

Honoring the Charter School Contract: Guidance for South Carolina School Districts



South Carolina
Department of Education

Together, we can.

Office of Public School Choice

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Preface

As individual school districts consider charter applications for authorization, those districts have an integral role in working effectively with charter schools thereby ensuring that high-quality choice is being offered for the benefit of South Carolina's students. Hopefully, this document will assist districts in understanding their role as authorizer of a charter school.

A crucial point must be made clear here at the outset: this document does not advocate for or against charter schools as if though charter and traditional schools were adversaries. The South Carolina Legislature has authorized charter schools by statute, and the United States Department of Education supports the formation of charter schools with its grant programs. All South Carolina schools exist for the same reason, which is to educate and prepare the future leaders of the state. Because not every school can meet the needs of every student, schools of choice exist so that parents can find the school that best serves their child. Because charter schools are free "to select interventions most appropriate for the given group of students" (Miron and Nelson 2002, 4), parents often choose to send their child to a charter school, which has established a specific educational focus. In a great many instances, charter schools can provide the "nurturing [and] . . . safe environment" (Miron and Nelson 2002, 97), with specifically trained teachers delivering a precise curriculum, where students who may be lost in another school setting are able to flourish.

Some individuals oppose all charter schools because certain ones of these schools have faced allegations of fiscal mismanagement, poor student performance, and failure on the part of the organizing board to deliver on the charter's promises. However, such individuals are misguided as those who condemn all public schools when particular ones fail to meet AYP (adequate yearly progress) standards or experience a drop in graduation rates. In reality, what the debate needs to focus on improving all our schools by addressing the root causes of problems and implementing research-based programs that have proven successful in highly effective schools.

By focusing our time and effort on what is best for the children, we can improve the spirit of camaraderie among educators and reduce the isolation that leads to miscommunication and conflict. The motto of the South Carolina Department of Education (SCDE) says it best: "Together, We Can." When we focus our energies on getting down to the business of doing what is best for our students, whether in a traditional school or public school of choice, "We Can."

The focus of this SCDE guidelines document is two-fold: to provide an explanatory listing of what each district must do regarding charter schools during the application and authorization process and to address some of the prominent questions that are posed when districts authorize a charter. As additional questions arise, do not hesitate to contact the Office of Public School Choice. If you have specific questions about charter schools, please contact Joel Medley at 803-734-5481, or you may e-mail him at jmedley@ed.sc.gov.

The Charter Defined

Business has been as usual in the school district this week, and you are so glad that Friday has finally arrived. With the computer shutting down, your focus shifts to weekend plans. But as you are preparing to leave your desk, a colleague enters your office with a 450-page document and tells you that that you must read and make a report on it by the coming week. In looking at the cover page, you see that the document is an application from a school seeking charter sponsorship by your district. It is the first such application to be submitted for your district's consideration. Somewhat apprehensive about this task that you must undertake, this new territory that you must explore, you sit back down at your desk and begin to skim the document.

Before realizing how much time has passed, you have read a substantial portion of that document, and yet now, a number of questions have arisen in your mind. So you decide to read through the South Carolina charter school legislation to try to find some answers. But even after you have made that effort, your questions linger: (1) What does this application mean for the district? (2) How does the relationship between applicant and authorizer work? (3) Does "autonomy" mean that we authorize the charter school and then completely leave it alone? (4) Where does the money come from? (5) Who holds the charter school accountable for its performance?

Many school district staff members have already felt such anxieties and confronted such questions as these, while others are yet to encounter them. And even in districts that already have charter schools, leadership changes can create the need for specific information and professional guidance with regard to the charter school process. Yes, a charter school is different from a public school, but it is still just that: a public school. While they do have some measure of autonomy, charter schools are also tasked with a tremendous amount of accountability, and that accountability itself also places responsibility on the authorizing district.

So what exactly is a charter?

The charter is considered "the core of the school," as Paul T. O'Neill puts it, in that it explains the school's proposed mission; outlines its educational philosophy and methodology; explains a financial plan based on its anticipated enrollment; provides evidence that projected enrollment can be reached; and, most importantly, lists the goals and objectives for which the school is to be held accountable (O'Neill 2007, 24). The charter—which is the legal agreement with the school district—is the basis for all that is discussed in the following sections of this SCDE guidelines document. The nationally used term for a group that approves charter applications is *authorizer*; however, the South Carolina Charter Schools Act (Chapter 40 of Title 59 of the South Carolina Code of Laws) uses the term *sponsor*. These two terms are used interchangeably in this document.

Section 59-40-40(1) of the Act states that the charter school “is accountable to the school board of trustees of that district which grants its charter.” As the charter authorizer, the school district has the responsibility of overseeing the school and its progress toward achieving “the goals, objectives, and pupil achievement standards” (Section 59-40-60(F)(1)) stipulated in the charter contract signed by representatives of both the district and the charter school’ governing board.

The language of the Charter Schools Act indicates the seriousness of the directive: the school district is to hold the charter school accountable for the goals stipulated in its charter application. Why? Again, the legislation itself provides the answer. Section 59-40-60(A) states: “an approved charter application constitutes an agreement, and the terms must be the terms of a *contract* [emphasis added] between the charter school and the sponsor.” Even the State Board of Education Regulation 43-601 states that the application is a proposed contract.

A contract creates a “relationship of obligation” between two or more parties through the establishment of “consensual transactions” (Simpson 1975, 6). Charter applicants have two options for a contractual sponsor: the local school district in which the charter school will be geographically located and the newly created South Carolina Public Charter School District (SCPCSD). The SCPCSD can serve as sponsor for any charter school—with the exception of an initially converted school—regardless of the school’s location within the state. (More information on the SCPCSD is available at <http://www.sccharter.com/district.asp>.)

With a proposed charter contract, the applicant approaches the authorizer it has chosen. In providing a potential sponsor with this paperwork, the charter applicant is proposing a relationship in which the authorizer grants the applicant “autonomy in exchange for accountability” (NACSA 2007, 5)—in other words, the charter school is to be held accountable for its results but is given the freedom to make the important and practical decisions regarding its daily operation. If the sponsor signs the contract granting the charter, the “relationship of obligation” has begun. As Section 59-40-70(F) expresses it from the authorizing school district’s point of view, “the approved application . . . constitutes a contract with the charter committee of the charter school.”

The obligation of authorizer oversight does not mean that the school district is to take a “gotcha” position and use every misstep as an opportunity to close the charter school. The district is not a direct supervisor of the charter school’s operation. The charter document holds the nonprofit board of directors responsible for meeting the proposed outcomes in the application, but they have flexibility in selecting the means to those ends. It is only when an issue warranting investigation becomes known to the charter authorizer that its involvement as active overseer is necessitated. Certain serious errors (e.g., fiscal mismanagement) do demand that an authorizer take action against the charter school. This accountability to the district is part of the bargain for the autonomy given to charter schools.

Nonetheless, in this “relationship of obligation” created by the charter contract, assistance and communication between the two entities must constantly exist. If they fail to fulfill their obligations—mutually or independently—the contract becomes ineffectual. And in such a situation, the students are the ones who suffer.

Everyone in education desires to help children and brighten their future. If we are truly to leave no child behind, public schools should work together for the benefit of every child instead of building walls and retreating into isolation.

What should our school district do if we are considering the possibility of authorizing a charter school?

If a school district does not currently have a charter school operating within its boundaries but is considering the possibility of authorizing such a school, it needs to begin by creating clearly articulated policies, expectations, and timelines for working with a charter school. The district should have these essentials in place so that they can be provided to the charter applicant up front. It is important that applicant knows exactly what to anticipate.

It would be wise for the district to contact several other districts in the state that currently do have charter schools and to learn about how they have worked with those schools. If you are looking for specific examples of documents or the types of information provided to charter schools by a district, contact the Richland County School District One charter liaison, who has written a handbook that outlines the operational expectations for that district's charter schools (check the District's Web site.) If your district does decide to create such a manual, soliciting input from the charter school's staff members is a valuable way of promoting open communication and transparency.

An often overlooked provision of the Charter Schools Act is Section 59-40-140(I), which states: "The sponsor *shall* provide technical assistance to persons and groups preparing or revising charter applications *at no expense* [emphasis added]." Although the Act does not require the school district to write the charter for the developer group, it does mandate that the district provide the group with some guidance and suggestions along the way. And although the law does not list examples of topics to be covered by the sponsor in this technical assistance, the major areas of the application where many applicants need assistance are the financial component and the educational program.

This section of the Act also lends support to the fact that districts and charter schools should be working together for the benefit of their students. Charter development groups are starting from scratch and deserve school district support as they seek an opportunity to provide quality public school choice. With many students returning to traditional schools in the district because the charter schools have only a limited grade span (e.g., only kindergarten through grade five), it behooves the sponsor to ensure that those students are being provided a solid education.

The student-centered aspect of technical assistance applies to those groups that are initially preparing a charter application as well as those that have already submitted an application. The district needs to think through what should be offered to these groups to help them get started successfully. Remember, the contract allows for autonomy in the daily decisions but accountability for the results. The accountability originates as the nonprofit group is tasked with meeting the terms of that contract through the implementation of the school.

So exactly how does this chartering process work, and what specific responsibilities does the district itself incur after the charter agreement has been signed?

The answers to these two questions are considered in this guidance document in the two sections that follow here. The section titled “Charter Application Process” explains how the school district can maneuver through process of evaluating a charter application that has been submitted to it. The section “Charter Authorization Practice” examines in depth the professional and legal responsibilities that are entailed in charter school sponsorship.



Charter Application Process

It is wise for the charter applicant and the school district to meet before the approval process begins. And, in fact, the charter applicant should seek the assistance of the district in the initial stages of drafting the charter. Such communication allows the two parties to discuss what a charter school could offer to the district and its students. It also allows the district to share the expertise of its staff members, giving them the opportunity to offer feedback regarding specifics outlined in the proposed charter and to explain why they feel that certain things may or may not work. Further, this openness immediately begins the process of building a partnership, a positive relationship between the charter school and the district, while diminishing district apprehensions about the purpose of the charter school and/or the motives behind its inception.

When the charter development group completes the application, it must send a copy of that application first to the anticipated sponsoring district and then to the Charter School Advisory Committee (CSAC). The development group must provide evidence to the CSAC that the district received the first copy. Within sixty days of receiving the application, the CSAC must meet to conduct its review. The results of CSAC's initial review will then be provided to the development group and the proposed authorizer. A representative of the proposed authorizer—that is, the school district—needs be present at the meeting to serve as nonvoting ex officio member of the CSAC's committee. It is the function of the CSAC to determine the proposed charter's legal compliance (which is the minimum threshold), and at this meeting, it will make a "nonbinding" recommendation to the district either to approve or to deny the application.

District Review of the Charter Application

If the CSAC has determined that the proposed charter is in compliance with state guidelines and has made its nonbinding recommendation that the district approve the application, the charter then passes to the school district for its decision. Section 59-40-70(B) gives a district thirty days to approve or deny a charter application. If no decision is made within that time period, the application is automatically considered approved.

In reviewing charter applications, the school district must thoroughly investigate the details of them. Typically, concerns arise in the following categories, and these issues should be carefully examined:

1. Is the financial plan viable?
2. Do the bylaws and governance structure afford strong leadership? For instance, are governing body members receiving pay as an employee? Under Section 59-40-190(D), an employee may not serve as a member of his or her own charter school board. (The Ethics Reform Act also calls this practice into question; more information is available at <http://www.ethics.sc.gov/rulesofconduct>.)

3. What sort of marketing plan is in place to ensure that the school resembles the school district demographics or the demographics of its selected student population? Does the school district operate under an Office of Civil Rights desegregation order with which the charter must comply?
4. Does the education plan propose high-quality instruction for all students, including those with special needs?
5. How is the attainment of the goals and objectives stated in the application to be measured?
6. How involved was the community in forming this charter, and what sort of community involvement will there be after the school opens?
7. Are the enrollment policies sound? Does the school offer a fair lottery if the number of applications it receives exceeds the number of slots available?

District Denial of the Charter Application

In reviewing a charter proposal, the district must also apply Section 59-40-70(C), which allows it to deny the application for one of the following reasons: (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 the Act as a whole, or (3) the charter school "adversely affects . . . the other students in the district the district in which the charter school is to be located."

In considering the charter application for the new school's possible adverse effect, the district must perform a financial-impact review to determine whether the proposed charter will diminish the district's effectiveness in serving the students already enrolled in its public schools. If the district determines that proposed charter school would indeed adversely impact the district's existing students by redirecting, or draining, vital funds from their education, the district can deny the charter application.

However, the district must *prove* adverse impact (what constitutes *proof* of adverse impact is specifically defined within State Board of Education Regulation 43-601). In addition, the district must be able to demonstrate all the options that it has considered in an effort to reduce the adverse financial impact. In its analysis, the district must also forecast the fiscal benefits the proposed charter school could provide to the district.

A district's decision to deny authorization cannot be based upon a whim but must be firmly rooted in one of the three reasons enunciated in Section 59-40-70(C), and the rationale behind that denial must be explained in writing to the applying charter committee within ten days. Copies of the denial report must be filed with the CSAC and the State Board of Education. Unfortunately, a completely false, but quite common, assumption comes into play at this point: the notion that if CSAC has deemed the application to be in compliance with the Charter Schools Act, then the district has no authority whatsoever to deny the charter unless it can *prove* adverse impact. The law clearly provides for two layers of review: the initial one by the CSAC and a second one by the sponsoring district.

In *Trident Youth Development and Progressive Academy* (case number 2004-CS-03, available online at <http://www.ed.sc.gov/agency/stateboard/sb-rules.html>), dated September 28, 2004, the State Board of Education wrestled with the question of the CSAC's authority regarding charter schools and issued a ruling that contains two key points. First, "If the General Assembly intended for the local board to accept the CSAC recommendation without further review, it would not give the local board the option to reject a charter based on non-compliance with S.C. Code Ann. § 59-40-50 and 60 (2004). Instead, the law could have provided for an appeal by the local board of the CSAC ruling, which it does not." And second, "The CSAC does not have the power to approve applications; it has authority to advise the local school board as to whether, in its opinion, the charter school's application meets the standards. In contrast, S.C. Code Ann. § 59-40-70 (2004) gives direct authority to the local board to deny an application if it fails to meet certain requirements as set forth in the law."

If the district does indeed vote not to approve the charter, the applicant—after analyzing the district's rationale—may decide to appeal the denial to the South Carolina Administrative Law Court (ALC).

Conditional District Authorization of the Charter

If the district has reviewed the charter committee's application before space, equipment, facilities, or personnel were secured, the district can grant what Section 59-40-80 calls "conditional authorization." This type of authorization does not "promise" anything but rather gives the applicant the authority necessary to approach private entities in order to create partnerships that will assist the charter development group in meeting the conditions enunciated by the district. If a district pursues conditional authorization, it should stipulate a time period within which it will reexamine the applicant's progress and determine whether to fully authorize the charter. The issue of conditional authorization is addressed specifically in a revision of State Board of Education Regulation 43-601. In essence, the proposed regulation revision makes three central statements: (1) a sponsor who has granted conditional authorization to a charter school cannot later decide to deny that application on the basis of something that was not among the district's conditions; (2) the sponsor must select a date to meet with the charter applicant to consider its progress toward fulfilling the stipulated conditions; and (3) the charter will be deemed as having been approved by the sponsor if the sponsor fails to meet with the applicant on or before the specified date. If the charter applicant fails to meet the district's conditions by the date specified, then the charter school will not be authorized.

SCPCSD Charter Authorization

The SCPCSD can serve as the sponsor for any charter school—with the exception of an initially converted school—anywhere within South Carolina. Although the process for SCPCSD authorization is the same one that the district follows, there is an additional layer. If a charter application is considered by the SCPCSD, the district where the charter school would be located has the opportunity to challenge this

potential authorization. That district may file an appeal to the ALC based on either of the two reasons stated in Section 59-40-70(G): the proposed charter school will adversely affect the district's ability to educate its students or the proposed application does not meet the spirit or intent of the school schools statute. In most cases, the ALC can provide a resolution to the dispute.

Conversion to a Charter School

If a public school seeks to convert to a charter school, application process remains essentially the same as that for a regular application. However, the application for conversion to a charter school does require additional information, and the school district must examine that information carefully.

Section 59-40-100 outlines the additional factors that the charter applicant must address:

1. Two-thirds of the faculty and two-thirds of parents/legal guardians must vote in favor of the conversion.
2. If a parent has four children enrolled in the school, that parent actually receives four votes.
3. If a teacher is also a single parent, he or she, in fact, receives two votes: one in the staff vote and one in the parent vote.
4. The converted school must offer at least the same grade levels in existence immediately prior to the conversion.
5. Students enrolled at the time of the conversion are given priority admission.
6. Employees of the converted school remain employees of the local school district, with the same compensation and benefits, including any future adjustments made by the district. Further, the school must quarterly reimburse the district for compensation and employer benefits.
7. The SCPCSD cannot authorize a public school to convert into a charter school. However, if a district refuses to renew the conversion charter of a school that has not "committed a material violation" (Section 59-40-110(C)), the SCPCSD could become a sponsor for that school's charter renewal. If the SCPCSD authorizes the renewal of a conversion charter due to improper procedure by a district, that local district maintains an obligation to provide the same base student cost and the same local funding it was providing to the school prior its renewal refusal.

Charter School Admissions

Once the school district has approved the charter school, enrollment proceedings can begin. As Section 59-40-50(B)(7) stipulates, charter schools in South Carolina "must . . . admit all children [who are] eligible to attend public school . . . , subject to space limitations." To put it another way, a charter school is limited each year to the specific enrollment number that is stated in its original charter application. The law—specifically, Section 59-40-50(B)(8)—does give priority to three groups: the children of the charter committee members, the children of charter school

employees, and the siblings of a pupil already or previously enrolled in the particular charter school “provided their enrollment does not constitute more than twenty percent of the enrollment of the charter school.” This 20 percent restriction is an aggregate total of these preference groups. For example, a school enrolling 100 children could have no more than 20 students that enter the school through the allowable preferences.

If the total number of student applications received by the charter school exceeds its enrollment limit, the school must conduct an open and fair admissions lottery. (The subject of what happens when a charter school wants to grow—that is, to exceed the number of students stated in its initial application—is addressed below in question 12 of the section titled “Frequently Asked Questions.”)

Here are a few best practices for school lotteries to help charter schools avoid allegations of impropriety:

1. Have clearly stated a beginning and ending for open enrollment. Applications submitted beyond that deadline go to the bottom of the waiting list created by the lottery results.
2. Post the date, location, and time for parents to attend the lottery.
3. Use a three-person team for the lottery—one to draw, one to verify, and one to record. Inviting an impartial person to perform the drawing is a good option.
4. Think through your method of selection because parents can create crafty charges about the format’s fairness. (For example, parents in another state complained about a school’s using little slips of paper and a wicker basket: the intricate weaving of the basket, they contended, caused the papers that came in contact with the inner surface of the basket to stick to it in a manner that prevented the papers from being drawn.)

Once student names have been drawn in the lottery and the school’s enrollment limit has been reached, the school should generate a waiting list based on the order in which the remaining names were drawn. If a student whose name was drawn in the lottery fails to attend the charter school, his or her slot is to be made available to the student whose name is next on the waiting list.

On occasion, conflicts arise over a student’s having been denied admission to the charter school. Section 59-40-50(C) stipulates that the appeal, if there is one, goes to the sponsor, whose “decision is binding on the student and the charter school.” However, appeals involving the school’s lottery process are not allowable by law [see Section 59-40-50(B)(7)]. It therefore behooves a school district to look at the applicant’s lottery process before it decides to sponsor the particular charter school.

There are two other important points for school districts with regard to charter school admissions:

- If the district does in fact elect to sponsor the school, it should—for both the parents’ and the school’s sake—develop a policy or policies to facilitate the expeditious handling of all admission appeals.

- If a student is suspended or expelled from a charter school, other schools in the district have “the authority *but not the obligation* to refuse admission to the student” (Section 59-40-50(C)(2), emphasis added).

Charter School Funding

Nationally, funding is the major sticking point between charter schools and their authorizers. Allegations are levied from both sides that funding distribution is not timely, and these claims, whether true or not, create tension in the relationship. Frequent communication is vital if both of these entities are to serve their students properly—and funding needs to be among the major topics in this ongoing exchange. As the sponsoring district receives the state funds that are earmarked for the charter school, the district should immediately forward those monies to the school itself. This kind of timeliness and attention prevents undue strain on the charter school, not only in its daily operation but also in its associations with its authorizer. And ultimately, of course, if the district delays the funding, the charter school’s students are adversely affected.

Another crucial funding issue that the authorizing district and the charter school must understand is their respective roles in the acquisition of textbooks. For the first year that the charter school is in operation, the district should transfer from its existing schools to the charter school the exact number of textbooks it will need for the students that it has drawn from the population of the district’s regular schools.

This hypothetical situation should serve as a case in point: if the district has 5 regular schools and the charter school has drawn 30 students from each of those schools, then each of those schools should be directed by the district to forward to the new charter school all textbooks that will be necessary for that school to educate those 150 students during that school year. If the district chooses not to send the actual textbooks to the charter school, the district must instead forward to the school the money to cover the cost of the textbooks.

If a charter school’s educational program offers a curriculum that the sponsoring district does not provide, then the district is not required to provide materials for that specialized set of courses. In all cases, however, start-up charter schools must bear some of the costs for their textbooks in the initial year and then must operate on their own in the coming years with the textbook money that is annually allotted and passed through the district to them.)

Still another funding issue centers in extracurricular activities and the question of whether a school district is required to provide them for students of a charter school it authorizes. The answer, according to Section 59-40-50(C)(3), is no. Yet while the sponsor has no legal obligation to do so, it can provide these activities to a charter school if the district board allows and an agreement to this effect is stipulated in the charter contract. (For further explanation, see number 8 in the “Frequently Asked Questions” section.)

Legal Protection for the District

As authorizer of a charter school, the district has been afforded protection in the law. Section 59-40-190(A–C) highlights two of those big protective factors: first, although the governing body of a charter school may sue and be sued, the sponsor is not liable in any way for the debts of the charter school; and second, a sponsor is immune from civil or criminal liability regarding the charter school.

If school district personnel have unspoken fears about potential litigation or financial responsibility with regard to authorizing a charter school, those two legislative provisions should minimize such concerns. However, despite the fact that this section of the Charter Schools Act does give the district immunity in state civil and criminal matters, the Act does not prevent an aggrieved party from seeking satisfaction in federal court. The litigious nature of our society only reinforces the need for the school district to carry out its authorization duties. If the authorizing school district neglects its statutory duties or willfully ignores key issues, then that district could indeed be open to litigation.

Because the authorizer is not responsible for the debts incurred by a charter school, questions often arise about the dissolution of a charter school and the assets it has acquired. Section 59-40-120 establishes specific requirements regarding such an event. Assets acquired by the charter school cannot provide benefit to a private person. If assets remain after they have been liquidated to cover debt, those assets are handed over to the sponsor of the charter school. An exception does exist here, however: if an asset was purchased through a restricted agreement with a donor through “awards, grants, or gifts,” then the gifts are returned to that donor entity. For example, materials purchased with federal CSP funds are returned to the state and are then made available to other charter schools across South Carolina.



Charter Authorization Practice

Responsibilities of Authorizer Oversight

When the school district has crossed the threshold from application approval to charter authorization, it incurs additional responsibilities. In his *The Charter School Law Deskbook*, Paul T. O'Neill succinctly explains: "Charter school authorizers, upon approval of a charter application, draft and enter into a charter agreement with applicants. The authorizer then has oversight responsibilities. While it is the job of each charter school's board of trustees to see to it that the school's academic and operational obligations under the charter agreement and law are met, the authorizer generally monitors the progress of the school and steps in where problems are extreme" (7).

While school districts vary in their approaches to charter school oversight, there are important points that all South Carolina districts need to use as basic guidelines. In performing its duty as overseer, the authorizing district must monitor the charter school in two areas: what the law requires the charter school to do and what the school's charter application says it will do. Remember, a charter school is given flexibility in process but not in product: there are specific educational goals that the school must achieve. In its application, the school not only has stated what these goals are but also has described how it will reach them. And now the school district has approved that charter proposal. As the authorizer, district should—at this initial point—begin to carry out its oversight responsibility by creating a mechanism through which it clearly and succinctly articulates for the charter school the methods that it will use to monitor the school for the requirements of the law and for the specifics of the charter.

In its *Principles & Standards for Quality Charter School Authorizing*, the National Association of Charter School Authorizers (NACSA) delineates in chart form its specific guidelines regarding authorizer oversight, prefacing its points with the assertion that "A quality authorizer conducts contract oversight that evaluates performance, monitors compliance, informs intervention and renewal decisions, and ensures autonomy provided under applicable law" (NACSA 2007, 10).

The NACSA chart appears on the following page.

A quality authorizer:	
Performance Evaluation	Implements an accountability system that generates all the information needed to determine whether a school is meeting the goals and standards articulated in its contract.
Monitors Compliance	Monitors compliance requirements, including those legally mandated and those that are essential to fulfilling the authorizer's public oversight responsibility. Articulates the consequences for failing to meet compliance requirements. Ensures that schools fulfill their legal obligations to students and parents.
Intervention	Provides clear, adequate, and evidence-based notice of problems. Allows reasonable time for remediation. Makes decisions about whether and how to intervene on a clear and consistent basis.
Autonomy	Respects the school's authority over its day-to-day operations.

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Although a school district may be tempted to authorize a charter and then to adopt a total “hands off” policy by claiming it has no involvement with the charter school, such an idea could not be more mistaken. In South Carolina, the school district is required to conduct an annual review of the charter school and its progress—even though the charter is binding and is valid for a period of ten years. (In its 2007–08 session, the State Legislature increased the charter term from five to ten years. Although some districts currently have schools existing under five-year terms, when such a school’s charter is approved for renewal, its term becomes ten years. This increase in the period of the charter’s validity does not change the authorizer’s legal mandate annually to review each charter applicant it authorizes.) As Section 59-40-110(A) of the Charter Schools Act states the mandate, “The sponsor annually shall evaluate” the charter school and those “annual evaluation results must be used in making a determination for nonrenewal or revocation.” Once again, we see that the law does not provide leeway in the authorizer’s role: the terms the statute uses here are “shall” (not “may”) and “must.” Simply put, the annual review is a statutory requirement, and its results must be used not only to make renewal decisions but also to ensure that the school is complying with state and federal mandates and is adhering to the terms stipulated in its application.

The mechanism for this annual evaluation is the report that the charter school is required submit—“at least annually,” as Section 59-40-140(H) states it—to both the authorizer and the SCDE, documenting “at a minimum, the number of students enrolled . . . , the success of students in achieving the specific educational goals for

which the charter school was established, and the identity and certification status of the teaching staff." This annual report is mandated by the Charter Schools Act; therefore, the school district must, as a vital component of fulfilling its legal obligation in having authorized the charter, make certain that it receives the report each year on the specified due date, that the report contains all the information the district has requested, and that contained within that information is convincing evidence of the school's "success."

The law does not imply that all data for the annual report should be submitted at one specific time, and it does not stipulate a timeline. Therefore, each district, as an authorizer, can create its own specific mechanisms, templates, and process to comply with the annual report requirement. The district must be careful to see that all the mandated information—as well as any additional information it deems valuable—is collected.

Required Annual Report

It is the responsibility of the authorizing school district to ensure that the charter school is fully cognizant of the details it must furnish in its annual report. The district is therefore obligated to shape the format of the report. Providing a specific format—or template—to the charter school can be an effective way for authorizing districts to ensure that charter schools understand what is expected of them in the annual report, how it is to be submitted, and when it is due. In crafting such a template, the district would be wise to consult with members of charter school staff, allowing them to explain what data they believe are meaningful to describe their school's operation and to offer ideas about what other information they need to include. The process will be useful for the district as well as the school. Not only does this kind of communication promote the notion of working together for the common goal of student achievement, but it also keeps everything transparent for both sides. When a practice is not transparent, wrong assumptions are made, and the collaborative relationship that should exist is compromised.

An additional consideration is that although the phrase "at a minimum" in Section 59-40-140(H) does allow an authorizer to request some information beyond what is stipulated in the statute, the district should take care not to make its requirements overly burdensome for the charter school. The district's level of accountability, in other words, should not run counter to the freedom and flexibility of the charter school. And once again, the district and its charter school should collaborate to determine what, if any, additional information needs to be collected for the benefit of both entities.

Required End-of-Charter Renewal Evaluation

As Section 59-40-110(A) of the Charter Schools Act stipulates, the sponsoring school district “annually shall evaluate” the charter school on the basis of the statutory requirements and those “annual evaluation results must be used in making a determination for nonrenewal or revocation.” In Section 59-40-110(B), the Act goes on to stipulate that a “charter renewal application must be submitted to the school’s sponsor” that “it must contain . . . (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; and (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.”

Further, Section 59-40-110(B) stipulates that a school’s “charter must be revoked or not renewed by the sponsor if it determines (1) committed a material violation of the conditions, standards, or procedures provided for in the charter application; (2) failed to . . . meet or make reasonable progress,” as defined in the charter application, toward pupil achievement standards identified in the charter application; (3) failed to meet generally accepted standards of fiscal management; or (4) violated any provision of law.

Renewal Assessment Process and Methodology

A nationally recognized standard for charter schools is that they face “ultimate accountability”—a charter school not producing results “can be shut down” (Wells 2002, 9) by its authorizing district or by clientele flight. This unique situation forces charter school accountability to the authorizer, “parents, teachers, . . . donors” (Hill and Lake 2002, 5), and the local community. Charter renewal is an opportunity for both the charter school and its authorizer to revisit the currently held contract.

Likewise is it is an opportunity for a charter school to study and evaluate itself on the basis of quantitative and qualitative data. This self-study should be extensive and allow for the charter school to provide some substantive responses to the district’s clearly articulated questions.

To make the four judgments stipulated in Section 59-40-110(B), the district needs carefully to craft its renewal assessment process and methodology. A vital part of the authorizer’s responsibility in this assessment is to make clear to the charter school exactly what the district expects of it at this point.

The district would be wise not only to specify deadlines for the school’s submission of materials but also furnish a template—or a given format—for the school to use in providing the data that the district needs in order to complete its evaluation. At a minimum, the template should require the charter school to respond to specific questions regarding its progress in meeting each of the goals stated in its initial charter application. In addition, the template should contain a section that calls for the school to provide detailed financial statements as stipulated subsection 59-40-110(B)(1–2): “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; and . . . 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."

Renewal Decision

Ultimately, the authorizer decides "whether or not a school has performed well enough to warrant renewal of its charter and an opportunity to keep operating" (O'Neill 2007, 23).

The annual report and renewal process must be taken seriously by charter school authorizers in order to promote high-quality education throughout South Carolina. An authorizing district's documentation of the strengths and weaknesses of a charter school is vital to the aim of improving the school. Noted deficiencies should always be tied back to the charter school law or to the goals and objectives the charter school has stated in its application.

The district's regular collecting and sharing of this documentation with the charter school will help that school to see how others perceive it and to learn what it can do to improve itself—an effort that will ultimately benefit not only the district but the state as a whole. The requirements of the authorization process are not an attempt at "gotcha moments" but are opportunities to solidify working relationships to raise the quality of the state's public undergraduate education.

Despite the effort required, district authorizers are wise to perform timely and candid annual reviews to promote improvement and to inform future decisions on renewal. Further, if a district finds that a charter should not be renewed or should be revoked and the district has not performed its statutory duty as the authorizer by conducting the annual review, then legal questions are created for that district. A savvy attorney would question a district's motives in holding a charter school accountable for its end of the bargain when the district itself did not uphold its own. In short, a district must be involved in the accountability end of this charter contract, and its involvement must include sharing its findings with the charter school, providing the school with technical assistance, and giving the school a chance to improve. In some cases, a charter school's willful disregard of statutory requirements or its negligence—jeopardizing student safety—demands prompt termination proceedings. However, if the district and its charter school work collaboratively, major problems will be spotted and corrected before termination of the charter becomes an issue.

NACSA provides specific guidance on authorizer renewal decisions, prefacing its points with this statement: "A quality authorizer designs and implements a transparent and rigorous process that uses comprehensive data to make merit-based renewal decisions" (NACSA 2007, 11).

A quality authorizer:	
Transparent Process	<p>Articulates the criteria for renewal.</p> <p>Publishes a timetable and process for renewal decisionmaking.</p> <p>Clearly communicates the options and consequences available under state law including revocation, non-renewal, renewal with conditions, and renewal.</p> <p>Explains any available rights of appeal, whether to administrative or legal bodies, through which the decisions of the authorizer can be challenged.</p>
Comprehensive Data	<p>Analyzes and weighs data regarding a school's performance over time in relation to the goals and terms of its contract.</p> <p>Considers multiple sources of data, including state-mandated, standardized and internal test data, student academic growth over time, evidence of mission-related outcomes, and qualitative reviews, to judge school quality.</p> <p>Solicits parent and public input into the charter renewal process and articulates how community input will affect the decision.</p>
Merit-Based Decisions	<p>Grants renewal only to a school with a quality educational program that has achieved the goals and standards identified in its contract, is organizationally and financially viable, and has been faithful to the terms of its contract and applicable law.</p> <p>Outlines a protocol for the orderly closure of a school.</p>

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Renewal decisions are handled differently in each state, and South Carolina allows its school districts the flexibility to create their own charter renewal procedures. If a district has not yet created a renewal-decision plan, it might want to consider a three-tiered structure or a hybrid version of it.

A three-tiered system for renewal operates in the following fashion: First, the charter school conducts a self-study to identify its strengths and weaknesses and, on the basis of the findings, creates a document that specifies new, measurable goals. Next, its authorizer sends in a team to collect and record data on the school's progress toward meeting those goals and/or its compliance with legislative mandates. And finally, an unbiased outside entity, paid by the authorizer, studies the school and offers its perspective in a written report to the district. All three reports are used in authorizing district's final determination.

Other states' authorizers have decided to use a single layer of review in the renewal process, and that review will be performed by either the charter school *or* the authorizer. Another novel practice in this single-layer format is to requiring the charter school to submit its renewal reports to the authorizer one year before the charter term expires. The rationale is that the district will be able to provide prompt feedback to the charter school and afford it the opportunity to correct any identified deficiencies. If the district does not see ample improvement in the final year of the charter, the district can then pursue charter termination proceedings.

The rationale for such a three-tiered system is that it promotes a better working relationship between the charter and its authorizer. If deficiencies in the charter school's performance and operation are noted in the renewal process, the school could be given *one year* to correct them before a renewal decision must be made.

Revocation of the Charter

Remember, according to Section 59-40-110(C), a charter can be revoked because the school has "committed a material violation" of its charter, "failed to . . . make reasonable progress, as defined in the charter application," "failed to meet generally accepted standards of fiscal management," or "violated any provision of law from which the charter school was not specifically exempted." These reasons were stipulated in order to guarantee the collection of solid evidence and clear rationale for closing charter schools.

If a sponsor decides not to renew a charter but *not* for one of the above-stated reasons, protection has been provided for the charter school. According to Section 59-40-110(G), that charter school could seek renewal from another chartering entity. If granted renewal, the charter school receives the base student cost it "previously received as a school in its former district" *and* its local funding, as described in the charter law.

The legislation underscores the school district's responsibility to collect evidence regarding the charter school's progress. If the authorizer does decide to pursue revocation or nonrenewal, a series of very specific procedures rooted in the law (Section 59-40-110) will become operative:

1. At least sixty days prior to charter termination, as projected by the district, the sponsor must notify the charter in writing of the proposed action and must detail the rationale for the decision.
2. The charter school's governing body could request a hearing within fourteen days of receiving the notice from the sponsor. If the request is not made within fourteen days, the school—in essence—acquiesces to the proposed action. However, if the charter school does request it within the fourteen-day period, the sponsor must conduct the hearing.
3. The district must take final action on the charter renewal or revocation by the last day of classes in the last school year for which the charter school is authorized.

4. The charter school must decide whether it wishes to appeal to the ALC. the district's decision to terminate the charter termination.

Sponsors must consider their renewal policies in specific reference to these statutory requirements. And with such detailed and specific procedures, the need for carefully crafted deadlines is apparent. If a district does not follow these required procedures, it opens the door for litigation by the charter school.

Charter Termination by Mutual Agreement

Section 59-40-115 does allow the charter school to “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.” This language only reinforces the fact that the charter is a contract between two parties that binds them in a relationship of mutual obligation. The law allows for a district to end the relationship through nonrenewal or revocation, and Section 59-40-115 provides the charter school with that same ability. If a termination agreement is reached, the charter school can then apply to another sponsor for the remainder of its term, and the charter school does not need prior CSAC approval to do so. With a change in authorizer, a change in funding occurs as well: the charter school will then receive money based on the SCPCSD funding allotments.



The Dual Charter School Roles

Charter schools are unique entities that have the potential to make important educational contributions. To fulfill that promise, members of charter school governing board must “fully embrace their responsibilities,” as Brian L. Carpenter asserts, by “evaluating results produced in the schools they oversee” (154). Every charter board is tasked both with focusing on the educational outcomes it enunciates in its application and, more vitally, with making due progress toward those goals. Should the board fail to carry out these responsibilities, it is failing to realize the promise that lies at the very center of the school’s origin and is, instead, creating a lamentable product: students with inadequate skills to compete in a global economy

As an authorizer or sponsor, the district has a vital role in the charter schools they authorize. This contract between the charter school and the sponsoring district stems from mutual agreements that must be maintained: the charter school receives autonomy in vital decisions for school operations, but the authorizer ensures accountability in meeting the goals established in that contract. If either party in this contract fails to uphold its end of the bargain, the result is usually a school closure—which not only creates instability for that school’s students but also causes a loss for the state of South Carolina and its children as a whole. As educators, we cannot permit our focus ever to leave these children. In this case in particular, the SCDE motto “Together, We Can” applies: success originates from partnerships, while failure arises from isolation.



Frequently Asked Questions



1. What are the most important factors for creating a successful relationship between a charter school and its sponsoring district?

The three most crucial factors in the relationship between a charter school and its sponsoring district are respectful leadership, effective communication, and transparency in expectations on both sides. All three of these factors, though separate, are directly interrelated: effective communication creates transparency, and truly effective communication is built upon mutual respect.

A positive relationship between the charter school and the district sponsor begins with mutually respectful leadership. With a foundation built upon reciprocal respect, effective communication can be achieved. Too often, however, what is regarded as communication is actually one-sided and is, as a result, unproductive. The charter school and the district should adopt “open door policies” regarding one another, and each should welcome ideas, suggestions, and responses from the other’s point of view.

Charter schools and district schools exist for the same purpose: to educate children. In many cases, though, charter schools and districts adopt an “us vs. them” mentality, which soon causes their respect for one another to dissipate. When respect is missing from the relationship, assumptions can lead to allegations and, in turn, to arguments that consume time and effort and drain energy away from the process of education. Charter schools and their sponsoring districts must continuously hold to their purpose and put petty disagreements aside.

As the district creates policies and procedures for charter authorization or termination, it should inform the charter school of those requirements and expectations in a clearly articulated manner. The charter school will know exactly what is required of it and can then create action plans to address those vital concerns. If the district should ever decide to change a particular policy—and wishes to maintain transparency—it should notify the charter school of its desires and invite that school’s staff members to offer their input on the matter.

2. Who is in charge of the charter school?

The nonprofit charter committee that was formed and subsequently submitted the charter application is considered the school’s governing body at that point. When the application has been authorized and the school opens, the election of a board of directors must be held. These board members—who must be elected on an annual basis—are the group that holds the authority to operate the school (e.g., employ teachers, contract for services, ensure compliance with the law, perform background checks). Further, as Section 59-40-60(E)(3) stipulates, this board will “decide all other matters related to the operation of the charter school, including budgeting, curriculum, and operating procedures.”

As is stated the section titled “The Charter Defined,” above, though, the authorizing school district has oversight capability—and responsibility—and should be fulfilling that role at least annually through the legislated annual report and subsequent renewal decisions.

3. Can either party modify a charter contract without the other’s consent?

No. Section 59-40-60(C) says that a “material revision of the terms of the contract between the charter school and the approving board may be made only with the approval of both parties.” Currently, “material revision” is not clearly defined in the law or in State Board regulations; however, changes that influence a school’s funding, its purpose, its location, or something similar should be considered a material revision necessitating the approval of both parties.

As part of the review process, the charter applicant and potential sponsor should discuss the terms of the contract before the district fully approves the application. These terms should include costs for negotiated services, deadlines for charter school reports, and the charter renewal process. All terms agreed upon and included in these negotiations become part of the contract when the charter is authorized. Remember, a contract is a signed agreement between two parties and, even though that signed version of the contract is still valid, both parties must consent to the contract’s amendment.

4. Is the charter school an LEA (local education agency)?

No. Section 59-40-40(1) defines a charter school as a “school that operates within a public school district or the South Carolina Public Charter School District.” The law is clear that the charter school is a school under the auspices of the district. To reiterate that a charter school is not an LEA, Section 59-40-40 (2)(a) says that a charter school “is considered a public school and part of the South Carolina Public Charter School District or local school district in which it is located for the purposes of state law and the state constitution.” When a charter is authorized by a sponsor, that document becomes a contract to operate a single, stand-alone school. If the charter school were an LEA, then funding would flow from the state directly to the charter school.

The leadership of an authorized charter school may apply for grants. Some grants, however, require that the application come from an LEA. And because a charter schools can ask its authorizer to apply on its behalf, districts should craft policies to address such requests from charter schools to help them acquire additional funding for their operation.

5. Since charter schools are not LEAs, are they ultimately responsible for serving children with disabilities?

No. The ultimate responsibility for serving students with disabilities rests with the sponsoring district, which acts as the charter school's LEA. Federal funding under the Individuals with Disabilities Education Improvement Act (IDEA) of 2004 flows from the SCDE to the appropriate LEA. Because the district is the entity that receives those funds and thus serves as the fiscal agent for the charter school, the district ultimately bears responsibility for the use of those funds to provide a free appropriate public education to students with disabilities.

And because the district does bear ultimate responsibility for the education of students with disabilities, the district has both the ability and the duty to perform record audits for students with disabilities. Charter schools need to understand the rationale behind the district's access to records is to ensure that federal dollars are being utilized in accordance with federal regulations.

Charter schools are, of course, required by law to serve the children on their rosters that are identified as students with disabilities, and it is the direct responsibility of the charter school to implement the individualized education program (IEP) for each of those children.

6. How are charter schools and their district sponsors to delineate roles for serving children with disabilities?

The sponsoring district and the charter school should negotiate an agreement for services and/or funding. A district may not merely write a check to the charter school and then leave that school to its own devices. As part of the IDEA application, LEAs who have charter schools must demonstrate in writing what has been agreed upon between the district and the charter school. This agreement should be carefully pondered by both the charter school and the district, and it must bear the consent of both parties.

7. Should charter schools be included in a district's Teacher of the Year competition?

The charter school statute does not specifically mention the Teacher of the Year competitions, so the decision for charter school participation has been left to each sponsoring district. Currently, some districts do allow charter school teachers to enter the competition, and others do not.

Sections 59-40-40(1) and 59-40-40(2)(a) provide some insight into this issue because they both indicate that a charter school is part of the school district that chooses to authorize that charter. If the charter school is "a school that operates within a public school district" and if the teachers in the other schools in that district can participate in Teacher of the Year competition, then the logical assumption is that the charter school teachers are also eligible to participate.

The fact is that, at the present time, individual schools are allowed to enter their teachers in that competition through their district programs. Nonetheless, each district needs to craft a policy to deal with the issue of allowing its charter school teachers to participate. And if a district chooses not to allow them to do so, it should provide an explanation for its decision. Denying charter school teachers the opportunity to participate in the Teacher of the Year competition means that quality teachers in those schools not only will be denied the chance to achieve this level of professional recognition but will be unmotivated even to strive for it.

8. Are charter schools exempted from all state regulations for public schools?

They are not exempted from all regulations. Section 59-40-50 explains many of the specifics. For example, though charter schools granted some exemptions from regulations, these schools must comply with “the same health, safety, civil rights, and disability rights requirements as are applied to . . . the local school district in which the charter school is located.” In addition, they must adhere to the mandates of the Freedom of Information Act and are “considered a school district for purposes of tort liability under South Carolina law.”

Charter schools are given some flexibility in exchange for accountability for results. The autonomy puts the decision-making power and responsibility for results on the individual school and its staff.

The following are examples of the flexibility allowed for charter schools: teacher certification requirements (25 percent can be noncertified in a charter school unless that school is a conversion school and where that certification figure is 10 percent of its entire staff), waivers for school-facility requirements that do not relate to health or safety issues, and leeway (20 percent variance) in the requirement to match the district’s racial composition.

9. If a charter school is not required to match the district’s racial composition exactly, how can the district ensure that the charter school complies with the statutory requirements?

Section 59-40-60(F)(8) of the Charter Schools Act states that a plan must be included in the original application “to ensure that the enrollment of the school is similar to the racial composition of the local school district . . . or the targeted student population of the local school district that the charter school proposes to serve.”

However, Section 59-40-70(D) does provide some leeway for the school: the demographics of the charter school and those of the district do not have to match exactly, but the charter school’s variance cannot exceed 20 percent. The main focus of this legislation is to ensure that no charter school is willfully operating in a discriminatory manner. If the school exceeds the 20 percent discrepancy allowed by law, the authorizing district is required to investigate the “recruitment efforts and racial composition” of the school to determine whether

its student population has varied beyond the 20 percent, “despite its best efforts.” If there is no finding of willful discrimination and the charter school is judged to be proficient in all other areas, then the authorizer must continue to honor the charter.

10. Does the law allow charter schools to accept out-of-district students?

Yes. A charter school may admit out-of-district students, as a maximum of 20 percent of its total enrollment, without approval of the sponsoring district. If the charter school has reached the 20 percent limit for out-of-district students and wishes to enroll more, that school must receive permission both from the sponsoring district and from the district(s) where these additional children are presently enrolled. If such permissions are granted, the charter school may enroll these students and still be eligible for state and federal funding according to the formula defined in Section 59-40-140 of the charter school statute. These limitations do not apply to the SCPCSD.

11. Can a charter school be listed as a public school of choice for a district that is undergoing Title I school improvement?

Yes. However, that charter school cannot be forced to take students from those schools within a district that is undergoing Title I school improvement. For instance, if a charter school has already opened and closed its enrollment period and has held its lottery, then parents wishing to send their children to that charter school as a choice option could only be placed on the waiting list. If parents from the Title I schools get their children's names in the applicant pool prior to the enrollment closing date, then these children would have the same opportunities to attend the charter school as any other child.

While federal regulations do allow for charter schools to create lottery preferences for those students coming from schools in Title I School Improvement, this practice is not mandatory. Further, South Carolina school charter law does not allow priority enrollment for students transferring from Title I schools.

12. Do sponsors have to provide extracurricular activities for charter school students?

No. According to Section 59-40-50(C)(3), the school district is under no obligation to provide those activities for students enrolled in a charter school or to provide them with access to facilities. However, participation in extracurricular activities could be negotiated between the charter school and the school district in which that school is located. If a charter school is authorized by the SCPCSD, the district where that school is geographically located has no obligation to provide extracurricular activities or to allow access to facilities unless a contract between the district and the SCPCSD has been negotiated.

The majority of questions on this issue arise with athletics for *virtual* charter school students. Here again, the final decision rests in a negotiated agreement that the charter school has made either with district in which it is geographically located or with the SCPCSD. Moreover, if an authorizing district decides to allow even *one* virtual charter school student to participate on a sports team, then that district must adopt a “wholesale policy”—if you allow one student to try-out for teams, then you must allow *all* eligible students to do so. In other words, your district’s decision to allow virtual charter school students to participate in athletics cannot be used to “recruit” good athletes. You cannot “invite” athletically talented students while excluding those who are less athletically inclined.

13. How is a charter school funded?

Section 59-40-140(A) provides the specific details for the formula funding of charter schools. Charter school funds originate in the SCDE and flow to the district authorizer. The district cannot retain any administrative fees but must forward all charter-designated funds directly to the appropriate charter school. The district bears responsibility, as an authorizer, to get those funds to the charter school in a timely fashion so as not to interrupt the educational services offered by that school. However, if a specific contract for negotiated services (e.g., janitorial, food, transportation) exists between the district and the charter school, the district may hold funds in the amounts stipulated in the contract and use them to pay for those services.

The enrollment numbers that a charter school initially submits to the SCDE are based upon projections from their approved charter and will be adjusted at the 45th day of the current school year. This projection-based funding occurs only in the first year of the charter school’s operation.

After that first year of operation, funding for charter schools is managed by a method similar to that used for the traditional public schools: their initial funding is based on the numbers from the 135th day and, if need be, is adjusted after the 45th-day numbers are collected. (See the appendix for the SCDE Office of Finance’s matrix specifying funds that a charter school is eligible to receive.) If, during the school year, a student withdraws from the charter school and returns to traditional school in the state, the pro rata amount of those funds is forwarded to the serving district on the 135th day.

14. Can a private school convert to a charter school?

No. South Carolina law prohibits a private school from converting to a charter school in its mandate in Section 59-40-210 that “a private school . . . which desires to convert to a charter school shall dissolve and must not be allowed to open as a charter school for a period of twelve months.”

The normal application process for charter schools would be followed. If a private school elects to close and then apply for charter status, that private school does so at its own risk. No guarantee exists.

15. We have a school that is converting to a charter school. Does the district have to provide them a facility at no charge?

The situation depends on your geographic location. As of February 2009, if you are not the Charleston County School District, then that answer is no. You can negotiate a lease or rent with the school. Section 59-40-170 gives the charter school the right of "first refusal" if the district lists a school as surplus and decides to lease or sell it. As a district is pondering the sale or lease of a facility to a charter school, remember that the facility in question was constructed with public, taxpayer dollars and would be used to support a charter public school.

If you are in the Charleston County School District, however, special legislation passed through the General Assembly in 2005 changed this response for you: Act 189 prohibits the Charleston School District from charging rent to a charter school that was converted from an existing public school. An Attorney General's opinion dated October 19, 2007, has stretched the scope of that legislation to even include "nonconverted charter schools in the District." (You can read the full text of the Attorney General's opinion online at <http://www.scattorneygeneral.org/opinions/2007.html>.)

16. We have a school that has reached the enrollment numbers stated in its charter, and now the school wants to grow. What must be done?

If the school has reached the enrollment numbers as stipulated in the charter contract, the sponsor is not obligated to grant a request to allow the charter school to grow. Any change in enrollment would have to be agreed upon between the charter school and the sponsor.

Charter school law requires state and local funding to be based upon student enrollment, and if the school's enrollment grows, its funding should do likewise. Any increase in charter school enrollment numbers must be verified by the district on the 5th day. The SCDE will then release funds to this district no more than 15 days after receiving these verified numbers, and the district must release them to that charter school no later than thirty days after their receipt. Then, funding adjustments will follow the schedule stipulated in the Education Finance Act: the 45th and 135th days. This practice of funding significant growth does not apply to the SCPCSD.

Appendix

Categorical Funding

This chart of eligible funding for charter schools was created by the SCDE's Office of Finance and is published online at <http://ed.sc.gov/agency/Finance-and-Operations/Finance/old/finance/charterschoolfinanceinformation.html>.

Source	Rev. Code	Sub-Fund	Title of Funding	Allocation Method by SCDE to Districts	Program Description	Elementary School Programs (Pre K-5th)	Middle School Programs (Grades 6-8)	High School Programs (Grades 9-12)
State Restricted	3117	927	EEDA 8th Grade Awareness	Per pupil basis by the number of eighth graders	Funds provided to middle school students with career interest inventories and career information and resources to assist them in selecting a preferred cluster of study		x	
State Restricted	3118	928	EEDA Career Specialists	Funds are distributed on the 45-day student count based on the difference between the 300:1 student to counselor ratio	Funds provided for salary and benefits for career specialists who provide career services to students		x	

Source	Rev. Code	Sub-Fund	Title of Funding	Allocation Method by SCDE to Districts	Program Description	Elementary School Programs (Pre K-5th)	Middle School Programs (Grades 6-8)	High School Programs (Grades 9-12)
State Restricted	3125	905	Career and Technology Education Equipment	Base allocation per district (\$20,000) and any remaining funds are distributed to school districts and multidistrict career centers based on prior year student enrollments for career and technology education classes.	Funding is provided for the purchase of equipment to be used in the vocational classroom.			X
State Restricted	3127	937	Student Health and Fitness	Based on average daily membership of grades K-5 from the preceding year.	Funds provided to elementary schools to support a minimum of 150 minutes a week of physical education and to maintain a student to teacher ratio not to exceed the average of 28:1	X		
State Restricted	3128	938	High Schools That Work	Competitive Grant process	To support the High Schools That Work and Making Middle Grades Work programs through professional development and training and to purchase software and other instructional materials to support these initiatives.			X

Source	Rev. Code	Sub-Fund	Title of Funding	Allocation Method by SCDE to Districts	Program Description	Elementary School Programs (Pre K-5th)	Middle School Programs (Grades 6-8)	High School Programs (Grades 9-12)
State Restricted	3193	919	Education License Plates	For each education license plate sold, \$34 of the \$54 cost will be returned to the district or school designated	Funds are used to supplement technology funds and must be used to purchase computer hardware for classroom instruction.	x	x	x
EIA	3501	301	Increase High School Diploma Requirements	District 2nd preceding year ADM divided by the state 2nd preceding year multiplied by the total funds available	Funds are used to support high school programs and the increase of high school credits to 24.			x
EIA	3515	315	Advanced Placement	Number of students reported in Advanced Placement courses as of the 135-day	Funds must be used to pay for supplies and materials for AP classes			x
EIA	3520	320	Gifted & Talented Academic	The number of students reported in Gifted and Talented from the preceding year 135-day count multiplied by the per pupil rate.	Funds are used to support the Elementary and Secondary Gifted and Talented Academic program in grades 3-12.	x	x	x

Source	Rev. Code	Sub-Fund	Title of Funding	Allocation Method by SCDE to Districts	Program Description	Elementary School Programs (Pre K-5th)	Middle School Programs (Grades 6-8)	High School Programs (Grades 9-12)
EIA	3522	322	Gifted & Talented Artistic	The number of students reported in the preceding year ADM in grades 3-12.	Funds are used to support the Elementary and Secondary Gifted and Talented Artistic program in grades 3-12.	x	x	x
EIA	3525	325	Career and Technology Education Equipment	Base allocation per district (\$20,000) and any remaining funds are distributed to school districts and multidistrict career centers based on prior year student enrollments for career and technology education classes.	Funding is provided for the purchase of equipment to be used in the vocational classroom.			x
EIA	3530	330	Trainable and Profoundly Mentally Handicapped Student Services	District Trainable Mentally Handicapped (TMH) & Profoundly Mentally Handicapped (PMH) 135-day ADM divided by the state totals multiplied by the funds available	Direct Instructional and Support costs associated with TMH and PMH students	x	x	x

Source	Rev. Code	Sub-Fund	Title of Funding	Allocation Method by SCDE to Districts	Program Description	Elementary School Programs (Pre K-5th)	Middle School Programs (Grades 6-8)	High School Programs (Grades 9-12)
EIA	3532	332	National Board Certification	\$7,500 per Nationally Certified teacher in a qualifying position. The salary supplement is to be added to the annual pay of the teacher of the period of time the national certificate is valid.	Public school classroom teachers and classroom teachers working directly with other classroom teachers who are certified by the State Board of Education and who have been certified by the National Board for Professional Teaching Standards will be paid a \$7,500 salary supplement in the year of their achieving certification.	X	X	X
EIA	3533	333	Teacher of the Year	\$1,000 per each district Teacher of the Year; The state Teacher of the Year receives \$25,000; each of the four Honor Roll Teachers receive \$10,000	For a teacher to be eligible, his or her school district must participate in the state Teacher of the Year program sponsored by the State Department of Education; Also, the district must choose for the charter schools to participate.	X	X	X
EIA	3534	334	Professional Development on Standards (PDSI)	Funds issued as a base amount and additional allocation based on number of K-12 teachers.	PDSI funds shall be used for Professional Development for certified instructional personnel in K-12 for academic areas in which standards have been developed.	X	X	X

Source	Rev. Code	Sub-Fund	Title of Funding	Allocation Method by SCDE to Districts	Program Description	Elementary School Programs (Pre K-5th)	Middle School Programs (Grades 6-8)	High School Programs (Grades 9-12)
EIA	3540	340	4 Year Early Childhood Programs	Based on the number of Kindergarten children who qualify for free/reduced lunch	Provide at least half-day early childhood development programs for four-year-olds who have indicated significant readiness deficiencies.	x		
EIA	3542	342	Preschool Children with Disabilities	Funding amount per student multiplied by the number of students reported multiplied by the district percentage of state support	Provide funds for pre-school handicapped students ages 3 and 4	x		
EIA	3546	346	Act 135 Academic Assistance K-3	Based on the number of K-3 students reported in free/reduced lunch at a weight of .26 of the Base Student Cost	Funds must be used to support approved district strategic plans school renewal plans and improving early childhood education as required by the Early Childhood Development And Academic Assistance Act.	x		

Source	Rev. Code	Sub-Fund	Title of Funding	Allocation Method by SCDE to Districts	Program Description	Elementary School Programs (Pre K-5th)	Middle School Programs (Grades 6-8)	High School Programs (Grades 9-12)
EIA	3548	348	Act 135 Academic Assistance 4-12	Based on the derived free/reduced eligibility counts for grades 4-12 obtained by applying the state percentage of K-3 eligible for Free/Reduced to the grades 4-12 ADM	Funds must be used to support approved district strategic plans school renewal plans and or Southern Association of Colleges and Schools school improvement plans in lieu of school renewal plans.	x	x	x
EIA	3549	349	Reading Recovery	Based on the number of Reading Recovery teachers in the district	Reading Recovery is a one-to-one tutoring intervention for first-time first graders who are at risk of reading failure.	x		
EIA	3550	350	Teacher Salary Increase	Included in base allocation to Charter Schools for those districts that transfer to their General Fund; eligible staff must be certified to receive funding.	Used to supplement the teacher salary at \$300 above the Southeastern average.	x	x	x

Source	Rev. Code	Sub-Fund	Title of Funding	Allocation Method by SCDE to Districts	Program Description	Elementary School Programs (Pre K-5th)	Middle School Programs (Grades 6-8)	High School Programs (Grades 9-12)
EIA	3555	355	School Employer Contributions	Included in base allocation to Charter Schools for those districts that transfer to their General Fund; eligible staff must be certified to receive funding.	Associated fringe benefits for Teacher Salary Increase	X	X	X
EIA	3577	377	Teacher Supplies	\$275 will be made to each eligible certified individual who is employed by a school district or a special school as of November 30 of the current fiscal year.	To offset expenses incurred by classroom teachers for instructional supplies and materials.	X	X	X
EIA	3578	378	High Schools That Work	Competitive Grant process	To support the High Schools That Work and Making Middle Grades Work programs through professional development and training and to purchase software and other instructional materials to support these initiatives.			X

Source	Rev. Code	Sub-Fund	Title of Funding	Allocation Method by SCDE to Districts	Program Description	Elementary School Programs (Pre K-5th)	Middle School Programs (Grades 6-8)	High School Programs (Grades 9-12)
EIA	3582	382	Principal Salary/Fringe Increase	District 2nd preceding year ADM divided by the state 2nd preceding year multiplied by the total funds available	Funds are allocated to reimburse school districts for salary expenditures and related employee benefits for certified public school principals and assistant principals.	x	x	x
EIA	3583	383/384	EAA Summer School/Comprehensive Remediation	Number of academic subject area scores that are below basic on the prior year's PACT results	Funds are to be used to support Summer School or comprehensive remediation programs for students who are not at grade level as determined by their academic plan.	x	x	x
EIA	3588	388	EAA Palmetto Gold/Silver Awards	Awarded to schools attaining high levels of absolute performance and schools attaining high rates of improvement.	Districts/schools must use funds to improve or maintain exceptional performance according to school renewal plans.	x	x	x

Source	Rev. Code	Sub-Fund	Title of Funding	Allocation Method by SCDE to Districts	Program Description	Elementary School Programs (Pre K-5th)	Middle School Programs (Grades 6-8)	High School Programs (Grades 9-12)
EIA	3591	391	Excellence in Middle Schools	Full allocation, based on funds available, for schools housing grades 6-8 totaling greater than 250 students; schools with less than 250 in grades 6-8 receive a proportionate share based on ADM	Funds should be used for full-time or part-time guidance counselors, school resource officers and/or school nurses.		x	
EIA	3593	393	EAA Reduce Class Size (virtual schools not eligible for this funding)	Free/reduced lunch counts in grades 1-3	Funds are to be used to implement a student: teacher ratio of 15:1 in grades 1-3.	x		
Lottery	3607	967	6-8 Enhancement	Base amount plus a per pupil figure based on the grades 6-8 ADM	Funds must be used to enhance the teaching of grade specific standards and to improve the teaching of the standards and academic performance of 6-8 students in the core academic areas of reading, mathematics, social studies and science.		x	

Source	Rev. Code	Sub-Fund	Title of Funding	Allocation Method by SCDE to Districts	Program Description	Elementary School Programs (Pre K-5th)	Middle School Programs (Grades 6-8)	High School Programs (Grades 9-12)
Lottery	3610	960	K-5 Enhancement Reading, Math, Science and Social Studies	Base amount plus a per pupil figure based on the grades K-5 ADM	Funds must be used to enhance the teaching of grade specific standards and to improve the teaching of the standards and academic performance of K-5 students in the core academic areas of reading, mathematics, social studies and science.	x		
Federal	4210	207	Carl Perkins - Vocational Education	Formula basis based on approved local plans	To fully develop the academic, vocational, and technical skills of secondary students who elect to enroll in vocational and technical education programs.			x
Federal	4310	201	Title 1	Allocation based on the number of low-income students residing in the district	Funds should be used to improve the education achievement through targeted assistance schools, school wide programs, increased parental involvement and accountability	x	x	x

Source	Rev. Code	Sub-Fund	Title of Funding	Allocation Method by SCDE to Districts	Program Description	Elementary School Programs (Pre K-5th)	Middle School Programs (Grades 6-8)	High School Programs (Grades 9-12)
Federal	4330	241	Title V	70% of funds will be distributed based on the relative enrollments in public and participating nonpublic schools per district. 30% of funds will be distributed based on the Title I allocation count per district to those districts having the greatest numbers or percentages of children from low-income families.	Funds should be used for targeted assistance in a number of areas. Please review SDE Funding Manual for allowable activities	X	X	X
Federal	4331	253	Title II, Part D (Enhancing Education Through Technology - E2T2)	Formula allocation using the ratio of district Title I counts to state Title I counts and competitive subgrants	Funds must be used to provide assistance to school districts with the highest levels of student poverty, and the greatest need for technology.	X	X	X
Federal	4341	264	Title III, ESOL/LEP	Based on the number of Limited English proficient (LEP) and immigrant children within the district	Funds may be used to assist LEP and immigrant children in attaining high academic content in English	X	X	X

Source	Rev. Code	Sub-Fund	Title of Funding	Allocation Method by SCDE to Districts	Program Description	Elementary School Programs (Pre K-5th)	Middle School Programs (Grades 6-8)	High School Programs (Grades 9-12)
Federal	4351	267	Title II (Part A) Improving Teacher Quality	Based on the population of households at or below the poverty level for children ages 5-17.	Funds should be used to enhance teacher quality as it relates to student achievement.	X	X	X
Federal	4510	203	IDEA - Individuals with Disabilities Education Act	Eighty-five percent of the funds will be distributed based on a pro rata share of school enrollment and the remaining fifteen percent shall be distributed on the number of student eligible for free/reduced lunch.	Funds must be used for the excess costs of providing special education and related services to students with disabilities.	X	X	X
Federal	4920	209	Title IV part D - Safe and Drug Free	Sixty percent based on Title 1 allocations and forty percent based on relative enrollments of public and private schools within the district.	Funds must be used to support comprehensive violence prevention and comprehensive alcohol and other drug abuse prevention programs designed for all students.	X	X	X
Programs Not Available to Charters								
EAA Intervention and Assistance, Bus Driver Salary Supplement, Transportation Salary and Fringe, State Building Funds, Parenting/Family Literacy and Adult Education								

Works Cited

- Carpenter, Brian L. 2008. *The Seven Outs: Strategic Planning Made Easy for Charter Schools*. Chicago: National Charter Schools Institute.
- Hill, Paul T., and Robin J. Lake. 2002. *Charter Schools and Accountability in Public Education*. Washington, DC: Brookings Institution Press.
- Miron, Gary, and Christopher Nelson. 2002. *What's Public about Charter Schools?: Lessons Learned about Choice and Accountability*. Thousand Oaks, CA: Corwin Press.
- NACSA. 2007. *Principles & Standards for Public Charter School Authorizing*. Chicago: NACSA. Available online at http://www.qualitycharters.org/files/public/final_PS_Brochure.pdf.
- O'Neill, Paul T. 2007. *The Charter School Law Deskbook*. Charlottesville, VA: LexisNexis.
- Simpson, A. W. B. 1975. *A History of the Common Law of Contract: The Rise of the Action of Assumpsit*. Oxford: Clarendon Press.
- Wells, Amy Stuart, ed. 2002. *Where Charter School Policy Fails: The Problems of Accountability and Equity*. New York: Teachers College Press.