of which the ESP, its officers or directors maintains more than a ten percent ownership interest, the applicant must identify the vendor, terms, relationship, and cost; and in the case of a proposed charter school using a virtual learning model as its primary mode of delivering instruction, this information must be included in the application and the governing body must be required to:

(a)adopt a plan by which it will provide:

(i) frequent, ongoing monitoring and verification to ensure that each student is attending and participating in the program, including proctored assessments given each semester in core subjects graded or evaluated by the teacher, and at least biweekly parent‑teacher conferences in person, virtually, or by telephone;

(ii) regular instructional opportunities in real time that are directly related to the school’s curricular objectives including, but not limited to, meetings with teachers and educational field trips and outings;

(iii) that a course of online or computer instruction approved by the sponsor must meet or exceed South Carolina content and grade‑specific standards, and that students enrolled in the program of online or computer instruction must be provided by the school with all instructional materials required for the student’s program;

(iv) ensure that persons who operate the program on a day‑to‑day basis comply with and carry out all applicable requirements, statutes, regulations, rules, and policies of the charter school;

(v) assurance that each course offered through the program is taught by a teacher meeting the requirements of Section 59‑40‑50; and

(b) administer to all students in a proctored setting all applicable assessments as required by the Education Accountability Act; and

(19) the sponsor from which the applicant is seeking approval may request additional information from the applicant in the form of an addendum to the application.

~~(G)~~(E) Nothing in this section shall require a charter school applicant to provide a list of prospective or tentatively enrolled students or prospective employees with the application.”

SECTION 6. Section 59‑40‑65 of the 1976 Code is amended to read:

“Section 59‑40‑65. (A) ~~If the governing body of a charter school offers as part of its curriculum a program of online or computer instruction, this information shall be included in the application and the governing body shall be required to:~~

~~(1)~~ ~~provide each student enrolled in the program with a course or courses of online or computer instruction approved by the charter school’s sponsor that must meet or exceed the South Carolina content and grade‑specific standards. Students enrolled in the program of online or computer instruction must receive all instructional materials required for the student’s program;~~

~~(2)~~ ~~ensure that the persons who operate the program on a day‑to‑day basis comply with and carry out all applicable requirements, statutes, regulations, rules, and policies of the charter school;~~

~~(3)~~ ~~ensure that each course offered through the program is taught by a teacher meeting the requirements of Section 59‑40‑50;~~

~~(4)~~ ~~ensure that a parent or legal guardian of each student verifies the number of hours of educational activities completed by the student each school year;~~

~~(5)~~ ~~adopt a plan by which it will provide:~~

~~(a)~~ ~~frequent, ongoing monitoring to ensure and verify that each student is participating in the program, including proctored assessment(s) per semester in core subjects graded or evaluated by the teacher, and at least bi‑weekly parent‑teacher conferences in person or by telephone;~~

~~(b)~~ ~~regular instructional opportunities in real time that are directly related to the school’s curricular objectives, including, but not limited to, meetings with teachers and educational field trips and outings;~~

~~(c)~~ ~~verification of ongoing student attendance in the program;~~

~~(d)~~ ~~verification of ongoing student progress and performance in each course as documented by ongoing assessments and examples of student coursework;~~

~~(6)~~ ~~administer to all students in a proctored setting all applicable assessments as required by the South Carolina Education Accountability Act.~~

~~(B)~~ Nothing in this section shall prohibit a charter school that provides a program of online or computer instruction from reimbursing families of enrolled students for costs associated with their Internet connection for use in the program.

(~~C~~B) A charter school shall provide no more than seventy‑five percent of a student’s core academic instruction in kindergarten through twelfth grade via an online or computer instruction program. The twenty‑five percent of the student’s core academic instruction may be met through the regular instructional opportunities ~~outlined in subitem (A)(5)(b)~~ provided in real time that are directly related to curricular objectives of the school including, but not limited to, meetings with teachers and educational field trips and outings.

(~~D~~C) Charter school students may enroll in the State Department of Education’s virtual education program pursuant to program requirements.

(~~E~~D) Private or homeschool students choosing to take courses from a virtual charter school may not be provided instructional materials, or any other materials associated with receiving instruction through a program of online or computer instruction at the state’s expense.

(~~F~~E) Only students enrolled in the charter school as a full‑time student shall be reported in the charter school’s average daily membership to the State Department of Education for the purposes of receiving state or federal funds. Private and homeschool students may not be included in the student weighted pupil units or average daily membership reported to the State Department of Education for the purposes of receiving state or federal funds.”

SECTION 7. Section 59‑40‑70 of the 1976 Code is amended to read:

“Section 59‑40‑70. (A)(1) An applicant shall submit a letter of intent ~~at least ninety days before submitting an application to the board of trustees or area commission from which it is seeking sponsorship and a copy to the South Carolina Department of Education~~ before November first of the year before it intends to apply to any sponsor to which it may apply. A copy of the letter of intent also must be supplied to the State Department of Education. An application may not be accepted by a sponsor if a letter of intent was not submitted before the November first deadline.

(2) An applicant may submit an application to only one sponsor per application cycle. An applicant shall submit the application to the ~~board of trustees or area commission~~ sponsor from which it is seeking ~~sponsorship~~ approval and one copy to the ~~South Carolina~~ State Department of Education no earlier than January fifteenth and no later than February first. In the case of the applicant submitting to the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor, the applicant shall provide notice of the application to the local school board of trustees in which the charter school will be located for informational purposes only. ~~The school district or the public or independent institution of higher learning from which the applicant is seeking sponsorship may request clarifying information from the applicant. The State Department of Education shall provide guidance on compliance to both sponsors and applicants.~~

(3) ~~The applicant shall notify the local delegation of a county in which a proposed charter school is to be located upon submission of a charter school application and also shall provide a copy of the charter school application upon request by a member of the local delegation~~ Before February fifteenth annually, the State Department of Education shall post a list of all applicants on its website that must include the name of the proposed charter school, the name of the proposed sponsor, and the county and school district in which the proposed charter school will be located. The department also shall provide a copy of the list to all members of the General Assembly by means of email.

(B) ~~The board of trustees or area commission from which the applicant is seeking sponsorship shall rule on the application for a charter school in a public hearing, upon reasonable public notice, within ninety days after receiving the application. If there is no ruling within ninety days, the application is considered approved. Once the application has been approved by the board of trustees or area commission, the charter school may open at the beginning of the following year. However, before a charter school may open, the State Department of Education shall verify the accuracy of the financial data for the school within forty‑five days after approval~~ The sponsor and applicant shall follow the process in this section for application approval or denial.

(1) Following receipt of the application, the sponsor from which the applicant is seeking approval may request additional information from the applicant.

(2) The applicant shall present its application to the sponsor board of trustees at a public meeting, and the sponsor from which the applicant is seeking approval shall rule on the application for a charter school in a public meeting. If there is no ruling before June thirtieth, the application is considered approved. If the application is approved by the sponsor, the charter school may open at the beginning of the following year if all opening conditions, as defined by the sponsor, have been met. The sponsor must report its decision on all submitted applications to the department before July fifteenth.

(3) At least ten business days before the public meeting at which the sponsor board of trustees will consider the application, the sponsor must provide to the applicant written notice of the public meeting.

(4) At least five business days prior to the public meeting, the sponsor must provide the applicant a written evaluation report using the rubric aligned with the department’s application and any published sponsor evaluation criteria.

(5) At least two business days prior to an applicant’s public meeting, the applicant must provide the sponsor with any rebuttal material the applicant intends to present at the meeting.

(C) A ~~board of trustees or area commission~~ sponsor shall deny an application only if:

(1) the application does not meet the requirements specified in Section 59‑40‑50 or 59‑40‑60~~,~~;

(2) the application fails to meet the spirit and intent of this chapter~~, or~~;

(3) the application adversely affects, as defined in regulation, the other students in the district in which the charter school is to be located~~,~~; or

(4) ~~if,~~ based on the totality of information provided by the applicant, the ~~board of trustees or area commission~~ sponsor determines that the applicant has failed to demonstrate a substantial likelihood that it has the capacity to establish a viable school based on national industry standards of quality charter school authorization.

(D) ~~It~~ The sponsor shall provide, within ~~ten~~ fifteen business days, a written ~~explanation of the~~ final decision to the applicant stating reasons for denial, citing specific standards related to provisions of Section 59‑40‑50, ~~or~~ 59‑40‑60, or both, that the application violates. ~~This written explanation immediately must be sent to the charter committee and filed with the State Board of Education.~~

(~~D~~E) In the event that the racial composition of an applicant’s or charter school’s enrollment differs from the enrollment of the local school district in which the charter school is to be located or the targeted student population of the local school district by more than twenty percent, despite its best efforts, the board of trustees or area commission from which the applicant is seeking sponsorship shall consider the applicant’s or the charter school’s recruitment efforts and racial composition of the applicant pool in determining whether the applicant or charter school is operating in a nondiscriminatory manner. A finding by the board of trustees or area commission that the applicant or charter school is operating in a racially discriminatory manner justifies the denial of a charter school application or the revocation of a charter as provided in this section or in Section 59‑40‑110, as may be applicable. A finding by the board of trustees or area commission that the applicant is not operating in a racially discriminatory manner justifies approval of the charter without regard to the racial percentage requirement if the application is acceptable in all other aspects.

(~~E~~F) If the ~~board of trustees or area commission~~ sponsor from which the applicant is seeking ~~sponsorship~~ a charter denies a charter school application, the charter applicant may appeal the denial to the Administrative Law Court pursuant to Section 59‑40‑90.

(G) If a local school board of trustees has information that an approved application by the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor adversely affects the other students in its district, as defined in regulation, or that the approval of the application fails to meet the spirit and intent of this chapter, the local school board of trustees may appeal the granting of the charter to the Administrative Law Court. Within forty‑five days, the court shall either affirm or reverse the application for action by the South Carolina Public Charter School District or the public or independent institution of higher learning in accordance with an order of the State Board of Education.

(~~F~~H) ~~If the board of trustees or area commission approves the application, it becomes the charter school’s sponsor and shall sign the approved application. The sponsor shall submit a copy of the charter contract to the State Board of Education~~ If the sponsor approves the application, the sponsor shall sign the approved application and the application becomes the charter and a legally binding contract between the sponsor and the school.

~~(G)~~ ~~If a local school board of trustees has information that an approved application by the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor adversely affects the other students in its district, as defined in regulation, or that the approval of the application fails to meet the spirit and intent of this chapter, the local school board of trustees may appeal the granting of the charter to the Administrative Law Court. The Administrative Law Court, within forty‑five days, may affirm or reverse the application for action by the South Carolina Public Charter School District or the public or independent institution of higher learning in accordance with an order of the state board.~~”

SECTION 8. Section 59‑40‑75(A) of the 1976 Code is amended to read:

“(A) A member of the South Carolina Public Charter School District or of the governing board or sponsor of the charter school who ~~is indicted in any court for any crime, or has waived the indictment if permitted by law,~~ has been convicted of a felony, any crime involving the neglect or abuse of a child, forgery, theft of money, or embezzlement may be suspended by the Governor, who shall appoint another in his stead until he is acquitted. In case of conviction, the office must be declared vacant by the Governor and the vacancy filled as provided by law.”

SECTION 9. Section 59‑40‑80 of the 1976 Code is amended to read:

“Section 59‑40‑80. A sponsor may authorize or conditionally authorize a charter school with preopening conditions before the applicant has secured its space, equipment, facilities, and personnel if the sponsor deems necessary or if the applicant indicates such authority is necessary for it to meet the requirements of this chapter. Conditional authorization or authorization with preopening conditions does not give rise to any equitable or other claims based on reliance, notwithstanding any promise, parole, written, or otherwise, contained in the authorization or acceptance of it, whether preceding or following the conditional authorization. If the charter school fails to comply with the preopening conditions in time to serve students beginning on the date proposed in the charter, the sponsor may prohibit the school from serving students until the conditions are met or require the school to delay opening for up to one year. If the charter school is unable to meet preopening conditions after sponsor‑approved delays or the sponsor determines the school likely does not have the capacity to meet the preopening conditions even if more time is granted, the sponsor may find the conditions for approval of the charter have not been met or revoke the charter, if approved, without a hearing and without notice. The charter school may appeal the decision to revoke the charter for failure to meet preopening conditions exclusively to the Administrative Law Court.”

SECTION 10. Section 59‑40‑90 of the 1976 Code is amended to read:

“Section 59‑40‑90. A final decision of the school district or a public or independent institution of higher learning sponsor may be appealed by any party exclusively to the Administrative Law Court as provided in Sections 1‑23‑380(B) and 1‑23‑600(D).”

SECTION 11. Section 59‑40‑100(D) of the 1976 Code is amended to read:

“(D) All employees of a converted school shall remain employees of the local school district~~, the South Carolina Public Charter School District, or the public or independent institution of higher learning sponsor~~ with the same compensation and benefits including any future increases. The converted charter school quarterly shall reimburse the local school district~~, the South Carolina Public Charter School District, or the public or independent institution of higher learning sponsor~~ for the compensation and employer contribution benefits paid to or on behalf of these employees and also provide to the sponsor any reports, forms, or data necessary for maintaining retirement coverage and providing South Carolina Retirement Systems benefits to converted school employees. The provisions of Article 5, Chapter 25, Title 59 apply to the employment and dismissal of teachers at a converted school.”

SECTION 12. Section 59‑40‑110 of the 1976 Code is amended to read:

“Section 59‑40‑110. (A) A charter must be approved or renewed for a period of ten ~~school~~ years beginning on July first of the calendar year in which the charter is fully approved and expiring on June thirtieth of the tenth calendar year after the year in which the charter is approved; however, the charter only may be revoked or not renewed under the provisions of ~~subsection (C) of~~ this section. The sponsor annually shall evaluate the conditions outlined in subsection (~~C~~D). The annual evaluation results must be used in making a determination for nonrenewal or revocation.

(B) ~~A charter renewal application must be submitted to the school’s sponsor one hundred twenty calendar days before the end of the school year for the term of the charter contract, and it must contain~~ The State Department of Education shall develop a charter school renewal application in compliance with this subsection. The renewal application must contain at least the following:

(1) a report on the progress of the charter school in achieving the goals, objectives, pupil achievement standards, and other terms of the initially approved charter application;

(2) a financial statement that discloses the costs of administration, instruction, and other spending categories for the charter school that is understandable to the general public and that allows comparison of these costs to other schools or other comparable organizations, in a format required by the State Board of Education; ~~and~~

(3) any proposed ~~material~~ changes to the current charter ~~or charter school contract~~ to be implemented in the next ten‑year charter term;

(4) for each year of the charter term, whether the school’s sponsor notified the school it was in noncompliance or breach of charter, including the grounds, status, and outcome; and

(5) for each year of the charter term, whether the school’s sponsor notified the school it was in violation of Section 59‑40‑110(F).

(C) A charter renewal application must be submitted to the school’s current sponsor or a sponsor other than the current sponsor before December first of the year preceding renewal. A renewal application may be submitted only to one sponsor. The sponsor’s governing board must consider the charter application in a public meeting in which the charter school is provided the opportunity to present evidence to support its application for renewal. The sponsor’s governing board also may consider any other evidence relevant to the renewal decision. The charter automatically must berenewed if the sponsor’s governing board does not vote in a public meeting on the question of whether to renew the charter before March first of the year in which the charter expires. If a school fails to submit its renewal application on time or submits its renewal application to more than one sponsor, the sponsor automatically may refuse to renew the school’s charter.

(D) A charter must be revoked or not renewed by the sponsor if it determines that the charter school, after having a reasonable opportunity to correct:

(1) committed a material violation of the conditions, standards, performance expectations, or procedures provided for in the charter ~~application or charter school contract, or both~~;

(2) failed to meet the racial compensation requirements as provided for in this chapter and is considered to operate in a racially discriminatory manner;

(3) failed to meet the academic performance standards and expectations as defined in the charter ~~application or charter school contract, or both~~;

(~~3~~4) failed to maintain its books and records according to generally accepted accounting principles or failed to create an appropriate system of internal control, or both; or

(~~4~~5) violated any provision of law from which the charter school was not specifically exempted.

(~~D~~E) Notwithstanding another requirement for revocation found in this chapter, a sponsor summarily may revoke the charter of any charter school that is determined by the sponsor to pose an imminent threat of harm to the health or safety of students, or both, based on documented and clear and convincing data. In the case of a summary revocation, the sponsor is not required to provide the charter school an opportunity to correct the violation or noncompliance and is not required to permit the school to continue operating while conducting any hearing or appeal permitted by this chapter.

~~(E)~~ ~~Any charter school shall automatically and permanently close at the conclusion of the school year in which the school first becomes subject to automatic closure for receiving the lowest performance level rating as defined by the federal accountability system for three consecutive years beginning with student achievement data from the 2013‑2014 school year. The determination of closure is considered final. Automatic closure shall not apply to any charter school serving fifty percent or more students with disabilities or any charter school designated as an Alternative Education Campus (AEC) by its sponsor as outlined in Section 59‑40‑111.~~

~~(F)~~ ~~At least sixty days before not renewing or terminating a charter school, the sponsor shall notify in writing the charter school’s governing body of the proposed action. The notification shall state the grounds for the proposed action in reasonable detail. Termination must follow the procedure provided for in this section.~~

~~(G)~~ ~~The existence of another charter granting authority must not be grounds for the nonrenewal or revocation of a charter. Grounds for nonrenewal or revocation must be only those specified of this section.~~

~~(H)~~ ~~The charter school’s governing body may request in writing a hearing before the sponsor within fourteen days of receiving notice of nonrenewal or termination of the charter. Failure by the school’s governing body to make a written request for a hearing within fourteen days must be treated as acquiescence to the proposed action. Upon receiving a timely written request for a hearing, the sponsor shall give reasonable notice to the school’s governing body of the hearing date. The sponsor shall conduct a hearing before taking final action. The sponsor shall take final action to renew or not renew a charter by the last day of classes in the last school year for which the charter school is authorized.~~

~~(I)~~ ~~A charter school seeking renewal may submit a renewal application to another charter granting authority if the charter school has not committed a material violation of the provisions specified in this section and the sponsor refuses to renew the charter. In such cases the charter school shall continue to receive local funding pursuant to Section 59‑40‑140(A). However, the charter school is not eligible to receive one hundred percent of the base student cost from the State. The charter school only is eligible to receive the percentage of the base student cost previously received as a school in its former district.~~

(F) If a charter school other than a charter school designated as an Alternative Education Campus pursuant to Section 59‑40‑111 receives the lowest performance level rating for any grade level or any elementary, middle, or high school level for three consecutive years, excluding the first year of a school serving students, based on thestate accountability system, the charter is automatically revoked effective as of June thirtieth following receipt of the third consecutive lowest performance level rating. In the event the state accountability system does not issue a performance rating, the federal accountability system must be used.The sponsor shall provide written notice to the charter school of the automatic revocation within thirty days of receiving the third consecutive lowest performance level rating. The automatic revocation is not subject to a hearing or appeal.

(G) Except in the case of summary revocation pursuant to subsection (E) and automatic revocation pursuant to subsection (F), a sponsor must follow the procedure provided in this subsection to revoke a charter.

(1) A sponsor may initiate revocation proceedings at any time by notifying the charter school’s governing board in writing of its intent to revoke the charter effective as of a date at least sixty days after the notice is sent.

(2) The sponsor must balance the need to close the school with the impact upon student learning when determining a reasonable effective date for the revocation. Notice sent by a sponsor before January second providing that the charter will be revoked effective as of June thirtieth of the same year is presumptively reasonable. Failure by the sponsor to designate a reasonable effective date for the revocation may not be grounds for reversal of the decision to revoke on appeal to the Administrative Law Court.

(3) The charter school’s board of directors may request in writing a public hearing before the sponsor within fourteen days of receiving notice of revocation of the charter. Failure by the school’s governing body to make a written request for a hearing within fourteen days must be treated as an agreement to the proposed action. Upon receiving a timely written request for a public hearing, the sponsor shall give at least ten business days’ notice to the school’s board of directors of the hearing date. The public hearing must occur at least sixty days before the effective date for the revocation. At the conclusion of the hearing, the sponsor board of directors must vote in public on the decision to revoke.

(~~J~~H) A sponsor’s decision to revoke or not to renew a charter ~~school~~ may be appealed by the charter school to the Administrative Law Court pursuant to the provisions of Section 59‑40‑90. Upon appeal to the Administrative Law Court, there is no automatic stay of the revocation or nonrenewal decision. Pending resolution of the appeal, the charter school also may move before the Administrative Law Court for imposition of a stay of the revocation or nonrenewal on the grounds that an unusual hardship to the charter school will result from the execution of the sponsor’s decision.

(~~K~~I) Prior to any public charter school closure, the sponsor shall develop a public charter school closure protocol to ensure timely notification to parents, orderly transition of students and student records to new schools, and proper disposition of school funds, property, and net assets in accordance with the requirements of this chapter. The protocol shall specify tasks, timelines, and responsible parties, including delineating the respective duties of the school and the sponsor. In the event of a public charter school closure for any reason, the sponsor shall oversee and work with the closing school to ensure a smooth and orderly closure and transition for students and parents, as guided by the closure protocol.”

SECTION 13. Section 59‑40‑115 of the 1976 Code is amended to read:

“Section 59‑40‑115. (A) A charter school may ~~terminate its contract with a sponsor before the ten‑year term of contract if all parties under contract with the charter school agree to the dissolution. A charter school that terminates its contract with a sponsor directly may seek application for the length of time remaining on its original contract from another sponsor~~ transfer its charter to a different sponsor if approved by the charter school board of directors, the current sponsor, and the proposed new sponsor pursuant to the procedures set forth in this section.

(B) The decision by a charter school board to transfer to another sponsor shall be discussed and voted upon during a public meeting of the charter school board of directors. The charter school board of directors must provide the current sponsor, parents of current students, and current employees with at least thirty days’ notice of the board meeting during which the transfer vote will be taken.

(C) A charter school seeking to transfer to another sponsor must obtain approval from the receiving sponsor prior to termination of the charter with current sponsor. A receiving sponsor must make determinations regarding transfers no later than July first for the transfer to be effective one year later on July first of the following year.

(D) Upon approval from the receiving sponsor, notification must be sent to the current sponsor and the State Department of Education by the charter school’s governing board seeking to transfer within ten business days.

(E) All requests by a charter school to transfer from a sponsor must be submitted to the current sponsor by September first of the year before the school year in which the charter school wishes the transfer to be effective.

(F) The current sponsor shall decide to approve or deny the transfer request in a public meeting and by a majority vote of the sponsor governing board after allowing the charter school an opportunity to present evidence to support the transfer request and considering any other evidence relevant to the transfer request. The current sponsor must make a final decision on the transfer request by December first of the year in which it was received.

(G) The current sponsor shall grant the transfer request unless the sponsor’s board of trustees determines the transfer may result in the charter school avoiding accountability, is prohibited by law, or other good cause to deny the transfer exists.

(H) A charter school may not transfer more than once during a five‑year period or within three years after the charter school first begins serving students; provided, however, that a transfer by a charter school in response to the its sponsor ceasing to operate shall not be considered a transfer for purposes of this section.

(I) Charter schools receiving the lowest performance level rating as defined by the state accountability system at any grade level are not eligible to transfer to a new sponsor until the charter school has earned a rating higher than the lowest performance level rating at all grade levels for two consecutive years. In the event the state accountability system is repealed, the federal accountability system shall be used.

(J) The decision of the current sponsor to deny a transfer request is appealable exclusively to the Administrative Law Court. The decision of a proposed new sponsor not to accept a transfer is not appealable and is not subject to challenge in any court or administrative proceeding.”

SECTION 14. Section 59‑40‑120 of the 1976 Code is amended to read:

“Section 59‑40‑120. Upon revocation, nonrenewal, or voluntary termination of a charter, the charter school is dissolved. Upon dissolution of a charter school, its assets may not inure to the benefit of any private person. Any assets obtained through restricted agreements with a donor through awards, grants, or gifts must be returned to that entity. All other assets become property of the sponsor. The sponsor is not responsible for any debt, liability, or other obligation of the charter schools, and shall ensure that student data is available to the State Department of Education upon its request.”

SECTION 15. Section 59‑40‑140 of the 1976 Code is amended to read:

“Section 59‑40‑140. (A) A local school board of trustees sponsor shall distribute state, county, and school district funds to a charter school as determined by the following formula: the previous year’s audited total general fund revenues, divided by the previous year’s weighted students, then increased by the Education Finance Act inflation factor, pursuant to Section 59‑20‑40, for the years following the audited expenditures, then multiplied by the weighted students enrolled in the charter school, which will be subject to adjustment for student attendance and state budget allocations based on the same criteria as the local school district. These amounts must be verified by the State Department of Education before the first disbursement of funds. All state and local funding must be distributed by the local school district to the charter school monthly beginning July first following approval of the charter school application and must continue to be disbursed to the charter school for the duration of its charter and for the duration of any subsequent renewals. After verification of student attendance on the fifth day of school at the beginning of each school year, the State Department of Education shall distribute funds to school districts with charter schools: (1) having approved incremental growth and expansion as provided in their charter application; or (2) for opening of new charter schools in the current fiscal year. These funds must be released to districts on behalf of their charter schools no later than fifteen days after receipt of verified enrollment. Districts shall provide this funding to eligible charters no later than thirty days after receipt from the State Department of Education. Necessary adjustments due to enrollment changes must be made pursuant to the Education Finance Act.

(B) The South Carolina Public Charter School District or public or independent institution of higher learning sponsor shall receive and distribute state funds to the charter school as provided by the General Assembly.

(C) During the year of the charter school’s operation, as received, and to the extent allowed by federal law, a sponsor shall distribute to the charter school federal funds which are allocated to the sponsor on the basis of the number of special characteristics of the students attending the charter school. These amounts must be verified by the State Department of Education before the first disbursement of funds.

(D) Notwithstanding subsection (C), the proportionate share of state and federal resources generated by students or staff serving them must be directed to the sponsor. After receipt of federal or state categorical aid funds, sponsors shall, within ten business days, supply to the charter school the proportional share of each categorical fund for which the charter school qualifies. If the sponsor fails to do so, the Department of Education may fine the sponsor an amount equivalent to the withheld amounts. Fines imposed must be remitted to the charter school from which the amounts were withheld.

(E) All services centrally or otherwise provided by the sponsor including, but not limited to, food services, custodial services, maintenance, curriculum, media services, libraries, and warehousing are subject to negotiation between a charter school and the sponsor and must be outlined in the contract required pursuant to Section 59‑40‑70(F), except as otherwise provided or required by law.

(F) All awards, grants, or gifts collected by a charter school must be retained by the charter school.

(G) ~~The governing body of~~ A charter school is authorized to accept gifts, donations, or grants of any kind made to the charter school and to expend or use the gifts, donations, or grants in accordance with the conditions prescribed by the donor. A gift or donation must not be required for admission. However, a gift, donation, or grant must not be accepted ~~by the governing board~~ if subject to a condition contrary to law or contrary to the terms of the contract between the charter school and the governing body. All gifts, donations, or grants must be reported to the sponsor in their annual audit report as required in Section 59‑40‑50(B)(3).

(H) A ~~charter school~~ sponsor shall report to ~~its sponsor and~~ the State Department of Education any change to a charter school’s charter upon sponsor approval. ~~to information provided under its application. In addition, a charter school shall report at least annually to its sponsor and the sponsor shall compile those reports into a single document which must be submitted to the department. The Department of Education shall develop a template to be used by charter schools for this annual report. The report shall provide all information required by the sponsor or the department and shall include, at a minimum:~~

~~(1) the number of students enrolled in the charter school from year to year;~~

~~(2) the success of students in achieving the specific educational goals for which the charter school was established;~~

~~(3) an analysis of achievement gaps among major groupings of students in both proficiency and growth;~~

~~(4) the identity and certification status of the teaching staff;~~

~~(5) the financial performance and sustainability of the sponsor’s charter schools; and~~

~~(6) board performance and stewardship including compliance with applicable laws.~~

(I) Annually before April first, all sponsors must provide the department, the Education Oversight Committee, the House Education and Public Works Committee, and the Senate Education Committee with an annual report on each of its charter schools. The report must contain performance and compliance data and specifically highlight educational outcomes, fiscal performance, and governance for each charter school as delineated in regulations promulgated by the State Board of Education. The department shall provide guidance and develop a template to be used by sponsors to submit the annual report. Charter schools timely shall comply with the deadlines of the sponsor for information and annual reports, including the annual audit.

(J) Upon request of an applicant and the State Department of Education, the sponsor shall provide technical assistance to ~~persons and groups preparing or revising charter applications~~ applicants related to preparing charter applications and the application process at no expense.

(~~J~~K) Charter schools may acquire by gift, devise, purchase, lease, sublease, installment purchase agreement, land contract, option, or by any other means provided by law or otherwise, and hold and own in its own name buildings or other property for school purposes and interests in it which are necessary or convenient to fulfill its purposes.

(~~K~~L) Charter schools are exempt from state and local taxation, except the sales tax, on their earnings and property whether owned or leased. Instruments of conveyance to or from a charter school are exempt from all types of taxation of local or state taxes and transfer fees.

(~~L~~M) Notwithstanding the above provisions of this section, this subsection applies to converted charter schools that converted into a charter school after the effective date of this act. For purposes of computing the funding for any year to be provided a converted charter school under the provisions of this section, the computations required shall be made as provided in this section based on the previous year’s revenues, expenditures, and other applicable factors pertaining to that particular converted charter school, and also then shall be made as provided in this section for the year immediately preceding the previous year based on the revenues, expenditures, and other applicable factors for that year pertaining to that particular converted charter school. The funding of the converted charter school for the initial year shall be the average of the weighted per pupil unit funding computed for these two prior years, and funding for the converted charter school after the initial year shall be provided by the school district in the same manner as regular public schools in the district.”

SECTION 16. Section 59‑40‑145 of the 1976 Code is amended to read:

“Section 59‑40‑145. A child who resides in a school district other than the one where a charter school is located may attend a charter school outside his district of residence; however, the receiving charter school shall have authority to grant or deny permission for the student to attend pursuant to Sections 59‑40‑40(2)(b) and 59‑40‑50(B)(7) and (8) according to the terms of the charter after in‑district children have been given priority in enrollment. However, the out‑of‑district enrollment shall not exceed twenty percent of the total enrollment of the charter school without the approval of the sponsoring district board of trustees. The district sending children to the charter school under the terms of this section must be notified immediately of the transferring students. Out‑of‑district students must be considered based on the order in which their applications are received. If the twenty percent out‑of‑district enrollment is from one school district, then the sending district must concur with any additional students transferring from that district to attend the charter school. The charter school to which the child is transferring shall be eligible for state and federal funding according to the formula defined in Section 59‑40‑140(A), (B), and (C), as applicable. However, this section does not apply to a charter school sponsored by the South Carolina Public Charter School District Board of Trustees or a registered public or independent institution of higher learning.”

SECTION 17. Section 59‑40‑150 of the 1976 Code is amended to read:

“Section 59‑40‑150. (A) The Department of Education shall disseminate information to the public, directly and through sponsors, 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~~ The department shall develop and implement a charter school application template, a renewal application template, a replication application template, a sponsor application and process, compliance guidance, board orientation and training, and an evaluation rubric that provides minimum information for a sponsor to consider in determining whether an application meets statutory criteria for approval. A sponsor may request additional or clarifying information in addition to the minimum information that is included in the application templates.

(C) The department shall ~~bear the cost of complying with this section~~ provide ongoing guidance and technical assistance to sponsors and charter applicants regarding the application processes for new charter schools, renewals and replications.

(D) The department annually shall consider whether to make revisions to the applications and applications processes after considering stakeholder input. Revised applications and guidance documents must be published annually on the department website no later than September thirtieth annually.

(E) The department shall provide the following oversight, monitoring, and technical assistance to sponsors:

(1) develop and implement a system to report to the General Assembly and the public regarding the overall performance and compliance of charter school sponsors;

(2) fulfill the role of State Education Agency (SEA) to charter school sponsors with equivalent time, effort, and resources as it does for other LEAs;

(3) exercise authority over sponsors to the same extent as all other public school districts except as otherwise provided in this chapter; and

(4) take any necessary corrective action regarding sponsor deficiencies or noncompliance including, but not limited to:

(a) withholding the sponsor fee until deficiencies are resolved, at which time the amount of sponsor fee withheld must be returned to the sponsor;

(b) restricting the number of new schools that can be authorized; and

(c) assuming management of the sponsor and all schools authorized by the sponsor. The State Superintendent shall notify the Governor, the sponsor board, and each school board authorized by the sponsor of the assumption of management; and

(5) provide support to sponsors to the same extent as all other public school districts except as otherwise provided in this chapter.

(F) The department may not take corrective actions, issue sanctions, or otherwise hold sponsors accountable for noncompliance or deficiencies of a charter school chartered by the sponsor unless the sponsor fails to act regarding a charter school’s noncompliance or deficiency.

(G) An adverse action of the department may be appealed by the sponsor or any charter school impacted by the department’s adverse action to the State Board of Education. The final decision of the State Board of Education may be appealed to the Administrative Law Court. The proposed action by the department is stayed pending an appeal by the sponsor or charter school.

(H) The department shall develop and implement a sponsor application process and rubric for approving new sponsors to accept applications for charter schools.

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

SECTION 18. Section 59‑40‑155 of the 1976 Code is amended to read:

“Section 59‑40‑155. (A) Within one year of taking office and within one year of the beginning of a new term of office, all persons elected or appointed as members of a charter school board ~~of trustees after July 1, 2006,~~ shall complete successfully ~~an~~ the orientation program and training provided by the department ~~in the powers, duties, and responsibilities of a board member including, but not limited to, topics on policy development, personnel, instructional programs, school finance, school law, ethics, and community relations. The orientation must be provided at no charge by the State Department of Education or an association approved by the department~~. The orientation must include specific instruction on board member duties for compliance with this chapter, policy development, personnel, instructional programs, school finance, school law including charter school law, South Carolina ethics laws, the South Carolina Freedom of Information Act, the South Carolina Nonprofit Code, school safety, and community relations.

(B) The orientation must be provided at no charge by the State Department of Education. The department may have the sponsor or a third‑party organization selected using the department’s procurement process for competitive bids.

(C) All persons elected or appointed as members of a charter school board of directors annually shall participate in at least three hours of advanced board governance training on the powers, duties, and responsibilities of a charter school governing board including board governance, leader evaluation, education service provider evaluation, policy implementation, strategic planning, academic data analysis, compliance, financial best practices, or other topics specific to the needs and mission of the school. The board training must be provided by an organization qualified to provide board governance training that is selected by the charter school and approved by the sponsor.

(~~B~~D) Within ninety days of employment, ~~an administrator~~ the leader employed by the charter school~~, who is not certified,~~ shall complete successfully an orientation program in the powers, duties, and responsibilities of a charter school administrator including, but not limited to, topics on personnel, instructional programs, school finance, school law including charter school law, nonprofit law, board relations, conflicts of interest, school safety, ethics, and community relations. The orientation must be provided at no charge by the State Department of Education or an association approved by the department. The provisions of this item do not apply if the leader is currently serving in the same capacity at a South Carolina public charter school.”

SECTION 19. Section 59‑40‑170 of the 1976 Code is amended to read:

“Section 59‑40‑170. The Department of Education shall make available, upon request, a list of vacant and unused buildings and vacant and unused portions of buildings that are owned by school districts in this State and that may be suitable for the operation of a charter school. The department shall make the list available to applicants for charter schools and to existing charter schools. The list must include the address of each building, a short description of the building, and the name of the owner of the building. Nothing in this section requires the owner of a building on the list to sell or lease the building or a portion of the building to a charter school or to any other school or to any other prospective buyer or tenant. However, if a school district declares a building surplus and chooses to sell or lease the building, a charter ~~school’s board of directors or a charter committee operating or applying within the district~~ school must be given the first refusal to purchase or lease the building under the same or better terms and conditions as it would be offered to the public. If a school district receives an offer from a charter school to purchase or lease a building,other real property, equipment, motor vehicles, or other tangible property it has advertised to the public for sale, and the charter school offers at least fair market value for the property as determined by a qualified appraisal, then the local school district must sell or lease the property to the charter school at the price proposed by the charter school and under the terms and conditions offered to the public at large.”

SECTION 20. Section 59‑40‑180 of the 1976 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 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~~.”

SECTION 21. Section 59‑40‑190(C) and (D) of the 1976 Code is amended to read:

“(C) A ~~local school district,~~ sponsor~~, members of the board or area commission of a sponsor,~~ and employees of a sponsor acting in their official capacity are immune from civil or criminal liability with respect to all activities related to a charter school they sponsor including, but not limited to, claims by charter schools related to decisions made or actions taken by sponsors to exercise the powers granted or fulfill the duties required by this chapter. The governing body of a charter school shall obtain at least the amount of and types of insurance required for ~~this purpose~~ all activities related to the charter school.

(D) A member of a school governing body, or his immediate family member, may not receive pay ~~as an employee in the same school~~ for any service provided to the charter school they serve. A member of the governing body is eligible for per diem, mileage, and subsistence as provided by law for members of state boards, committees, and commissions.”

SECTION 22. Section 59‑40‑220 of the 1976 Code is amended to read:

“Section 59‑40‑220. (A) The South Carolina Public Charter School District is created as a public body. The South Carolina Public Charter School District must be considered a local education agency and is eligible to receive state and federal funds and grants available for public charter schools and other schools to the same degree as other local education agencies. The South Carolina Public Charter School District may not have a local tax base and may not receive local property taxes. This prohibition does not extend to local funds received by the district on behalf of sponsored charter schools pursuant to Section 59‑40‑140(B).

(B) The geographical boundaries of the South Carolina Public Charter School District are the same as the boundaries of the State of South Carolina.

~~(C)~~ ~~The office of the South Carolina Public Charter School District Board of Trustees must be housed in the State Department of Education.~~”

SECTION 23. Sections 59‑40‑160 and 59‑40‑200 of the 1976 Code are repealed.

SECTION 24. This act takes effect upon approval of the Governor.

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