



## CERTIFICATION FOR CHARTER SCHOOL TEACHERS IN SREB STATES

### Background

Legislatures in 43 states have enacted charter school laws. These laws define how teacher certification rules operate in the charter environment. This briefing document provides links to relevant state policies in SREB states and highlights policy analysis from SREB peers.

### Legislative Request

Will SREB share state policies that address certification rules for educators in charter schools?

### SREB State Policies

14 of 16 SREB states have authorized the creation of charter schools. Kentucky and West Virginia are the two exceptions in the region. Table 1 provides legal citations and a brief description of state policy. The Appendix contains the relevant legal language for states that do not provide direct web links to their code sections.

We have organized state policies into one of four categories:

1. Required (4 states) – State law mandates all classroom teachers must hold valid educator license
2. Automatic Waiver (1 state) – State law waives certification rules for charters
3. Conditional Waiver (5 states) – State law allows charters to pursue waivers for state certification rules
4. Maximum Quota (4 states)– State law allows a certain percentage of educators to be non-certified

Table 1: Policy Summaries

State	Category	Citation	Summary
Alabama	Automatic Waiver	§ 16-6F-7 & § 16-6F-9	<a href="#">State law</a> exempts teachers in charter schools from state certification requirements. Charters cannot exempt laws related to educator ethics and employment protection. Start-up charters may elect to participate in the state’s retirement and health insurance plans. The state requires conversion charters to participate in these programs.
Arkansas	Conditional Waiver	§ 6-23-101 et seq.	State law authorizes the State Board of Education to promulgate <a href="#">rules</a> to govern charter schools. Rules protect licensed teachers from being placed in conversion charter schools over their objection (p. 18) and give teachers “priority in hiring for the first available position” in the former employing district (p. 20). § 6-23-401 requires compliance with school accountability and background check laws.  <a href="#">Act 1240</a> (2015) authorizes the State Board to approve charter and school district <a href="#">waivers of licensure requirements</a> .

Table 1: Policy Summaries (Continued)

State	Category	Citation	Summary
<b>Delaware</b>	Maximum Quota	<a href="#">§ 14-1202</a> & <a href="#">§14-507</a>	State law (§ 14-1202) requires full certification of charter school teachers in most cases. However, § 14-507 authorizes charter schools to hire non-certified instructors if “no qualified alternative certification” option exists and the employees hold at least a baccalaureate degree in the content area. The non-certified teaching workforce should not exceed more than 35 percent.
<b>Florida</b>	Required	<a href="#">Tit. 48, § 1002.33</a>	State law requires all educators to hold valid licensure.
<b>Georgia</b>	Conditional Waiver	<a href="#">§ 20-2-2065</a> & <a href="#">§ 20-2-82</a>	State law authorizes charter schools and strategic waiver school systems to <a href="#">waive certification rules</a> (p. 2) but not provisions related to background checks or performance evaluations.
<b>Louisiana</b>	Conditional Waiver	<a href="#">LRS 17, § 3996</a>	State law authorizes charter schools to exempt teacher certification requirements. All instructional staff must hold at least a baccalaureate degree. <a href="#">R.S. 17:3997</a> requires charter schools to evaluate teachers as described in <a href="#">R.S. 17:3902</a> .
<b>Maryland</b>	Required	<a href="#">Ed Code § 9-105</a>	State law stipulates that instructional staff “shall be subject to the same certification provisions established in regulations for the professional staff of other public schools.”
<b>Mississippi</b>	Maximum Quota	<a href="#">§ 37-28-47</a>	State law authorizes charter schools to exempt up to 25 percent of teachers from licensure requirements. Teachers must hold a baccalaureate degree and demonstrate subject-matter competence. Non-licensed teachers must possess at least alternative licensure within three years.
<b>North Carolina</b>	Maximum Quota	<a href="#">§ 115C-218.90</a>	State law requires at least 50 percent of teachers to hold valid educator licenses. Teachers of core subject areas should possess at least a baccalaureate degree.
<b>Oklahoma</b>	Conditional Waiver	<a href="#">§ 70-3-136</a>	State law authorizes charter schools to waive educator licensure rules, but also requires that the charter contract includes a description of personnel policies and personnel qualifications.
<b>South Carolina</b>	Maximum Quota	<a href="#">§ 59-40-50</a>	State law authorizes new charter schools to hire “noncertified teachers in a ratio of up to 25 percent” of total staff and converted charters up to 10 percent. For core academic subjects, all staff should hold a subject-area credential or valid state licensure.
<b>Tennessee</b>	Required	<a href="#">§ 49-13-104</a>	State law requires all educators to hold valid licensure.
<b>Texas</b>	Conditional Waiver	<a href="#">ED Code § 12.056</a>	State law authorizes open-enrollment charters to waive educator licensure rules for all teachers except those providing instruction to English Language Learners and special education students.
<b>Virginia</b>	Required	<a href="#">§ 22.1-212.13</a>	State law requires all educators to hold valid licensure

## Peer Resources

The Education Commission of the States produced a [comprehensive summary](#) on charter school state policies in January 2016. The report includes information on teacher certification, compensation, placement and access to state teacher retirement systems.

The National Conference of State Legislatures produced a thematic guide to teacher quality issues in charter school environments in a [2012 brief](#).

## For More Information

SREB is here to serve you! If you have any more questions related to teachers and principals, please contact the Educator Effectiveness team.

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## Appendix: State Policies

### Georgia OCGA § 20-2-2065. Waiver of provisions of this title

(a) Except as provided in this article or in a charter, a charter school, or for charter systems, each school within the system, shall not be subject to the provisions of this title or any state or local rule, regulation, policy, or procedure relating to schools within an applicable school system regardless of whether such rule, regulation, policy, or procedure is established by the local board, the state board, or the Department of Education; provided, however, that the state board may establish rules, regulations, policies, or procedures consistent with this article relating to charter schools. A waiver granted pursuant to this Code section for a charter system shall apply to each system charter school within the system. In exchange for such a waiver, the charter school agrees to meet or exceed the performance based goals included in the charter and approved by the local board or, for the charter system, the system agrees to meet or exceed the system-wide performance based goals included in the charter and approved by the state board, including but not limited to raising student achievement. For a charter system, the charter shall delineate the performance based goals that the system and each school will be expected to meet as well as the criteria by which a system charter may be revoked in addition to those contained in Code Section 20-2-2068.

(b) In determining whether to approve a charter petition or renew an existing charter, the local board and state board shall ensure that a charter school, or for charter systems, each school within the system, shall be:

(1) A public, nonsectarian, nonreligious, nonprofit school that is not home based, provided that a charter school's nonprofit status shall not prevent the school from contracting for the services of a for profit entity and that nothing in this Code section shall preclude the use of computer and Internet based instruction for students in a virtual or remote setting;

(2) Subject to the control and management of the local board of the local school system in which the charter school is located, as provided in the charter and in a manner consistent with the Constitution, if a local charter school;

(3) Subject to the supervision of the state board, as provided in the charter and in a manner consistent with the Constitution, if a state chartered special school;

(4) Organized and operated as a nonprofit corporation under the laws of this state; provided, however, that this paragraph shall not apply to any charter petitioner that is a local school, local school system, or state or local public entity;

(5) Subject to all federal, state, and local rules, regulations, court orders, and statutes relating to civil rights; insurance; the protection of the physical health and safety of school students, employees, and visitors; conflicting interest transactions; and the prevention of unlawful conduct; provided, however, that if:

(A) A facility used for a charter school is owned or operated by any state agency or entity, and such facility or equipment purchased or used by the facility meets the safety standards of the state agency or entity that owns or operates such facility; or

(B) A facility used for a charter school is owned by a local educational agency and operated utilizing standards of a state agency or entity, and such facility or equipment purchased or used by the facility meets the safety standards of the state agency or entity with respect to structural soundness and sufficient maintenance,

the facility or equipment or both shall be deemed to meet the safety requirements of this paragraph; provided, further, that in no event shall the state agency or entity or local educational agency owner or operator of a charter school with such facility or equipment be disqualified from eligibility for state grants or for federal grants awarded pursuant to state regulations due to such facility or equipment;

(6) Subject to all laws relating to unlawful conduct in or near a public school;

(7) Subject to an annual financial audit conducted by the state auditor or, if specified in the charter, by an independent certified public accountant licensed in this state; provided, however, that a separate audit shall not be required for a charter school if the charter school is included in the local school system audit conducted by the state auditor pursuant to Code Section 50-6-6;

(8) Subject to the provisions of Part 3 of Article 2 of Chapter 14 of this title, and such provisions shall apply with respect to charter schools whose charters are granted or renewed on or after July 1, 2000;

(9) Subject to all reporting requirements of Code Section 20-2-160, subsection (e) of Code Section 20-2-161, Code Section 20-2-320, and Code Section 20-2-740;

(10) Subject to the requirement that it shall not charge tuition or fees to its students except as may be authorized for local boards by Code Section 20-2-133;

(11) Subject to the provisions of Code Section 20-2-1050 requiring a brief period of quiet reflection;

(12) Subject to the provisions of Code Section 20-2-210 relating to annual performance evaluations;

(13) Subject to the provisions of Code Section 20-2-211.1 relating to fingerprint and criminal background checks; and

(14) Subject to the provisions of subsection (c) of Code Section 20-2-327 relating to individual graduation plans.

#### **Maryland Education Code § 9-105. Public charter school -- Professional staff**

A member of the professional staff of a public charter school shall be subject to the same certification provisions established in regulations for the professional staff of other public schools.

2003, ch. 358; 2015, ch. 311.

#### **Mississippi Code Unannotated § 37-28-47. Qualifications of charter school employees; applicability of Education Employment Procedures Law**

(1) (a) Charter schools must comply with applicable federal laws, rules and regulations regarding the qualification of teachers and other instructional staff. No more than twenty-five percent (25%) of teachers in a charter school may be exempt from state teacher licensure requirements. Administrators of charter schools are exempt from state administrator licensure requirements. However, teachers and administrators must have a bachelor's degree as a minimum requirement, and teachers must have demonstrated subject-matter competency. Within three (3) years of a teacher's employment by a charter school, the teacher must have, at a minimum, alternative licensure approved by the Commission on Teacher and Administrator Education, Certification and Licensure and Development.

(b) A charter school may not staff positions for teachers, administrators, ancillary support personnel or other employees by utilizing or otherwise relying on nonimmigrant foreign worker visa programs. However, a charter school may submit a request to the authorizer for an exception allowing the employment of a nonimmigrant foreign worker before the worker is employed. The authorizer may grant permission for the employment of the nonimmigrant foreign worker only if the charter school makes a satisfactory showing of efforts to recruit lawful permanent residents of the United States to fill the position and a lack of qualified applicants to fill the position.

(2) Employees in charter schools must have the same general rights and privileges as other public school employees, except such employees are not:

(a) Covered under the Education Employment Procedures Law (Section 37-9-103); and

(b) Subject to the state salary requirements prescribed in Section 37-19-7.

(3) For the purpose of eligibility for participation in the Public Employees' Retirement System, a public charter school is considered to be a political subdivision of the state. Employees in public charter schools are eligible for participation in other benefits programs if the public charter school governing board chooses to participate.

Laws, 2013, ch. 497, § 24; Laws, 2016, ch. 420, § 4, eff from and after July 1, 2016.

**Oklahoma Statutes §70-3-136. Rules and standards to be incorporated into charter.**

A. A charter school shall adopt a charter which will ensure compliance with the following:

1. A charter school shall comply with all federal regulations and state and local rules and statutes relating to health, safety, civil rights and insurance. By January 1, 2000, the State Department of Education shall prepare a list of relevant rules and statutes which a charter school must comply with as required by this paragraph and shall annually provide an update to the list;
  2. A charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations. A sponsor may not authorize a charter school or program that is affiliated with a nonpublic sectarian school or religious institution;
  3. The charter school may provide a comprehensive program of instruction for a prekindergarten program, a kindergarten program or any grade between grades one and twelve. Instruction may be provided to all persons between the ages of four (4) and twenty-one (21) years. A charter school may offer a curriculum which emphasizes a specific learning philosophy or style or certain subject areas such as mathematics, science, fine arts, performance arts, or foreign language. The charter of a charter school which offers grades nine through twelve shall specifically address whether the charter school will comply with the graduation requirements established in Section 11-103.6 of this title. No charter school shall be chartered for the purpose of offering a curriculum for deaf or blind students that is the same or similar to the curriculum being provided by or for educating deaf or blind students that are being served by the Oklahoma School for the Blind or the Oklahoma School for the Deaf;
  4. A charter school shall participate in the testing as required by the Oklahoma School Testing Program Act and the reporting of test results as is required of a school district. A charter school shall also provide any necessary data to the Office of Accountability;
  5. Except as provided for in the Oklahoma Charter Schools Act and its charter, a charter school shall be exempt from all statutes and rules relating to schools, boards of education, and school districts;
  6. A charter school, to the extent possible, shall be subject to the same reporting requirements, financial audits, audit procedures, and audit requirements as a school district. The State Department of Education or State Auditor and Inspector may conduct financial, program, or compliance audits. A charter school shall use the Oklahoma Cost Accounting System to report financial transactions to the sponsoring school district;
  7. A charter school shall comply with all federal and state laws relating to the education of children with disabilities in the same manner as a school district;
  8. A charter school shall provide for a governing body for the school which shall be responsible for the policies and operational decisions of the charter school;
  9. A charter school shall not be used as a method of generating revenue for students who are being home schooled and are not being educated at an organized charter school site;
  10. A charter school may not charge tuition or fees;
  11. A charter school shall provide instruction each year for at least the number of days required in Section 1-109 of this title;
  12. A charter school shall comply with the student suspension requirements provided for in Section 24-101.3 of this title;
  13. A charter school shall be considered a school district for purposes of tort liability under The Governmental Tort Claims Act;
  14. Employees of a charter school may participate as members of the Teachers' Retirement System of Oklahoma in accordance with applicable statutes and rules if otherwise allowed pursuant to law;
  15. A charter school may participate in all health and related insurance programs available to the employees of the sponsor of the charter school;
  16. A charter school shall comply with the Oklahoma Open Meeting Act and the Oklahoma Open Records Act;
  17. The governing body of a charter school shall be subject to the same conflict of interest requirements as a member of a local school board; and
  18. No later than September 1 each year, the governing board of each charter school formed pursuant to the Oklahoma Charter Schools Act shall prepare a statement of actual income and expenditures for the charter school for the fiscal year that ended on the preceding June 30, in a manner compliant with Section 5-135 of this title. The statement of expenditures shall include functional categories as defined in rules adopted by the State Board of Education to implement the Oklahoma Cost Accounting System pursuant to Section 5-145 of this title. Charter schools shall not be permitted to submit estimates of expenditures or prorated amounts to fulfill the requirements of this paragraph.
- B. The charter of a charter school shall include a description of the personnel policies, personnel qualifications, and method of school governance, and the specific role and duties of the sponsor of the charter school.
- C. The charter of a charter school may be amended at the request of the governing body of the charter school and upon the approval of the sponsor.
- D. A charter school may enter into contracts and sue and be sued.
- E. The governing body of a charter school may not levy taxes or issue bonds.

F. The charter of a charter school shall include a provision specifying the method or methods to be employed for disposing of real and personal property acquired by the charter school upon expiration or termination of the charter or failure of the charter school to continue operations. Except as otherwise provided, any real or personal property purchased with state or local funds shall be retained by the sponsoring school district. If a charter school that was previously sponsored by the board of education of a school district continues operation within the school district under a new charter sponsored by an entity authorized pursuant to Section 3-132 of this title, the charter school may retain any personal property purchased with state or local funds for use in the operation of the charter school until termination of the new charter or failure of the charter school to continue operations.

Added by Laws 1999, c. 320, § 11, eff. July 1, 1999. Amended by Laws 2000, c. 232, § 7, eff. July 1, 2000; Laws 2008, c. 439, § 1, eff. July 1, 2008; Laws 2014, c. 277, § 1, eff. July 1, 2014.

#### **Tennessee Code Annotated 49-13-104. Chapter definitions.**

As used in this chapter:

(1) "Academic focus" means a distinctive, thematic program such as math, science, arts, general academics, or an instructional program such as Montessori or Paideia;

(2) "Academic plan" means a platform that supports the academic focus of the charter school and will include instructional goals and methods for the school, which, at a minimum, shall include teaching and classroom instruction methods, materials and curriculum that will be used to provide students with knowledge, proficiency and skills needed to reach the goals of the school;

(3) "Charter agreement" means a performance-based agreement between the sponsor of a public charter school and the chartering authority, the terms of which are approved by the chartering authority for an initial period of ten (10) years;

(4) "Charter management organization" or "CMO" means a nonprofit entity that operates multiple charter schools at least one (1) of which is in Tennessee;

(5) "Chartering authority" means:

(A) The local board of education or the achievement school district as defined in § 49-1-614 that approves, renews or decides not to revoke a public charter school application or agreement;

(B) The state board of education, if the state board approves a charter school:

(i) Under § 49-13-141 when an LEA is the sponsor of a charter school; or

(ii) Upon appeal from a denial of approval of a charter school application by an LEA that contains at least one (1) priority school on the current or last preceding priority school list;

(6) "Foreign" means a country or jurisdiction outside of any state or territory of the United States;

(7) "Governing body" means the organized group of persons who will operate a public charter school or schools by deciding matters, including, but not limited to, budgeting, curriculum and other operating procedures for the public charter school and by overseeing management and administration of a public charter school;

(8) "Licensed teacher" means a person over the age of eighteen (18) who meets the qualifications of chapter 5, part 1 of this title and has received a license to teach in the public school system in compliance with the rules and regulations of the state board of education;

(9) "Local education agency" or "LEA" has the same definition as used in § 49-3-302;

(10) "Public charter school" means a public school in this state that is established and operating under the terms of a charter agreement and in accordance with this chapter;

(11) "Sponsor" means any individual, group, or other organization filing an application in support of the establishment of a public charter school; provided, however, that a sponsor cannot be a for-profit entity, a private elementary or secondary school, a postsecondary institution not accredited by the Southern Association of Colleges and Schools, a religious or church school or promote the agenda of any religious denomination or religiously affiliated entity; and

(12) "Underutilized or vacant property" means an entire property or portion thereof, with or without improvements, which is not used or is used irregularly or intermittently by the LEA for instructional or program purposes. "Underutilized or vacant property" does not include real property on which no building or permanent structure has been erected.

HISTORY: Acts 2002, ch. 850, § 4; 2005, ch. 414, § 1; 2008, ch. 1101, § 1; 2009, ch. 555, § 1; 2011, ch. 465, § 1; 2011, ch. 466, § 1; 2011, ch. 507, § 1; 2012, ch. 879, § 1; 2012, ch. 1021, § 1; 2013, ch. 326, §§ 5, 7; 2013, ch. 351, §§ 2, 4; 2014, ch. 850, § 1.