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STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-40-40, 59-40-115, and 59-40-180

43-601. Procedures and Standards for Review of Charter School Applications.

Synopsis:

The State Board of Education proposes to amend R.43-601 Procedures and Standards for Review of Charter School Applications.

The Notice of Drafting was published in the *State Register* on July 26, 2024.

Section-by-Section Discussion:

Section VIII. Sponsor Registration for Institutions of Higher Learning.
Section IX. Charter School Authorizer Transfer Schedule.

Instructions:

Print the regulation as shown below.

Text:

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ARTICLE 26
CHARTER SCHOOLS

43-601. Procedures and Standards for Review of Charter School Applications.

I. DEFINITIONS

A. A “charter school” means a public, nonreligious, nonhome-based, nonprofit corporation forming a school that operates by sponsorship of a public school district, the South Carolina Public Charter School District, or a public or independent institution of higher learning, but is accountable to the board of trustees, or in the case of technical colleges, the area commission, of the sponsor which grants its charter. Nothing in this chapter prohibits charter schools from offering virtual services pursuant to state law and subsequent regulations defining virtual schools.

B. “Applicant” means the person who or nonprofit corporate entity that desires to form a charter school and files the necessary application with the South Carolina Public Charter School District Board of Trustees, the local school board of trustees in which the charter school is to be located, or the board of trustees or area commission of a public or independent institution of higher learning. The applicant also must be the person who or the nonprofit corporate entity that applies to the Secretary of State to organize the charter school as a nonprofit corporation.

C. “Sponsor” means the South Carolina Public Charter School District Board of Trustees; the local school board of trustees in which the charter school is to be located, as provided by law; a public institution of

higher learning, as defined in Section 59-103-5; or an independent institution of higher learning, as defined in Section 59-113-50, from which the charter school applicant requested its charter and which granted approval for the charter school's existence. Only those public or independent institutions of higher learning, as defined in this subsection, who register with the South Carolina Department of Education may serve as charter school sponsors, and the department shall maintain a directory of those institutions. The sponsor of a charter school is the charter school's local education agency (LEA) and a charter school is a school within that LEA. The sponsor retains responsibility for special education and shall ensure that students enrolled in its charter schools are served in a manner consistent with LEA obligations under applicable federal, state, and local law.

D. "Charter committee" means the governing body of a charter school formed by the applicant to govern through the application process and until the election of a board of directors is held. After the election, the board of directors of the corporation must be organized as the governing body and the charter committee is dissolved.

E. "Certified teacher" means a person currently certified by the State of South Carolina to teach in a public elementary or secondary school or who currently meets the qualifications outlined in Sections 59-27-10 and 59-25-115.

F. "Noncertified teacher" means an individual considered appropriately qualified for the subject matter taught and who has completed at least one year of study at an accredited college or university and meets the qualifications outlined in Section 59-25-115.

G. "Charter school contract" means a fixed term, renewable contract between a charter school and a sponsor that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.

H. "Resident public school" means the school, other than a charter school, within whose attendance boundaries the charter school student's custodial parent or legal guardian resides."

I. "Local school district" means any school district in the state except the South Carolina Public Charter School District, or a public institution of higher learning, as defined in Section 59-103-5; or an independent institution of higher learning, as defined in Section 59-113-50 and does not include special school districts.

J. "Scholastic year" means the year that begins on the first day of July of each year and ends on the thirtieth day of June following.

K. "Alternative Education Campus (AEC)" means any charter school with an explicit mission as outlined in its charter to serve an enrolled student population as outlined in Section 59-40-111.

II. APPLICATION REVIEW GUIDELINES FOR SPONSORS

A. Review of Applications

All charter school applications must be reviewed by the sponsor to determine compliance with the standards established below. The applications submitted to the sponsor must demonstrate compliance with each standard. The sponsor must make a determination to either approve or deny the charter.

B. Application Timeline

An applicant shall submit a letter of intent at least ninety days before submitting an application to the selected sponsor and a copy to the South Carolina Department of Education. Applications must be submitted to the sponsor and one copy to the South Carolina Department on or before February 1, beginning with the 2016 charter school application cycle. The sponsor's deadline must ensure completion of the review process by December 1 of the year preceding the opening of the charter school. If a charter, to include a conditional charter, is not issued by December 1, the opening will be delayed one scholastic year. Charter applications must propose school openings that are consistent with South Carolina's definition of a scholastic year.

C. Requests for Clarifying Information

If the sponsor determines that an application does not meet one or more of the standards, it may request clarifying information from the applicant prior to or during the hearing. The sponsor has the authority to incorporate this clarifying information into the application.

D. Proposed Contract

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

III. CHARTER SCHOOL APPLICATION STANDARDS

The charter school application, based on an application template with compliance guidelines developed by the South Carolina Department of Education, must include:

A. Executive Summary

The charter school application must include an executive summary which must be consistent with the intent of the Charter Schools Act of 1996 and must not exceed two pages in length.

B. Mission Statement

The charter school application must include a mission statement that must be clear and must support the principles of the Charter Schools Act.

C. Support for Formation of a Charter School

1. The application must include evidence that an adequate number of parents or legal guardians with students eligible to attend the proposed school pursuant to Section 59-40-50 support the formation of the charter school and justify the projected per pupil allocation in the application budget.

2. If the social situation of the proposed school's targeted population precludes establishing parental support, evidence should demonstrate support from community groups and agencies, including letters from these entities that specify the level of their commitment to the school.

3. In the case of a proposal to convert a school, the application must also include evidence that two-thirds of the faculty and instructional staff voted to support the filing of the application and evidence

that two-thirds of the voting parents or legal guardians voted to support the filing of the application. Parents or guardians shall have one vote for each of their children enrolled in the school (i.e., each student may be represented by only one vote). All parents or legal guardians of students enrolled in the school must be given the opportunity to vote.

D. Admissions Policies and Procedures

The application must include a description of the charter school's admission policies and procedures:

1. The admission policies and procedures must reflect compliance with all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services.

2. The admission policies and procedures must provide that, subject to space limitations, the charter school admits all children who are eligible to attend public school in the school district where the charter school is operating, except in the case of an application to create single-gender schools. For schools within the South Carolina Public Charter School District, or institutions of higher education, the enrollment is open to all children who are eligible to attend public school in the state. If the number of applications exceeds the capacity of a program, class, grade level, or building, students must be accepted by lot, as specified in federal or state guidance. There is no appeal to the sponsor.

3. The policies and procedures must not limit or deny admission or show preference to any individual group except in the case of an application to create single-gender schools; however, priority, which may not exceed twenty percent of the enrollment of the charter school for the categories in (b) and (c) below, may be given to

a. a sibling of a pupil currently enrolled or attending, or who within the last six years attended the school for at least one complete academic year,

b. children of charter school employees, and

c. children of the charter school committee.

4. Admission priority must be given to all students enrolled in a school undergoing a conversion. All students enrolled in the school at the time of conversion must be given priority enrollment. Thereafter, students who reside within the former attendance area of that public school must be given enrollment priority.

5. The policies and procedures must include provisions to grant or deny permission for students to attend the charter school if they reside in a school district other than the one where the charter school is located. This section is not applicable to schools authorized by the South Carolina Public Charter School District or institutions of higher education.

a. In-district students will be given priority.

b. Out-of-district student enrollment must not exceed 20 percent of the total enrollment of the charter school without the approval of the receiving district board of trustees. The sending district must be notified immediately of the transferring students. Out-of-district students must be considered on the basis of the order in which their applications are received.

c. If the 20 percent of the out-of-district students are from one school district, then the sending district must concur with any additional students transferring from that district to attend the charter school.

6. A charter school located on a federal military installation or base where the appropriate authorities have made buildings, facilities, and grounds on the installation or base available for use by the charter school, as its principal location, also may give enrollment priority to otherwise eligible students who are dependents of military personnel living in military housing on the base or installation or who are currently stationed at the base or installation not to exceed 50 percent of the total enrollment of the charter school. This priority is in addition to the other priorities provided by this item, but no child may be counted more than once for purposes of determining the percentage makeup of each priority.

7. If a charter school denies admission to a student for reasons other than the results of a lottery, the student may appeal the denial to the sponsor. The decision will be binding on the student and the charter school.

E. Goals, Objectives, Educational Program, Curriculum, and Academic Performance Standards

The charter school's goals, objectives, educational program, curriculum, and academic performance standards must be clearly described in the application and must meet or exceed any student academic standards adopted by the school district in which the charter school is located. The application must demonstrate that the educational program is designed to enable each student to achieve these standards.

1. The goals and objectives must be clearly stated and must provide enough detail to indicate specific outcomes.

2. The student population must be identified by grade level, unique educational needs, and projected enrollment. A converted charter school must offer the same grades, or non-graded education appropriate for the same ages and education levels of pupils, as offered by the school immediately before conversion and may also provide additional grades and further educational offerings.

3. The educational goals must reflect the school's mission statement.

4. Strategies to accomplish the educational goals must be included.

5. The school calendar must be at least 180 instructional days.

6. Academic standards must identify what students will achieve at each grade level and must meet or exceed the South Carolina curriculum standards, as adopted by the State Board of Education. A correlation or other documentation must be included or process identified to ensure that the school will provide an instructional program that meets or exceeds the academic standards.

7. If the charter school plans to offer the South Carolina State High School Diploma, the application must set forth the method for meeting the state requirements for the High School Diploma, including, but not limited to, course unit requirements, seat time for Carnegie Units, as applicable, and the administration of the required examinations.

8. Provisions must be included for determining if all students are achieving or attaining the standards, including the methods by which student performance information will be gathered and monitored.

9. The application must include an explanation as to how the school will comply with the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act.

F. Student Assessment

The application must include a description of the charter school's plan for evaluating pupil achievement and progress toward accomplishment of the school's achievement standards. The school's evaluation plan must include state-mandated assessments and other assessments as well as the timeline for meeting these standards and the procedures to be taken if pupil achievement falls below the standards.

1. Methods for evaluating pupil achievement at each grade level must be specified. These methods must include but should not be limited to the state assessments.

2. The timeline must identify the expected yearly progress toward meeting the school's long-term performance goals. The expected yearly progress must meet or exceed the expectation of the federal accountability system recognized by the U.S. Department of Education.

3. Provisions must be included to address the needs of students who do not perform at acceptable levels of proficiency in the statewide assessment program.

G. Budget and Accounting System

The application must include a plan for the charter school that is economically sound and in compliance with state and federal requirements:

1. A budget for the term of the charter must be included. The charter school must use the same budget codes as are required of school districts. The budget must be based on documented State Department of Education estimated revenues in accordance with the allocations in S.C. Code Ann. Section 59-40-140(A)-(C). If the budget includes funds acquired through grants, the application must present evidence that the funds, including federal public charter school start-up grants, are likely to be received, and the terms of the projected grants must be explained. Anticipated expenditures must include all costs associated with initial implementation and continued operation, including but not limited to instructional and support costs for:

- a. salaries,
- b. employee benefits,
- c. purchased services (includes insurance and transportation),
- d. supplies and materials (includes noncapital equipment), and
- e. capital outlay.

2. The application must include a description of the annual audit of the financial and administrative operations of the charter school, including evidence that the charter school will adhere to the accounting, auditing, and reporting procedures and requirements that are applied to public schools operating in South Carolina. Accounting, auditing, and reporting requirements must be in compliance with the principles set forth in the following publications, published annually by the Office of Finance:

- a. Single Audit Guide,
- b. Financial Accounting Handbook, and
- c. Funding Manual.

3. The application must include documentation regarding the pupil accounting system, including evidence that the charter school will adhere to the procedures and regulations that are applied to public schools operating in South Carolina. Pupil accounting and reporting requirements must be in compliance with the S.C. Pupil Accounting Manual and the S.C. Student Accountability Manual, published by the State Department of Education.

4. The application must include documentation of any negotiated services provided by the sponsor, including but not limited to financial accounting, payroll services, food services, custodial services, maintenance, curriculum, library and media services, and warehousing.

H. Governance and Operation

The application must include a description of the governance and operation of the charter school including:

1. A detailed school start-up plan, resumes and background information on the charter committee members, the capacity and experience of the school leadership and management team, any involvement with the replication of existing successful public charter schools, any proposed management company or educational service provider responsibilities, and the nature and extent of parental, professional educator, and community involvement in the governance and operation of the charter school.

2. The charter school must be organized as a South Carolina non-profit corporation and the application must include a copy of the non-profit corporation's articles of incorporation and bylaws.

3. The charter committee must include at least one teacher.

4. The board of directors must consist of seven or more individuals with the exact number specified in or fixed in accordance with the bylaws. Members of a board of directors may serve a term of two years, and may serve additional terms. A choice of the membership of the board must take place every two years. Fifty percent of the members of the board as specified by the bylaws must be individuals who have a background in K-12 education or in business, and the bylaws of the charter school also must provide for the manner of selection of these members. In addition, at least 50 percent of the members of the board as specified by the bylaws must be elected by the employees and the parents or guardians of students enrolled in the charter school. Parents or guardians shall have one vote for each student enrolled in the charter school. All members must be residents of the State of South Carolina. A person who has been convicted of a felony must not be elected to a board of directors. If the board of directors consists of an odd number of members, the extra member must be an individual who has a background in K-12 education or in business;

5. The charter committee must assume the following responsibilities:

- a. employing and contracting with teachers and nonteaching employees;
- b. ensuring that teachers, whether certified or noncertified, undergo the background checks and other investigations required for certified teachers, as provided by law, before they may teach in the charter school;

- c. contracting for other services;
 - d. developing pay scales, performance criteria, and discharging policies for its employees;
 - e. deciding all other matters related to the operation of the charter school, including budgeting, curriculum, and operating procedures; and
 - f. ensuring that the charter school will adhere to the same health, safety, civil rights, and disability rights requirements as are applied to all public schools operating in the same school district.
6. The application must include a description of the administrative structure of the charter school, including the roles and responsibilities of each administrative staff member.
7. Evidence of the nature and extent of parental, community, and professional educator involvement in the governance and operation of the school must be provided.
8. Evidence must be provided that the charter school and its governing body will comply with the Freedom of Information Act. Such evidence may include the bylaws of the nonprofit corporation, which must be established prior to application.

I. Administrative and Teaching Staff

The charter school must employ administrators and teachers in a manner consistent with the Charter Schools Act:

1. Part-time noncertified teachers must be considered pro rata in calculating staff percentages based on the hours which they are expected to teach.
2. A noncertified teacher must be appropriately qualified for the subject matter taught, must have completed at least one year of study at an accredited college or university, and must meet the qualifications outlined in S.C. Code Ann. Section 59-25-115.
3. A certified teacher must hold current certification by the State of South Carolina to teach in a public elementary, middle, or secondary school.

J. Racial Composition

The application must describe how the charter school intends to ensure that the enrollment of the school is similar to the racial composition of the school district or to the targeted student population the charter school proposes to serve and must also provide assurance that the school complies with any school district desegregation plan or order in effect:

1. The application must demonstrate timely, fair, and realistic policies and procedures for recruiting, registering, and admitting students that reflect the racial composition of the school district or the targeted school population.
2. The proposed procedures and policies must reflect an understanding of the racial composition of the district and the targeted student population.

3. To ensure compliance with a desegregation plan or order, the charter school applicant should take the following steps and provide documentation that these steps were taken in its application:

a. request and receive a letter from the district indicating whether the school will be subject to any desegregation plan or order;

b. secure a copy of the desegregation plan or order if the school is subject to such;

c. determine and demonstrate that the charter school's policies and procedures are in compliance with the desegregation plan or order;

d. request and receive a letter from the district that indicates whether the charter school's proposed policies and procedures are in compliance with any desegregation plan or order in effect in the district or whether clarification must be received from the Office for Civil Rights.

K. Transportation

The application must include a description of how the charter school intends to meet the transportation needs of its pupils:

1. If the charter school will provide transportation by school bus, the application must include a plan that complies with the state requirements for drivers and training and the state safety requirements for school buses.

If the lack of transportation is preventing students from attending, the charter school should provide a plan to address their transportation needs.

2. If the charter school intends to contract with the district or a third party for transportation services, a description of those services and a proposed contract must be provided in the application.

3. A charter school is not required to provide or facilitate transportation for out-of-district students.

L. Facilities and Equipment

The application must include a description of the building, facilities, and equipment and an explanation as to how they will be obtained.

1. If a facility suitable for use by the charter school is identified at the time of application, the application must provide the following information with regard to the facility that the charter school intends to occupy:

(a) the address of the facility;

(b) a description of the facility;

(c) a floor plan of the facility, including a notation of its size in square footage;

(d) the name and address of the owner of the facility;

(e) a copy of the proposed lease or rental agreement if the facility will be leased or rented;and

(f) a description of the equipment that will be used to support the proposed curriculum and an explanation as to how the equipment will be obtained.

2. If the charter school has not identified a suitable facility, the application must specify a plan for obtaining such a facility and must include:

(a) a description of the facility needs

(b) a statement as to whether an existing facility will be remodeled or a new facility will be built;

(c) a schedule for completing or obtaining a suitable facility and, if applicable, a description of and timeline for any plan to raise funds for completing or obtaining the facility; and

(d) a description of the equipment that will be used to support the proposed curriculum and an explanation as to how the equipment will be obtained.

M. Employee Relations

The application must explain the relationship that will exist between the charter school and its employees, including evaluation procedures:

1. The application must include a description of the process that will be used to advertise for, select, and employ instructional staff and other employees.

2. The procedure for the evaluation of teachers of the charter school must be outlined in the application.

a. The charter school may choose to use the ADEPT (Assisting, Developing, and Evaluating Professional Teaching) program or other teacher evaluation method consistent with the state-approved evaluation systems. If ADEPT is to be used, the school must meet all requirements of the program.

b. If the charter school selects another method of evaluation other than ADEPT, that method must be explained with adequate detail. Teachers with Initial Teaching Certificates in those schools can advance to a renewable Limited Professional Teaching Certificate but cannot advance to a full Professional Teaching Certificate.

3. The application must explain how the terms and conditions of employment will be addressed with affected employees.

N. Grievance and Termination Procedures

The charter school must have a reasonable grievance and termination procedure for its employees:

1. The charter school may, with agreement from the sponsor, adopt the procedures for the employment and dismissal of teachers outlined in S.C. Code Ann. Section 59-25-410 et seq. (1990).

2. If the charter school does not adopt procedures for the employment and dismissal of teachers outlined in S.C. Code Ann. Section 59-25-410 et seq. (1990), the charter school must establish employment and termination procedures that provide for notice and a right to a hearing before the governing board.

3. The charter school application must include grievance or termination procedures for paraprofessionals and other staff.

4. Teachers and other staff members who are employed at a public school that converts and who desire to continue to teach or work at the converted school may do so but will remain employees of the local school district with the same compensation and benefits including any future increases.

O. Student Conduct, Rights, and Responsibilities

The charter school application must include a policy governing student conduct, student rights and responsibilities, and student discipline standards and procedures:

1. The policy must set forth disciplinary actions to be taken by the administration for breaches of the student conduct policy.

2. The application must set forth an appeal process for students recommended for expulsion that includes a right to appeal a decision to the charter school board.

3. The application must set forth an assurance that the charter school will comply with S.C. Code Ann. Section 59-63-235 (Supp. 2001), which provides for the expulsion of any student who brings a firearm to school.

4. The application must include an assurance that the charter school will comply with the Family Education Rights and Privacy Act (20 U.S.C. Section 1232).

5. The application must contain the explanation of the policies with regard to student conduct, rights, and responsibilities that will be given to parents and students at the beginning of the school year.

P. Indemnification

The charter school must assume the liability for the activities of the charter school and must agree to indemnify and hold harmless the school district, its servants, agents, and employees from any and all liability, damage, expense, causes of action, suits, claims, or judgments arising from injury to persons or property or otherwise that arises out of the act, failure to act, or negligence of the charter school, its agents and employees, in connection with or arising out of the activity of the charter school.

Q. Insurance

The application must include a description of the types and amounts of insurance coverage to be obtained by the charter school. The application must address, but is not limited to, the following types of insurance: workers' compensation, liability, property, indemnity, and automotive.

IV. VIRTUAL CHARTER SCHOOLS

A. Definition: a virtual charter school is a charter school whereby students are taught primarily through online methods; however, at least 25 percent of the instruction in core areas as defined in Section IV(E)(1) must be through regular instructional opportunities. Regular instructional opportunities may include, but are not limited to, the opportunities outlined in Section IV(E)(2).

B. The following additional information must be submitted to the sponsor with the charter application:

1. List of currently developed courses that are ready for curriculum alignment;

2. Access to one course per level that can be previewed by South Carolina Department of Education (SCDE) to assess depth of work necessary for curriculum alignment;

3. Description of how the proposed charter will comply with the 25 percent real time requirement;

4. A timeline of how curriculum development will be completed and then approved by the SCDE;

5. A description of how much teacher interaction students will receive within the online instruction;

6. A description of the portal used and how it works;

7. A description of how the applicant plans to comply with the teacher requirements in S.C. Code Ann. Section 59-40-50.

C. Curriculum

1. All courses in core areas for which there are state-adopted curriculum standards must be reviewed to determine whether the courses meet content and grade specific standards, and approved by the SCDE prior to offering the course.

2. Review by the Sponsor

After the approval or conditional approval of a charter by the sponsor, the virtual charter school may submit courses for approval by the sponsor.

D. Additional Program Requirements

The program must provide the following:

1. Each course must be taught by a teacher meeting the requirements of S.C. Code Ann. Section 59-40-50;

2. Ensure that a parent or legal guardian verifies the number of hours of educational activities completed by the student each year;

3. Provide for frequent, ongoing monitoring of an individual student's program to verify each student is participating in the program;

4. Include proctored assessments for core subjects per semester that are graded or evaluated by the teacher;

5. Conduct at least bi-weekly parent-teacher conferences in person, electronically, or by telephone;

6. Provide for a method to verify student attendance;

7. Provide for verification of ongoing student progress and performance in each course as documented by assessments and examples of coursework.

E. Regular Instructional Opportunities

1. The charter school must provide regular instructional opportunities in real time that are directly related to the school's curricular objectives. Core academic instruction includes instruction in English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

2. Regular instructional opportunities include, but are not limited to, the following:

- a. meetings with teachers;
- b. educational field trips and outings;
- c. virtual field trips that are in real time attended by other charter school students;
- d. virtual conferencing sessions; and
- e. offline work or projects assigned by the teacher of record.

V. CONDITIONAL CHARTERS

The sponsor may grant a conditional charter, instead of a full charter, to an applicant whose application meets the standards, and may do so only if one or more of the following conditions exists: a charter school has not yet secured its space and been issued a certificate of occupancy by the Office of School Facilities, secured its equipment, facilities, and/or personnel.

The conditional approval must be in writing and outline the specific conditions that must be met for approval and must include the specific date by which the conditions need to be met in order to secure approval. The sponsor must make a determination as to whether the charter applicant has met the conditions of the conditional approval on or before the date specified in the conditional approval. Failure to make a ruling by the date outlined in the conditional charter shall be deemed approved.

VI. ADVERSE IMPACT ON STUDENTS

A local school board of trustees may deny an application if the charter school would adversely affect the other students in the district.

A. The local school board of trustees must demonstrate adverse impact on students. The impact must be specific and must have a negative effect on students. If the local school board of trustees finds that the charter school would adversely affect other students of the district, the written explanation of the reasons for denial required by Section 59-40-70(C) must describe detrimental effects upon other students of the district.

B. If the district is claiming an adverse impact based upon the redirection of funding to the charter school, the district must demonstrate that the funds being redirected to the charter school will have a direct negative impact on students.

1. The district must show options it has considered in an effort to reduce the adverse financial impact of the charter school.

2. The district has considered the net fiscal impact of the charter school, including the fiscal benefits that the charter school may bring to the district.

VII. FEDERAL REQUIREMENTS OF CHARTER SCHOOLS

A. Annual Audits

Each authorized charter school in the State must have an annual, independent audit conducted by a qualified auditing or accounting firm and must file the audit annually with the school's authorized public chartering agency.

B. Academic Achievement

1. Each authorized charter school in the State operates under a legally binding charter and performance contract between itself and the school's authorized public charter agency that demonstrates improved student academic achievement.

2. Charter schools must provide evidence of improved student academic achievement for all groups of students described in Section 1111(b)(2)(C)(v) of the ESEA. Authorizers must use increases in student academic achievement for all groups of students described in Section 1111(b)(2)(C)(v) of the ESEA as the most important factor when determining to renew or revoke a school's charter. Each authorizer and charter school must enter into a contractual agreement stating that student performance of all students described in Section 1111(b)(2)(C)(v) of the ESEA is the most important factor when determining to renew or revoke a school's charter.

VIII. SPONSOR REGISTRATION FOR INSTITUTIONS OF HIGHER LEARNING

A. Registration process

An institution of higher learning, as defined in this regulation, may register as a sponsor by submitting and receiving approval from the South Carolina Department of Education.

1. The South Carolina Department of Education will establish and maintain a publicly available application for registration.

2. A registering institution of higher learning will submit a completed application by September 1.

3. The South Carolina Department of Education shall approve or deny the application in writing stating the reasons for approval or denial by February 1 of the following calendar year. If the SCDE does not act upon the application by February 1, the application will be considered approved. Decisions of the South Carolina Department of Education to approve the application of the institution of higher learning are final.

4. The institution of higher learning may appeal a decision by the South Carolina Department of Education to deny the application to register to the State Board of Education by written request within 30 days after receipt of the written decision. The State Board of Education shall consider any appeal in a public hearing and allow the institution of higher learning a reasonable opportunity to present their appeal. The decisions of the State Board of Education on institution of higher learning registration appeals are final.

B. Components of the Registration

The application for an institution of higher learning to register as a sponsor shall include at least the following components:

1. Executive Summary;

2. Support/Need;
3. Governance;
4. Financial Capacity;
5. LEA Supports for Schools;
6. Compliance, Monitoring, and Oversight of Schools;
7. Acknowledgements of federal and state LEA requirement;
8. Disclosure of Conflicts of Interest;
9. Accreditation Status; and
10. Charter School Incubation and Development Plan.

C. Annual Updates Regarding Authorizers

Annually the South Carolina Department of Education will provide the State Board of Education with an update on the institution of higher learning registration. This update will include an overview of the registration process, information on all current charter school authorizers in South Carolina, updates on key authorizing practices in South Carolina, and performance of charter schools by sponsor. The annual update is for informational purposes to inform the State Board of Education on policies that may enhance support for charter schools in South Carolina.

IX. CHARTER SCHOOL AUTHORIZER TRANSFER SCHEDULE

A. Initiating South Carolina Department of Education Transfer Process

The South Carolina Department of Education will establish a Charter School Transfer Schedule to specify a timeline for the internal administrative processes the agency must complete for a school to transfer between authorizers. These processes affect only the state and federal statutory requirements the SCDE oversees.

1. The Charter School Transfer Schedule will allow the SCDE to receive notice of the charter school's intent to transfer. The sending authorizer will submit notice of intent to transfer the charter school by January 15 of any calendar year.

2. The sending authorizer must submit documentation confirming all criteria for the approval of the transfer of the charter school have been met by March 15. This documentation must confirm approval of the charter school board, approval of the sending authorizer, and the approval of the receiving authorizer.

3. The SCDE will complete transfer processes in its purview by June 30 for transfers to go into effect the school year beginning in August of the same calendar year.

4. Sending authorizers submitting intent to transfer or supporting documentation after March 15 will enter the transfer process for the subsequent calendar year.

B. Role of The South Carolina Department of Education in Charter School Transfer

The SCDE Charter School Transfer Schedule neither requires any charter school to transfer nor requires any authorizer to approve or receive a transfer. Charter schools seeking to transfer authorizers must adhere to state and federal statutory requirements and the requirements of their existing charter contracts with their respective authorizer.

C. Annual Updates Regarding Charter School Transfers

Annually in September the SCDE will update the State Board of Education on charter school transfers. This update will identify the schools that have transferred, schools that have indicated intent to transfer, authorizers approving transfers, and authorizers receiving transfers.

X. GUIDELINES

The South Carolina Department of Education may issue guidelines to assist charter schools in complying with federal legislation, including, but not limited to, the Elementary and Secondary Education Act (ESEA) and the Individuals with Disabilities Education Improvement Act (IDEA).

Fiscal Impact Statement:

No additional funding is requested. The South Carolina Department of Education (SCDE) estimates that no additional costs will be incurred by the State and its political subdivisions in complying with the proposed regulation 43-601.

Statement of Rationale:

1976 Code of Law Sections 59-40-40, 59-40-115, and 59-40-180 require the SCDE to establish procedures around charter school transfers and registration for institutions of higher education to serve as charter school sponsors.

The General Assembly passed the “Charter Schools Act” (Title 59, Chapter 40) in 1996, amended it in 2006, and again in 2012. Section 59-40-40 defines a charter school sponsor and requires that institutions of higher learning seeking to become a charter school sponsor must register with the South Carolina Department of Education. Section 59-40-115 allows charter schools to terminate their contracts with a sponsor if all parties under contract with the charter school agree to the dissolution. A charter school that terminates its contract with a sponsor directly may seek application from another sponsor. The proposed regulation will address the registration requirements of charter school sponsors with the South Carolina Department of Education. Additionally, the proposed regulation will address the administrative actions the South Carolina Department of Education will undertake pursuant to a charter school and sponsor electing to terminate their contract so that the charter may directly seek application from, and establish a new contract with, another sponsor.