

SECTION 59-40-50. Exemption; powers and duties; admission to charter school.

(A) Except as otherwise provided in this chapter, 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 public schools operating in the same school district or, in the case of the South Carolina Public Charter School District, 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 as are applied to public schools;

(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, the local school district in which the charter school is located are relieved;

(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. Part-time noncertified teachers are considered pro rata in calculating this percentage based on the hours which they are expected to teach;

(6) hire in its discretion administrative staff 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) admit all children eligible to attend public school to a charter school, subject to space limitations. 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;

(8) not limit or deny admission or show preference in admission decisions to any individual or group of individuals; however, a charter school may give enrollment priority to a sibling of a pupil already enrolled or previously enrolled, children of a charter school employee, and children of the charter committee, if such priority enrollment does not constitute more than twenty percent of the enrollment of the charter school;

(9) elect its board of directors annually. All employees of the charter school and all parents or guardians of students enrolled in the charter school are eligible to participate in the election. Parents or guardians of a student shall have one vote for each student enrolled in the charter school. A person who has been convicted of a felony must not be elected to a board of directors;

(10) be subject to the Freedom of Information Act, including the charter school and its governing body.

(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) The sponsor has no obligation to provide extracurricular activities or access to facilities of the school district for students enrolled in the charter school; however, the charter contract may include participation in agreed upon interscholastic activities at a designated school within the sponsor district. Notwithstanding another provision of law, the local school district has no obligation to provide charter schools, sponsored by the South Carolina Public Charter School District, extracurricular activities or access to facilities of the school district for students enrolled in charter schools unless the school district, by contract, has agreed to provide activities or access. Students participating under this agreement must be considered eligible to participate in league events if other eligibility requirements are met.

(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.

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

CREDIT(S)

HISTORY: 1996 Act No. 447, Section 2; 2002 Act No. 341, Section 1; 2006 Act No. 274, Section 1, eff May 3, 2006; 2008 Act No. 239, Section 9, eff May 21, 2008.

EFFECT OF AMENDMENT

The 2006 amendment rewrote subsections (B) and (C) and added subsections (D) and (E) relating to transportation of students.

The 2008 amendment in subsection (B)(8) substituted “however” for “provided, however, that”, added “or previously enrolled”, and substituted “if such priority” for “provided their”.

LIBRARY REFERENCES

Schools 11.

Westlaw Key Number Search: 345k11.

C.J.S. Schools and School Districts Sections 4, 6, 74, 76, 396 to 398.

RESEARCH REFERENCES

ALR Library

78 ALR 5th 533, Validity, Construction, and Application of Statute or Regulation Governing Charter Schools.

NOTES OF DECISIONS

In general 1

1. In general

Appeal of question of whether the racial composition requirement of original Charter Schools Act violated equal protection was moot, given that new provisions in amended Act regarding racial composition were substantially different in effect from the original provision, and thus, issuance of an opinion ruling on constitutionality of the original racial composition requirement was no longer required; the new provisions changed the character of the racial composition requirement by injecting a fact-based determination regarding discrimination rather than mandating a straightforward racial quota. *Beaufort County Bd. of Educ. v. Lighthouse Charter School Committee* (S.C. 2003) 353 S.C. 24, 576 S.E.2d 180. Appeal And Error 781(1)

Application to establish charter school under Charter Schools Act can be denied on ground that applicant failed to satisfy Act’s health, safety, civil rights, and racial composition requirements. *Beaufort County Bd. of Educ. v. Lighthouse Charter School Committee* (S.C. 1999) 335 S.C. 230, 516 S.E.2d 655. Schools 11