

HB363 ENROLLED



1 JRCCYF-3
2 By Representatives Collins, DuBose, Baker, Holk-Jones,
3 Paramore, Estes, Moore (P)
4 RFD: Education Policy
5 First Read: 20-Apr-23
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1 Enrolled, An Act,

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Relating to the Alabama School Choice and Student Opportunity Act; to amend Sections 16-6F-5, 16-6F-6, and 16-6F-10, Code of Alabama 1975, to change the appointment process for the Alabama Public Charter School Commission; to authorize the commission to hire staff; to require commissioners to receive annual training; to provide additional guidelines for the authorizing and application review process; to provide further for the operational and categorical funding of public charter schools in their first year of operation; and to clarify the per pupil federal, state, and local funding of conversion public charter schools during their first year of operation.

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BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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Section 1. Sections 16-6F-5, 16-6F-6, and 16-6F-10 of the Code of Alabama 1975, are amended to read as follows:

19

"§16-6F-5

20

(a) Open enrollment.

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(1) A public charter school shall be open to any student residing in the state.

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(2) A school system shall not require any student enrolled in the school system to attend a start-up public charter school.

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(3) A public charter school shall not limit admission based on ethnicity, national origin, religion, gender, income level, disability, proficiency in the English language, or

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29 academic or athletic ability.

30 (4) A public charter school may limit admission to
31 students within a given age group or grade level and may be
32 organized around a special emphasis, theme, or concept as
33 stated in the school's charter application, but fluency or
34 competence in the theme may not be used as a standard for
35 enrollment.

36 (5) A public charter school shall enroll all students
37 who wish to attend the school, unless the number of students
38 exceeds the capacity of the facility identified for the public
39 charter school.

40 (6) If facility capacity is insufficient to enroll all
41 students who wish to attend a start-up public charter school,
42 the school shall select students through a random selection
43 process. The school shall first enroll students who reside
44 within the school system in which the public charter school is
45 located. If the number of local students wanting to enroll
46 exceeds the facility's capacity, then the school shall conduct
47 a random selection process to enroll students who reside in
48 the local school system. If the school has additional capacity
49 after admitting students from the local school system, then
50 the school shall admit any students without regard to their
51 residency by a random selection process. The selection shall
52 take place in a public meeting, called by the governing body
53 of the public charter school, and following all posting and
54 notice requirements prescribed by the Alabama Open Meetings
55 Act.

56 (7) Any non-charter public school converting partially



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57 or entirely to a public charter school shall adopt and
58 maintain a policy giving enrollment preference to students who
59 reside within the former attendance area of that public
60 school.

61 After all students who reside within the former
62 attendance area of that public school are enrolled, enrollment
63 shall first be opened to students residing within the local
64 school system and then outside the local school system, as set
65 forth in subdivision (6).

66 (8) A public charter school shall give enrollment
67 preference to students enrolled in the public charter school
68 the previous school year and to siblings of students already
69 enrolled in the public charter school.

70 (9) A public charter school may give enrollment
71 preference to children of a public charter school's founders,
72 governing board members, and full-time employees, so long as
73 they constitute no more than 10 percent of the school's total
74 student population.

75 (10) A public charter school may give enrollment
76 preference to children living within a certain geographical
77 boundary, so long as the overall enrollment of the public
78 charter school includes a majority of at-risk students. The
79 proposed boundary shall be approved by the authorizer.

80 ~~(10)~~ (11) This subsection does not preclude the
81 formation of a public charter school whose mission is focused
82 on serving special education students, students of the same
83 gender, students who pose such severe disciplinary problems
84 that they warrant a specific educational program, or students



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85 who are at risk of academic failure. Notwithstanding the
86 stated mission of the public charter school, any student may
87 attend.

88 ~~(11)~~ (12) This subsection does not preclude the
89 formation of a public charter school, that is located on or
90 within one mile of a military installation, whose mission is
91 focused on serving students who are dependents of military
92 members or Department of Defense civilian employees that are
93 permanently assigned to that military installation. If the
94 number of dependent students wanting to enroll exceeds the
95 facility's capacity, then the school shall conduct a random
96 selection process to enroll those students. If the school has
97 additional capacity after admitting those dependent students
98 of parents assigned to the military installation, then the
99 school shall admit students first from the local school system
100 by a random selection process and then without regard to their
101 residency by a random selection process, as capacity permits.
102 The selection shall take place in a public meeting, called by
103 the governing body of the public charter school, and following
104 all posting and notice requirements prescribed by the Alabama
105 Open Meetings Act. Once the total number of students enrolled
106 in the school reaches 400, all additional admitted students
107 shall be dependents of military members or Department of
108 Defense civilian employees who are permanently assigned to
109 that military installation.

110 (b) Credit transferability. If a student who was
111 previously enrolled in a public charter school enrolls in
112 another public school in Alabama, the student's new school



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113 shall accept credits earned by the student in courses or
114 instructional programs at the public charter school in a
115 uniform and consistent manner and according to the same
116 criteria that are used to accept academic credits from other
117 public schools. Nothing in this chapter shall prevent local
118 school systems from administering placement tests for newly
119 enrolled students who were previously enrolled in a public
120 charter school.

121 (c) Determination of student capacity of public charter
122 schools. The capacity of the public charter school shall be
123 determined annually by the governing board of the public
124 charter school in conjunction with the authorizer and in
125 consideration of the public charter school's ability to
126 facilitate the academic success of its students, to achieve
127 the other objectives specified in the charter contract, and to
128 ensure that its student enrollment does not exceed the
129 capacity of its facility or site.

130 (d) Student information. A public charter school shall
131 maintain records on all enrolled students utilizing the state
132 adopted Alabama Student Information System (ASIM)."

133 "§16-6F-6

134 (a) Eligible authorizing entities.

135 (1) A public charter school shall not be established in
136 this state unless its establishment is authorized by this
137 section. No governmental entity or other entity, other than an
138 entity expressly granted chartering authority as set forth in
139 this section, may assume any authorizing function or duty in
140 any form. The following entities shall be authorizers of



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141 public charter schools:

142 a. A local school board, for chartering of schools
143 within the boundaries of the school system under its
144 jurisdiction, pursuant to state law.

145 b. The Alabama Public Charter School Commission,
146 pursuant to this section.

147 (2) A local school board that registers as an
148 authorizer may approve or deny an application to form a public
149 charter school within the boundaries of the local school
150 system overseen by the local school board.

151 (3) All authorizing entities shall prioritize those
152 applications that are focused on serving at-risk students.

153 (4) A decision made by a local school board shall be
154 subject to appeal to the commission. The commission may hear
155 an application for the formation of a public charter school by
156 an applicant only if one of the following factors is met:

157 a. An application to form a public charter school is
158 denied by the local school board overseeing that system and
159 the applicant chooses to appeal the decision of the local
160 school board to the commission.

161 b. The applicant wishes to open a start-up public
162 charter school in a public school system that has chosen not
163 to register as an authorizer.

164 (b) Public charter school cap.

165 (1) Authorizers may not approve more than 10 start-up
166 public charter schools in a fiscal year.

167 (2) Upon receiving notice of approval of the tenth
168 start-up public charter school to be approved in a fiscal



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169 year, the department shall provide notice to all authorizers
170 that the cap has been reached and no new start-up public
171 charter schools may be approved in that fiscal year.

172 (3) The cap expires on April 1 immediately following
173 the conclusion of the fiscal year beginning October 1, 2020.

174 (4) At the conclusion of the fiscal year beginning
175 October 1, 2020, the department shall submit a report to the
176 Legislature outlining the performance of both start-up and
177 conversion public charter schools. This report shall include,
178 at a minimum, academic performance of all public charter
179 schools in the state, a detailed update on the authorizing
180 process, and recommendations for adjustments to public charter
181 school governance and oversight.

182 (5) There is no limit on the number of conversion
183 public charter schools that may be approved.

184 (c) The Alabama Public Charter School Commission.

185 (1) The commission is established as an independent
186 state entity.

187 (2) The mission of the commission is to authorize high
188 quality public charter schools, in accordance with the powers
189 expressly conferred on the commission in this chapter.

190 (3) a. The initial membership of the commission shall ~~be~~
191 ~~composed of a total of 11 members.~~ consist of the following:

192 The State Board of Education shall appoint 10 members, made up
193 of four appointees recommended by the Governor, one appointee
194 recommended by the Lieutenant Governor, two appointees
195 recommended by the President Pro Tempore of the Senate, and
196 three appointees recommended by the Speaker of the House of



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197 Representatives. The Governor, the Lieutenant Governor, the
198 President Pro Tempore of the Senate, and the Speaker of the
199 House of Representatives shall each recommend a list of no
200 fewer than two nominees for each initial appointment to the
201 commission. One recommended initial appointee of the President
202 Pro Tempore of the Senate and one recommended initial
203 appointee of the Speaker of the House of Representatives shall
204 be an appointee recommended by members of the Senate minority
205 party and members of the House minority party, respectively.
206 No commission member can be appointed unless he or she has
207 been recommended by the Governor, Lieutenant Governor,
208 President Pro Tempore of the Senate, or the Speaker of the
209 House of Representatives.

210 b. Commencing on the effective date of the act adding
211 this paragraph, as the terms of the then serving members
212 expire, the nominating authority for that respective serving
213 member shall become the appointing authority for his or her
214 successor on the commission so that the Governor shall appoint
215 four members to the commission, the Lieutenant Governor shall
216 appoint two members to the commission, the President Pro
217 Tempore of the Senate shall appoint two members to the
218 commission, and the Speaker of the House of Representatives
219 shall appoint three members to the commission. ~~At least one~~
220 ~~member appointed by the President Pro Tempore of the Senate~~
221 ~~shall be an appointee recommended~~ Commencing on the effective
222 date of the act adding this paragraph, one additional member
223 shall be appointed by the Minority Leader of the Senate and ~~at~~
224 ~~least~~ one additional member shall be appointed by the ~~Speaker~~



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225 ~~of the House of Representatives shall be an appointee~~
226 ~~recommended by the~~ Minority Leader of the House of
227 Representatives for four-year terms of office as provided in
228 subdivision (6).

229 ~~(4) The eleventh member of the commission shall be a~~
230 ~~rotating position based on the local school system where the~~
231 ~~application was denied. This member appointed to the rotating~~
232 ~~position shall be appointed by the local school system where~~
233 ~~the applicant is seeking to open a public charter school. The~~
234 ~~local school system shall appoint a member to the rotating~~
235 ~~position through board action specifically to consider that~~
236 ~~application.~~

237 ~~(5)~~ (4) The appointing authorities of the commission
238 members shall strive to select individuals that collectively
239 possess strong experience and expertise in public and
240 nonprofit governance, strategic planning, management and
241 finance, public school leadership, assessment, curriculum and
242 instruction, and public education law. Each member of the
243 commission shall have demonstrated understanding of and
244 commitment to charter schooling as a tool for strengthening
245 public education and shall sign an agreement to hear the
246 appeal and review documents in a fair and impartial manner.

247 ~~(6)~~ (5) Membership of the commission shall be inclusive
248 and reflect the racial, gender, geographic, urban/rural, and
249 economic diversity of the state. ~~The appointing authority~~
250 ~~shall consider the eight State Board of Education districts in~~
251 ~~determining the geographical diversity of the commission.~~

252 ~~(7)~~ (6) The initial appointments to the commission shall



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253 be made no later than June 1, 2015. Two recommended initial
254 appointees of the Governor, one recommended initial appointee
255 of the Lieutenant Governor, one recommended initial appointee
256 of the Speaker of the House of Representatives, and one
257 recommended initial appointee of the President Pro Tempore of
258 the Senate shall serve an initial term of one year and two
259 recommended initial appointees of the Governor, two
260 recommended initial appointees of the Speaker of the House of
261 Representatives, and one recommended initial appointee of the
262 President Pro Tempore of the Senate shall serve an initial
263 term of two years. Thereafter, all appointees shall serve
264 ~~two-year~~ four-year terms of office. All appointments shall be
265 eligible for reappointment as determined by the appointing
266 authority, not to exceed a total of ~~six~~ eight years of
267 service, unless the member was initially appointed to serve a
268 one-year term of office. If the initial term of office of an
269 appointee was one year, he or she may serve a total of ~~five~~
270 nine years of service on the commission.

271 ~~(8)~~ (7) A member of the commission may be removed for
272 failure to perform the duties of the appointment. Whenever a
273 vacancy on the commission exists, the appointing authority,
274 within 60 days after the vacancy occurs, shall appoint a
275 member for the remaining portion of the term in the same
276 manner as the original appointment was made. A member of the
277 commission shall abstain from any vote that involves a local
278 school system of which he or she is an employee or which he or
279 she oversees as a member of a local school board. The
280 requirement to abstain does not apply to the rotating position



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281 on the commission.

282 ~~(9)~~ (8) Six members of the commission constitute a
283 quorum, and a quorum shall be necessary to transact business.
284 Actions of the commission shall be by a majority vote of the
285 commission. The commission, in all respects, shall comply with
286 the Alabama Open Meetings Act and state record laws.
287 Notwithstanding the preceding sentence, members of the
288 commission may participate in a meeting of the commission by
289 means of telephone conference, video conference, or similar
290 communications equipment by means of which all persons
291 participating in the meeting may hear each other at the same
292 time. Participation by such means shall constitute presence in
293 person at a meeting for all purposes, including the
294 establishment of a quorum. Telephone or video conference or
295 similar communications equipment shall also allow members of
296 the public the opportunity to simultaneously listen to or
297 observe meetings of the commission.

298 ~~(10)~~ (9) If the commission overrules the decision of a
299 local school board and chooses to authorize the establishment
300 of a public charter school in that local school system, the
301 commission shall serve as the authorizer for that public
302 charter school, pursuant to this chapter.

303 (10) Each member of the commission, upon assuming
304 office, shall complete an orientation program, and an annual
305 training program thereafter, as developed by the commission.
306 The orientation program shall focus on roles and
307 responsibilities of charter school authorizers, laws impacting
308 commissioners as public officials, general education laws, and



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309 best practices. In developing and implementing the programs,
310 the commission may consult national or state organizations
311 with training expertise. Before the start of each regular
312 legislative session, the commission shall provide a report to
313 each appointing authority regarding the implementation and
314 effectiveness of the programs. Failure to attend and complete
315 a required orientation or annual training program may
316 constitute grounds for removal from the commission by the
317 appointing authority.

318 (11) The commission may do any of the following:

319 ~~a. Utilize professional and administrative staff of the~~
320 ~~department as recommended by the State Superintendent of~~
321 ~~Education.~~

322 a. Upon evaluation and agreement, share services,
323 facilities, supplies, and related costs with the department.

324 b. Adopt rules for the operation and organization of
325 the commission.

326 c. Review, at least once per year, department rules and
327 regulations concerning public charter schools and, if needed,
328 recommend to the State Superintendent of Education any rule or
329 regulation changes deemed necessary.

330 d. Convene stakeholder groups and engage experts.

331 e. Seek and receive state, federal, and private funds
332 for operational expenses.

333 f. Employ professional, administrative, technical, and
334 clerical staff, without regard to the state Merit System, who
335 shall serve at the pleasure of the commission. Staff employed
336 pursuant to this paragraph shall receive compensation and



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337 benefits established by the commission, payable in the same
338 manner as state employees.

339 ~~f.~~ (12) A commission member may not receive
340 compensation, but shall be reimbursed by the department for
341 travel and per diem expenses at the same rates and in the same
342 manner as state employees.

343 ~~g.~~ (13) The commission shall submit an annual report to
344 the department pursuant to subsection (g).

345 ~~(12)~~ (14) In order to overrule the decision of a local
346 school board and authorize a public charter school, the
347 commission, in its own consideration of the application, shall
348 do all of the following:

349 a. Find evidence of a thorough and high-quality public
350 charter school application from the applicant based on the
351 authorizing standards in subdivision (8) of subsection (a) of
352 Section 16-6F-7.

353 b. Hold an open community hearing opportunity for
354 public comment within the local school system where the
355 application was denied.

356 c. Find that the local board's denial of an original
357 charter application ~~was~~ is not supported by the then current
358 application and exhibits.

359 d. Take into consideration all of the following:

360 1. ~~other~~ Other existing charter school applications~~.~~.

361 2. ~~the~~ The quality of school options existing in the
362 affected community~~.~~.

363 3. ~~the~~ The existence of other charter schools~~, and.~~.

364 4. ~~any~~ Any other factors considered relevant to ensure



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365 the establishment of high-quality charter schools in
366 accordance with the intent of this chapter.

367 ~~e. Find evidence that the local school board erred in~~
368 ~~its application of nationally recognized authorizing~~
369 ~~standards.~~

370 e. At least 15 days prior to consideration of the
371 application, send a letter to the chair of the local school
372 board where the denial originated informing the local school
373 board that the commission will hear the appeal pursuant to a
374 public hearing and will provide the chair, or his or her
375 designee, the opportunity to address the commission at that
376 public hearing.

377 (d) (1) A local school board may ~~register with~~ apply to
378 the department for chartering authority within the boundaries
379 of the school system overseen by the local school board. The
380 department shall publicize to all local school boards the
381 opportunity to ~~register with~~ apply to the state for chartering
382 authority within the school system they oversee. By June 1 of
383 each year, the department shall provide information about the
384 opportunity, including ~~a registration~~ an application deadline,
385 to all local school boards. To ~~register~~ apply as a charter
386 authorizer in its school system, each interested local school
387 board shall submit the following information in a format to be
388 established by the department:

389 ~~(1)~~ a. Written notification of intent to serve as a
390 charter authorizer in accordance with this chapter.

391 ~~(2)~~ b. An explanation of the local school board's
392 capacity and commitment to execute the duties of quality



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393 charter authorizing, as defined by nationally recognized
394 authorizing standards.

395 ~~(3)~~ c. An explanation of the local school board's
396 strategic vision for chartering.

397 ~~(4)~~ d. An explanation of how the local school board
398 plans to solicit public charter school applicants, in
399 accordance with this chapter.

400 ~~(5)~~ e. A description or outline of the performance
401 framework the local school board will use to guide the
402 establishment of a charter contract and for ongoing oversight
403 and evaluation of public charter schools, consistent with the
404 requirements of this chapter.

405 ~~(6)~~ f. A draft of the local school board's renewal,
406 revocation, and nonrenewal processes, consistent with
407 subsection (c) of Section 16-6F-8.

408 ~~(7)~~ g. A statement of assurance that the local school
409 board commits to serving as a charter authorizer and shall
410 fully participate in ~~any~~ an annual authorizer training
411 ~~provided or required by the state~~ approved by the department.

412 (2) Once chartering authority is granted, the
413 registered local school board shall reapply to be an
414 authorizer every five years if the local school board wishes
415 to continue serving as an authorizer.

416 (e) If a local school board chooses not to register as
417 an authorizer, all applications seeking to open a start-up
418 public charter school within that local school board's
419 boundaries shall be denied. Applicants wishing to open a
420 public charter school physically located in that local school



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421 system may apply directly to the commission.

422 (f) An authorizer may do all of the following:

423 (1) Solicit, invite, receive, and evaluate applications
424 from organizers of proposed public charter schools.

425 (2) Approve applications that meet identified
426 educational needs.

427 (3) Deny applications that do not meet identified
428 educational needs.

429 (4) Create a framework to guide the development of
430 charter contracts.

431 (5) Negotiate and execute charter contracts with each
432 approved public charter school.

433 (6) Monitor the academic, fiscal, and organizational
434 performance and compliance of public charter schools.

435 (7) Determine whether each charter contract merits
436 renewal or revocation.

437 (g) An authorizer shall submit to the State Board of
438 Education a publicly accessible annual report within 60 days
439 after the end of each school fiscal year summarizing all of
440 the following:

441 (1) The authorizer's strategic vision for chartering
442 and progress toward achieving that vision.

443 (2) The academic and financial performance of all
444 operating public charter schools overseen by the authorizer,
445 according to the performance measures and expectations
446 specified in the charter contracts.

447 (3) The status of the public charter school portfolio
448 of the authorizer, identifying all public charter schools



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449 within that portfolio as one of the following:

450 a. Approved, but not yet open.

451 b. Open and operating.

452 c. Terminated.

453 d. Closed, including year closed and reason for
454 closing.

455 e. Never opened.

456 (4) The oversight and services, if any, provided by the
457 authorizer to the public charter schools under the purview of
458 the authorizer.

459 (5) The authorizing functions provided by the
460 authorizer to the public charter schools under its
461 jurisdiction, including the operating costs and expenses of
462 the authorizer detailed in annual audited financial statements
463 that conform to generally accepted accounting principles.

464 (6) All use of taxpayer dollars including expenditures,
465 contracts, and revenues.

466 (h) To cover costs for overseeing and authorizing
467 public charter schools in accordance with this chapter, a
468 local school board serving as an authorizer may do all of the
469 following:

470 (1) Expend its own resources, seek grant funds, and
471 establish partnerships to support its public charter school
472 authorizing activities.

473 (2) Charge a portion of annual per student state
474 allocations received by each public charter school it
475 authorizes based on the following schedule:

476 a. If the local school board has oversight over one to



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477 three, inclusive, public charter schools: Three percent of
478 annual per student state allocations.

479 b. If the local school board has oversight over four to
480 five, inclusive, public charter schools: Two percent of annual
481 per student state allocations.

482 c. If the local school board has oversight over six to
483 10, inclusive, public charter schools: One percent of annual
484 per student state allocations.

485 d. These funds shall be used to cover the costs for a
486 local school board to provide authorizing services to its
487 public charter schools.

488 (i) An employee, agent, or representative of an
489 authorizer may not simultaneously serve as an employee, agent,
490 representative, vendor, or contractor of a public charter
491 school of that authorizer.

492 (j) With the exception of charges for oversight
493 services as required in subsection (h), a public charter
494 school may not be required to purchase services from its
495 authorizer as a condition of charter approval or of a charter
496 contract, nor may any such condition be implied.

497 (k) A public charter school authorized by a local
498 school system may choose to purchase services, such as
499 transportation-related or lunchroom-related services, from its
500 authorizer. In such event, the public charter school and
501 authorizer shall execute an annual service contract, separate
502 from the charter contract, stating the mutual agreement of the
503 parties concerning any service fees to be charged to the
504 public charter school. A public charter school authorized by



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505 the commission may not purchase services from the commission,
506 but consistent with this section, may purchase services from
507 the local school system where the public charter school is
508 located.

509 (1) The department shall oversee the performance and
510 effectiveness of all authorizers established under this
511 chapter. Persistently unsatisfactory performance of the
512 portfolio of the public charter schools of an authorizer, a
513 pattern of well-founded complaints about the authorizer or its
514 public charter schools, or other objective circumstances may
515 trigger a special review by the department. In reviewing and
516 evaluating the performance of an authorizer, the department
517 shall apply nationally recognized standards for quality in
518 charter authorizing. If, at any time, the department finds
519 that an authorizer is not in compliance with an existing
520 charter contract or the requirements of all authorizers under
521 this chapter, the department shall notify the authorizer in
522 writing of any identified problem, and the authorizer shall
523 have reasonable opportunity to respond and remedy the problem.

524 (m) If a local school board acting as an authorizer
525 persists in violating a material provision of a charter
526 contract or fails to remedy any other authorizing problem
527 after due notice from the department, the department shall
528 notify the local school board, within 60 days, that it intends
529 to revoke the chartering authority of the local school board
530 unless the local school board demonstrates a timely and
531 satisfactory remedy for the violation or deficiencies.

532 (n) If the commission violates a material provision of



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533 a charter contract or fails to remedy any other authorizing
534 problems after due notice from the department, the department
535 shall notify the commission, within 60 days, that it intends
536 to notify the Governor, the Speaker of the House of
537 Representatives, and the President Pro Tempore of the Senate
538 of the actions of the commission unless the commission
539 demonstrates a timely and satisfactory remedy for the
540 violation of the deficiencies. Along with this notification,
541 the department shall publicly request in writing that the
542 Governor, the Speaker of the House of Representatives, and the
543 President Pro Tempore appointees comply with the requests of
544 the department or face a revocation of their appointment to
545 the commission.

546 (o) In the event of revocation of the chartering
547 authority of an authorizer, the department shall manage the
548 timely and orderly transfer of each start-up public charter
549 contract held by that authorizer to another authorizer in the
550 state, with the mutual agreement of each affected start-up
551 public charter school and proposed new authorizer. The new
552 authorizer shall assume the existing charter contract for the
553 remainder of the charter term.

554 (p) Authorizer power, duties, and liabilities.
555 Authorizers are responsible for executing, in accordance with
556 this chapter, the following essential powers and duties:

557 (1) Soliciting and evaluating charter applications
558 based on nationally recognized standards.

559 (2) Approving quality charter applications that meet
560 identified educational needs and promote a diversity of



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561 high-quality educational choices.

562 (3) Declining to approve weak or inadequate charter
563 applications.

564 (4) Negotiating and executing charter contracts with
565 each approved public charter school.

566 (5) Monitoring, in accordance with charter contract
567 terms, the performance and legal compliance of public charter
568 schools.

569 (6) Determining whether each charter contract merits
570 renewal, nonrenewal, or revocation.

571 (q) An authorizer that grants a charter to a 501(c)(3)
572 tax-exempt organization for the purpose of opening and
573 operating a public charter school is not liable for the debts
574 or obligations of the public charter school, or for claims
575 arising from the performance of acts, errors, or omissions by
576 the charter school, if the authorizer has complied with all
577 oversight responsibilities required by law, including, but not
578 limited to, those required by this chapter.

579 (r) Principles and standards for charter authorizing.

580 (1) All authorizers shall be required to develop and
581 maintain chartering policies and practices consistent with
582 nationally recognized principles and standards for quality
583 charter authorizing in all major areas of authorizing
584 responsibility including: Organizational capacity and
585 infrastructure; soliciting and evaluating charter
586 applications; performance contracting; ongoing public charter
587 school oversight and evaluation; and charter renewal
588 decision-making. The State Board of Education shall promulgate



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589 reasonable rules and regulations to effectuate this section by
590 June 17, 2015.

591 (2) Authorizers shall carry out all of their duties
592 under this chapter in a manner consistent with such nationally
593 recognized principles and standards and with the spirit and
594 intent of this chapter. Evidence of material or persistent
595 failure to do so shall constitute grounds for losing charter
596 authorizing powers."

597 "§16-6F-10

598 (a) Enrollment. ~~Students enrolled in and attending~~
599 ~~public charter schools shall be included in all enrollment and~~
600 ~~attendance counts of students of the local school system in~~
601 ~~which the students reside. The public charter school shall~~
602 ~~report all such data to the local school systems of residence~~
603 ~~in a timely manner.~~ Each local school system public charter
604 school shall report ~~such~~ enrollment, attendance, and other
605 counts of students to the department in the manner required by
606 the department.

607 (b) Operational funding.

608 (1) The following provisions govern operational
609 funding:

610 a. 1. ~~In their initial year, and in subsequent years to~~
611 ~~accommodate growth as articulated in their application,~~
612 ~~funding for public charter schools shall be provided from the~~
613 ~~Education Trust Fund in the Foundation Program appropriation~~
614 ~~for current units. Subsequent year funding for public charter~~
615 ~~schools shall be based on the Foundation Program allocation~~
616 ~~and other public school Education Trust Fund appropriations.~~



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617 1. In their initial year, and in subsequent years to
618 accommodate growth as articulated in their application,
619 start-up public charter schools shall be provided Foundation
620 Program funding by inclusion of anticipated enrollment as
621 provided in the approved charter application. During the
622 fiscal year, the resulting Foundation Program allocation shall
623 be adjusted to reconcile the variance between anticipated and
624 actual funded enrollment.

625 2. A conversion public charter school shall be funded
626 at the same level as the school was funded prior to its
627 conversion to a conversion public charter school. All federal,
628 state, and local dollars allocated to support the conversion
629 public charter school shall be directly appropriated by the
630 local school board to the conversion public charter school
631 operator. Under no circumstances may the local school board
632 withhold funds for services without mutual agreement from the
633 conversion public charter school operator.

634 3. In addition to Foundation Program allocation, all
635 start-up public charter schools shall participate in other
636 Education Trust Fund and Public School Fund appropriations in
637 the same manner as any other non-charter public school system.
638 ~~In addition to Foundation Program allocation, all conversion~~
639 ~~public charter schools shall be funded as they would have been~~
640 ~~prior to their conversion to a conversion public charter~~
641 ~~school from other Education Trust Fund and Public School Fund~~
642 ~~appropriations.~~ In addition to Foundation Program allocation,
643 all conversion public charter schools shall receive from the
644 local school board a pro rata share of other Education Trust



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645 Fund appropriations.

646 b. For each of its students, a public charter school
647 shall receive the same amount of state funds, including funds
648 earmarked for the Foundation Program transportation, school
649 nurses, technology coordinators, and other line items that may
650 be included in the appropriation for the Foundation Program
651 Fund, that, for the then-current fiscal year, would have
652 otherwise been allocated on behalf of each public charter
653 school student to the local school system where the student
654 resides. This amount shall reflect the status of each student
655 according to grade level, economic disadvantage, limited
656 English proficiency, and special education needs.

657 c. For each of its students, a public charter school
658 shall receive the same amount of local tax revenue, that, for
659 the then-current fiscal year, would have otherwise been
660 allocated on behalf of each public charter school student to
661 the local non-charter public school of each student's
662 residence, excluding those funds already earmarked through a
663 vote of the local school board for debt service, capital
664 expenditures, or transportation. As necessary, the department
665 shall promulgate processes and procedures to determine the
666 specific local revenue allocations according to the Foundation
667 Program for each public charter school.

668 d. The state funds described in paragraph ~~b.~~a. shall be
669 forwarded ~~on a quarterly basis to the~~ by the department to all
670 start-up public charter ~~school~~ schools on the same schedule as
671 funds are forwarded to local school systems by the department.
672 The state funds described in paragraph a. shall be forwarded



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673 to conversion public charter schools by the local school
674 system on the same schedule as funds are forwarded to local
675 school systems by the department. The local funds described in
676 paragraph c. shall be forwarded on a quarterly basis to the
677 public charter school by the local educational agency of the
678 student's residence, notwithstanding the oversight fee
679 reductions pursuant to Section 16-6F-6. Additionally, any
680 local revenues restricted, earmarked, or committed by
681 statutory provision, constitutional provision, or board
682 covenant pledged or imposed by formal action of the local
683 board of education or other authorizing body of government,
684 shall be excluded by the local educational agency of the
685 student's residence when determining the amount of funds to be
686 forwarded by the agency to the public charter school.

687 e. The maximum annual local tax allocation forwarded to
688 a start-up public charter school from a local school system
689 shall, for each student, not exceed the per student portion of
690 the state required 10 mill ad valorem match.

691 f. The ~~maximum~~ annual local tax allocation forwarded to
692 a conversion public charter school from a local school system
693 shall, for each student, equal the amount that would have been
694 received by the local education agency of the student's
695 residence for each student who now attends a conversion public
696 charter school, ~~minus any amounts otherwise excluded pursuant~~
697 ~~to this section.~~ In the event a local school system fails to
698 honor an agreement with a conversion public charter school
699 operator or if the local school system fails to forward the
700 annual local tax allocation to a conversion public charter



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701 school as required by this subsection, the State
702 Superintendent of Education shall intervene pursuant to
703 Section 16-4-4, and allocate the local funds to the conversion
704 public charter school accordingly.

705 g. ~~If necessary~~ Annually, the department shall ~~adopt~~
706 ~~rules governing how to~~ calculate ~~and distribute~~ these
707 per-student allocations, ~~as well as any~~ and ensure that these
708 per-student allocations are distributed directly to start-up
709 public charter schools and conversion public charter schools
710 on a per-student basis. The department shall adopt rules
711 governing cost-sharing for students participating in
712 specialized gifted, talented, vocational, technical, or career
713 education programs.

714 (2) Categorical funding. The department shall direct
715 the proportionate share of ~~moneys~~ monies generated under
716 federal and state categorical aid programs to all public
717 charter schools, including start-up public charter schools and
718 conversion public charter schools, serving students eligible
719 for such aid. The state shall ensure that all public charter
720 schools with rapidly expanding enrollments are treated
721 equitably in the calculation and disbursement of all federal
722 and state categorical aid program dollars. Each public charter
723 school that serves students who may be eligible to receive
724 services provided through such programs shall comply with all
725 reporting requirements to receive the aid.

726 (3) Special education funding.

727 a. The state or a local school board shall pay directly
728 to a public charter school, including start-up public charter



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729 schools and conversion public charter schools, any federal or
730 state aid attributable to a student with a disability
731 attending the school.

732 b. At either party's request, a public charter school
733 and its authorizer may negotiate and include in the charter
734 contract alternate arrangements for the provision of and
735 payment for special education services.

736 (4) Generally accepted accounting principles;
737 independent audit.

738 a. A public charter school shall adhere to generally
739 accepted accounting principles.

740 b. A public charter school shall annually engage an
741 independent certified public accountant to do an independent
742 audit of the school's finances. A public charter school shall
743 file a copy of each audit report and accompanying management
744 letter to its authorizer by June 1. This audit shall include
745 the same requirements as those required of local school system
746 pursuant to Section 16-13A-7.

747 (5) Transportation funding.

748 a. The department shall disburse state transportation
749 funding to a public charter school on the same basis and in
750 the same manner as it is paid to public school systems.

751 b. A public charter school may enter into a contract
752 with a school system or private provider to provide
753 transportation to the school's students.

754 c. Public charter schools that do not provide
755 transportation services shall not be allocated any federal,
756 state, or local funds otherwise earmarked for



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757 transportation-related expenses."

758 Section 2. This act shall become effective immediately
759 following its passage and approval by the Governor, or its
760 otherwise becoming law.



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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 11-May-23, as amended.

John Treadwell
Clerk

Senate **31-May-23**

Passed

House **01-June-23**

Concurred in
Senate Amendment