

**(F)(2) Ensuring successful conditions for high-performing charter schools and other innovative schools**

- (i) The State has a charter school law that does not prohibit or effectively inhibit increasing the number of high-performing charter schools (as defined in this notice) in the State, measured (as set forth in Appendix B) by the percentage of total schools in the State that are allowed to be charter schools or otherwise restrict student enrollment in charter schools;

The South Carolina Charter School Act, S.C. Code Ann. § 59-40-10 *et seq.*, does not cap the number of charter schools that can operate in the state, and it does not limit the types of charter schools that can be created. As long as charter developers create a high quality charter school application that is approved through our two-part review process, the charter school can open. The SC Charter School Act is attached in Appendix F2A.

As of January 2010, 37 charter schools are open and operating in 16 of South Carolina's public school districts; 35 are regular start-up schools and two are public school conversions. Of these, 32 are brick and mortar charter schools, and five are virtual charter schools (see Appendix F2B for a list of current South Carolina charter schools). Also, 12 new charter schools have been authorized to open and are currently in their planning year, meaning that South Carolina could have 49 charter schools operating by August 2010 out of 1175 total schools (4%).

In South Carolina, a charter school developer must select a sponsor to authorize their charter school; this sponsor is either the local public school district or the South Carolina Public Charter School District (SCPCSD), a statewide authorizer that began operation in 2007. The first SCPCSD-sponsored schools opened in August 2008; the LEA currently operates seven schools and ranks 37<sup>th</sup> in enrollment of the 86 public school districts in the state.

Charter school enrollments are not restricted by South Carolina law. In its charter school application, a charter developer must include a five-year budget that is based upon enrollment projections that, when approved, become part of the authorized contract for the new charter school. S.C. Code 59-40-60(C) allows for the authorized contract to be modified, so a charter school can request to increase its enrollment from the authorizer. Such requests typically include evidence of support to attain the additional students, assurances that the facility has enough space, and proof that the charter school's students are making academic progress.

(ii) The State has laws, statutes, regulations, or guidelines regarding how charter school authorizers approve, monitor, hold accountable, reauthorize, and close charter schools; in particular, whether authorizers require that student achievement (as defined in this notice) be one significant factor, among others, in authorization or renewal; encourage charter schools that serve student populations that are similar to local district student populations, especially relative to high-need students (as defined in this notice); and have closed or not renewed ineffective charter schools;

South Carolina has an extensive application process for charter schools and a two-part peer review process in which each charter school application is reviewed for legal compliance and then for quality and compliance before it is authorized to open. The State’s charter school application process is explained in S.C. Code Ann. § 59-40-70 (see SC Charter School Act in Appendix F2A).

Both 59-40-60(F) of the Charter School Act (Appendix F2A) and State Board of Education (SBE) regulation 43-601 III(D),(24 S.C. Code Regs. 43-601(III)) (see Appendix F2C for SBE Regulations R43-601 Procedures and Standards for Review Charter School Applications) require that applications for new charter schools include goals, objectives, and pupil achievement standards that become the foundation from which the sponsor will hold the charter school accountable. Attaining Adequate Yearly Progress, as advanced by the Elementary & Secondary Education Act, must be included in the achievement standards.

Each charter application must also provide a plan 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” and that the school “does not conflict with any school district desegregation plan” (in S.C. Code § 59-40-60(F) (Appendix F2A, SC Charter School Act) and 24 S.C. Code Regs. 43-601 III(I)) (Appendix F2C, SBE Regulations R43-601 Procedures and Standards for Review Charter School Applications).

When a charter school application is submitted, the Charter School Advisory Committee (CSAC) conducts a peer review within 60 days to determine if the proposed new charter school complies with the statute. A reader’s evaluation form guides the review discussion and the reviewers also interview the charter developers. Membership of the CSAC is set forth in statute (in S.C. Code § 59-40-70; see Appendix F2A, SC Charter School Act) and the 11 volunteers serve to improve academic achievement in the State.

Once the CSAC deems an application compliant, the application is forwarded to the selected sponsor (the local district or the SCPCSD). The sponsor has 30 days to determine whether to authorize the charter. The charter law, § 59-40-70(C), states three reasons that a

sponsor can deny a charter application: (1) it does not meet the legal requirements, (2) it fails to meet the spirit and intent of the law, or (3) it adversely affects, as defined by regulation, the other students within the district. If denied, a charter developer has an opportunity to appeal, and that appeal goes directly into the Administrative Law Court. Recent trends indicate that sponsors and the CSAC agree in the majority of instances. For the 2009 application cycle, the CSAC deemed 11 applications legally complaint, and 9 of those were authorized by the selected sponsors.

In the last five years, 50 charter school applications were submitted for review, and 27 new charter schools were authorized to open following the two-part review. Three major reasons that charter applications have been denied in South Carolina are: (1) low enrollment demonstrating a lack of community support; (2) questions about the fiscal soundness of the proposed school; (3) concerns about the school's academic performance. Appendix F2D details charter school information from the last five years, including the numbers of applications submitted, those approved, reasons for the denial, and the numbers closed or not renewed.

Once a charter school opens to serve students, the sponsor, per § 59-40-70(D), becomes responsible for investigating whether enrollment exceeds the allowable variances and examining the charter school's recruitment efforts for nondiscrimination. If the sponsor finds that the charter school is "not operating in a racially discriminatory manner," then the school, absent any other issues, should continue to operate.

A charter school must provide an annual report to its sponsor per § 59-40-140(H), that includes: number of students enrolled, which has a budgetary rationale behind it; success of the school in meeting the educational goals within the charter, which has an achievement rationale behind it; and the identity and certification of the staff, which has a legal rationale behind it. The law, in § 59-40-110(C), provides that a charter may be revoked or non-renewed by the district for only four reasons: (1) it committed a material violation of the charter; (2) it failed to meet or make reasonable progress as defined in the application; (3) it failed to meet generally accepted standards of fiscal management; (4) it violated any provision of the law from which the charter was not exempted.

South Carolina has a strong record of closing or not renewing ineffective charter schools. In a little more than a decade of chartering history, 17 charter schools have been closed. Most of these schools voluntarily relinquished their charters due to low enrollments and, ultimately, poor planning. (Recent regulatory changes to require a planning year are designed in part to address

this concern.) Six charters were directly revoked or not renewed by their sponsors/authorizers for more than one reason; of the 11 reasons cited for these closures, six were for unstable finances, four were for inadequate academic results, one was for improper governance, and one was for violating state law.

(iii) The State's charter schools receive (as set forth in Appendix B) equitable funding compared to traditional public schools, and a commensurate share of local, State, and Federal revenues;

S.C. Code Ann. § 59-40-140 (Appendix F2A) highlights the funding stream for charter schools authorized by a local school district in South Carolina. These operating charter schools receive a weighted pupil amount calculated by dividing the district's total general fund revenue for the prior year (adjusted for the current year's State increases) by the prior year's total weighted pupils. Eligibility for categorical funding is determined separately; for example, a charter elementary school is not eligible for State *High Schools that Work* funding. When allowed by federal law, federal funds are allocated on the "basis of the number of special characteristics of the students attending the charter school" for which the funds were received. These charters receive an equitable share of the local district funding, which on average totaled \$5800 per student in FY 08-09.

The other authorizer—the statewide SC Public Charter School District (SCPCSD)—does not have a local tax base and relies upon the State for its non-federal funding (S.C. Code § 59-40-220(A)). The SCPCSD receives the State base student cost plus State categorical funding. To address concerns about the SCPCSD's funding and despite significant revenue reductions, in the FY 09-10 budget the General Assembly added \$700 per weighted pupil unit for the SCPCSD, above the State per pupil amount that is the basis for the EFA formula for other districts. As noted above [(F)(1)(a)] State EFA funding is allocated among other districts based upon local revenue-raising ability. State EFA funding ranges from 0% of the base student cost (Beaufort) to 94% (Clarendon 3) to the 100% plus \$700 for the SCPCSD, with a wide range in between (e.g., 18% to Charleston, 63% to Anderson 4, and 90% to Barnwell 45). (Appendix F2E contains the October 2009 EFA summaries for these districts).

The SCPCSD's level of funding and lack of ability to raise local revenue to augment the base student cost continues to be a concern, as are legal limits on other districts' ability to raise local property taxes for school operating expenses. A bill from the House Education and Public Works Committee, pre-filed for the session that started January 12, 2010, is one of the first to be

considered by the South Carolina General Assembly this session (see Appendix F2F). This bill proposes considerable revisions to the charter school act including an increase in the State per weighted pupil funding to the SCPCSD. In addition, the State Superintendent of Education has proposed “Begin in ‘10,” a significant revenue and funding reform that would establish a statewide uniform foundation millage to fund public education (see Appendix F2G for “Begin in ‘10” information.) On July 24, 2009, the General Assembly passed Act 81 creating the S.C. Tax Realignment Commission (TRAC) to determine whether the State’s current tax-revenue structure is “adequate, equitable, and efficient.” (Appendix F2H contains a summary concerning TRAC.)

Regarding federal funding, charter schools in South Carolina are not their own LEAs but operate under the auspices of their district (LEA) sponsor. As LEAs, districts prepare their applications for federal funding, include their charter schools as they deem appropriate, and disburse any charter school designated portions of federal awards.

(iv) The State provides charter schools with funding for facilities (for leasing facilities, purchasing facilities, or making tenant improvements), assistance with facilities acquisition, access to public facilities, the ability to share in bonds and mill levies, or other supports; and the extent to which the State does not impose any facility-related requirements on charter schools that are stricter than those applied to traditional public schools;
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South Carolina provides little assistance to any schools or districts for facilities. Funding occurs when there are state revenue surpluses, rarely totaling an amount suitable to build one school (e.g., \$1.5 million in Children’s Endowment (Barnwell) fund (2008); \$3 million in EFA building fund (FY07); \$40 million EIA fund (FY06). Appendix F2I contains a list of those allocations).

S.C. Code Ann. § 59-40-170, the only section of the Charter School Law that addresses facility assistance, states that the SCDE must make available a listing 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 SCDE’s Office of School Facilities (OSF) provides this list annually. Charter developers and existing schools can use the list to identify a potential location for their school. If a district “declares a building surplus and chooses to sell or lease the building,” a charter school within the same district must receive the right of first refusal to “purchase or lease the building under the same or better terms” as offered to the public. Currently, six charter schools have taken advantage of this opportunity.

Charter schools are also subject to state regulations and all health and safety standards as

stated in the SC School Facility and Construction Guide (the Guide). Additional requirements in not related to health and safety do not have to apply to charter school facilities, and the OSF maintains and publishes a list of the Guide's non-health and non-safety requirements on the OSF web site. Design professionals need to seek waivers from OSF on any other state regulations listed in the Guide. In the past, charter schools would need to appear before the SBE to request these waivers; however, this process was modified to eliminate the paperwork, effort, and time for the charter school and the SBE, while placing the responsibility upon the experts in this field.

The pre-filed bill from the House Education and Public Works Committee (presented in Appendix F2F) proposes the creation of a Public Charter School Revolving Loan Fund to be housed within the office of the South Carolina State Treasurer. If passed, the State Treasurer would collaborate with the SCDE in evaluating applications for any loans that may be made from deposits into this revolving fund.

(v) The State enables LEAs to operate innovative, autonomous public schools (as defined in this notice) other than charter schools.
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The South Carolina Education Accountability Act (S.C. Code Ann. § 59-18-1100), provides a mechanism for schools to achieve flexibility from regulations and statutory provisions. While not totally autonomous from the school district in which they reside, the schools enjoy the benefit of being free from many regulations, much like a charter school. High achieving schools as defined in §59-18-1100 may receive flexibility status as a matter of course if they meet the law's criteria. Flexibility and deregulation is also available for lower performing schools. S.C. Code Ann. § 59-18-1120 states:

Notwithstanding any other provision of law, a school designated as school/district at-risk while in such status is given the flexibility of receiving exemptions from those regulations and statutory provisions governing the defined program or other [SBE] regulations, dealing with the core academic areas as outlined in Section 59-18-120, provided that the review team recommends such flexibility to the [SBE].

Additionally, other schools may also receive flexibility status:

(B) Other schools may receive flexibility when their school renewal plan explains why such exemptions are expected to improve the academic performance of the students and the plan meets the approval by the [SBE]. To continue to receive flexibility pursuant to this section, a school must annually exhibit overall school improvement as outlined in its

revised plan and must meet the gains set for subgroups of students in content areas included in the accountability assessments. A school which does not requalify for flexibility status due to extenuating circumstances may apply to the [SBE] for an extension of this status for one year according to the provisions of Section 59-18-1110(D).

Also, State Board of Education (SBE) Regulation 43-261(C) provides a mechanism for school districts to request a waiver: “Upon request of a district board of trustees or its designee, the State Board of Education may waive any regulation that would impede the implementation of an approved district strategic plan or school renewal plan.” Our state statutory structure provides a mechanism for any school to be free of regulations that inhibit innovation.

### **(F)(3) Demonstrating other significant reform conditions**

The extent to which the State, in addition to information provided under other State Reform Conditions Criteria, has created, through law, regulation, or policy, other conditions favorable to education reform or innovation that have increased student achievement or graduation rates, narrowed achievement gaps, or resulted in other important outcomes.

South Carolina has made concerted and continuous efforts to make systemic improvements in K-12 public schools. The State’s General Assembly has played a key role and legislative highlights include:

- Funding full-day kindergarten for all five-old-children in 1996 was the catalyst for immediate and dramatic improvements in first-grade readiness. Ten years later, in 2006, the General Assembly expanded funding for full-day kindergarten to include at-risk four-year-olds.
- The Education Accountability Act of 1998 set rigorous grade-by-grade standards, implemented statewide testing in grades 3-8, and established a mechanism that allows the state to take over management of schools where student achievement is languishing.
- The Education and Economic Development Act of 2005 (EEDA), with foundations developed by a statewide education/business task force, linked students’ high school coursework with their individual talents and interests; increased the numbers of guidance counselors and career development specialists; and encouraged whole-school reform models in high schools. Under EEDA, each student and their parent/guardian works with a school counselor to create an Individual Graduation Plan to focus everyone’s efforts on