

# **Legal Obligations of a State Charter School-Local Educational Agency (LEA)**



**State Charter Schools Commission  
of Georgia**

## Summary of Changes

The Legal Obligations of Operating a State Charter School as a Local Educational Agency (LEA) Guidance (Version 4.0) has been reformatted to serve as a streamlined reference document rather than a comprehensive recitation of applicable laws, rules, and policies. However, references to state legal requirements include additional detail. The Introduction has been revised to reflect the reformatting.

- Version 4.0 incorporates a number of statutory references from the 2017 Georgia legislative session to the present. These references are identified **in red text**.
- Substantive content relevant to the No Child Left Behind transition to the Every Student Succeeds Act (ESSA) has been removed.
- Substantive content relevant to the Single Statewide Accountability System (SASS) has been truncated and replaced with references that provide current information about requirements and amendments to Georgia’s accountability system.

## Introduction

Pursuant to Georgia law, each state charter school is treated as its own local educational agency (LEA). State charter schools must operate as independent school districts/systems and single schools. Understanding the legal obligations of an LEA is critical to state charter school success. This resource aims to assist state charter schools and petitioners in identifying legal requirements applicable to schools and LEAs.

This resource identifies and provides brief overviews of school laws relevant to state charter schools. It is not, nor is it intended, to be exhaustive. It should not be construed as legal advice. Each state charter school is responsible for consulting independent counsel for opinions on definitive requirements of law and related legal advice. Nothing in this guide is intended to provide new laws or obligations outside of existing requirements. This guide does not have the force and effect of law and should not be cited.

This resource is tailored to broad audiences. Generally, the language herein should be given its generally accepted meaning. However, when a statute or rule specifically defines a term, the statutory definition of the term should be applied when interpreting the provisions of the statute or rule.

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## Chapter One – Legal Overview

### Broad Flexibility Overview

The charter contract provides the maximum amount of flexibility from state education laws and State Board of Education Rules that is allowed by law. However, the flexibility of law and rule is not absolute. The charter contract does not, **and cannot**, waive the following requirements:

### The United States and Georgia Constitutions

As public schools, state charter schools must uphold the principles of the Georgia and United States Constitutions, including but not limited to freedom of speech, freedom of religion, protection from unreasonable searches, and equal protection under the laws. Constitutional law evolves rapidly. State charter schools should remain abreast of legal developments in this area.

### Federal Education Laws

Education and laws related to education are generally governed by each respective state. However, the federal government plays an important role in establishing education policy governing the operation of schools and LEAs. The most comprehensive federal education law is the Elementary and Secondary Education Act (ESEA), the current authorization of which is known as Every Student Succeeds Act (ESSA). Other federal laws are narrower in focus. Understanding each federal law is essential to school and LEA operations.

Generally, federal education laws apply to charter schools because: (a) charter schools are open to the public; or (b) because charter schools receive federal funding from the U.S. Department of Education. Other federal education laws, such as ESSA, are related to specific funding received by the state from the U.S. Department of Education. The State Board of Education, through the Georgia Department of Education, acts to ensure that all LEAs meet applicable legal requirements.

### State Laws in Education

The majority of state education laws are listed in Title 20 of the Official Code of Georgia. As noted above, the charter contract allows state charter schools to waive most, **but not all**, provisions in Title 20. State charter schools cannot waive the following requirements:

1. **The charter school must be public, nonsectarian, nonreligious, nonprofit, and not home based.**
2. **The governing board for a state charter school must be the board of the non-profit organization that is party to the SCSC charter contract. The governing board must be involved in school-level governance at the charter school.**
3. **The charter school is subject to the supervision of the State Board of Education (SBOE) and State Charter Schools Commission of Georgia (SCSC).**
4. **The charter school is subject to federal, state, and local rules, regulations, court orders, and statutes relating to civil rights; insurance; the protection of the physical health and safety of the school's students, employees, and visitors; conflicting interest transactions; and, the prevention of unlawful conduct, including unlawful conduct in or near a public school.**
5. **The state charter school is subject to an annual financial audit conducted by an independent certified public accountant licensed in this Georgia.**



6. The charter school must participate in the Single Statewide Accountability System (SSAS). See [O.C.G.A. § 20-14-26](#) et. seq.
7. The charter school is required to report data to the State Board of Education or Georgia Department of Education, including student data and financial reporting.
8. The charter school shall not charge tuition or fees except as may be authorized for local boards pursuant to [O.C.G.A. § 20-2-133](#);
9. The charter school must provide a brief period of quiet reflection. See [O.C.G.A. § 20-2-1050](#).
10. The charter school must conduct fingerprinting and criminal background checks of employees. See [O.C.G.A. § 20-2-211.1](#).
11. The charter school must implement requirements related to individual graduation plans. See [O.C.G.A. § 20-2-327\(c\)](#).
12. The charter school must adhere to requirements related to the administration of state-adopted assessments.
13. The charter school must use the teacher and leader evaluation system adopted by the State Board of Education.
14. The charter school must adhere to applicable federal laws, rules, or regulations.
15. The charter school must adhere to state laws, rules, or regulations not located in Title 20 of the Official Code of Georgia.
16. The charter school must adhere to laws, rules, and regulations that apply to charter schools.

Additionally, there are laws that apply to state charter schools that are not listed in Title 20. Neither the State Board of Education nor the State Charter Schools Commission can waive legal provisions that are not listed in Title 20.

## State Rules & Regulations

Georgia law authorizes agencies to make rules and regulations to clarify and effectuate the purpose of state legislation. Agency rules and regulations have the force and effect of law. Often, agency rules and regulations include procedures to ensure compliance with state law. The State Charter Schools Commission and State Board of Education derive their rule making authority from statutes within Title 20 of the Georgia Code.

State charter schools are subject to all State Charter Schools Commission rules and charter school rules, regulations, policies, and procedures established by the State Board of Education consistent with the Charter Schools Act of 1998. In addition, state charter schools must adhere to the rules and regulations of other state agencies whose rules and regulations are generally applicable to the school.

## Chapter Two – Federal Laws Directly Applicable to Schools and LEAs

### The Civil Rights Act of 1964

*Federal Law:* [42 U.S.C. § 2000d](#)

*Federal Regulations:* [34 C.F.R. Part 100](#)

The Civil Rights Act ensures that no person is excluded from participation in, denied the benefits of, or is otherwise subjected to discrimination on the ground of race, color, or national origin in all programs and activities conducted by schools receiving federal financial assistance, including state charter schools. The Office for Civil Rights in the United States Department of Education monitors and enforces the Civil Rights Act in elementary and secondary schools.

### The Equal Educational Opportunities Act

*Federal Law:* [20 U.S.C. § 1703](#)

Like the Civil Rights Act, the Equal Educational Opportunities Act (EEOA) prohibits discrimination in conducting educational activities. EEOA explicitly provides that the failure to overcome language barriers that impede equal participation of students constitutes discrimination. The Georgia Department of Education provides resources to assist schools in conducting language assistance programs that meet the requirements of the Civil Rights Act. The information from the Georgia Department of Education is available [here](#).

### The Americans with Disabilities Act (ADA) & Section 504 of the Rehabilitation Act (Section 504)

*ADA Statute:* [42 U.S.C. § 12131 et. seq.](#)

*ADA Regulations:* [28 C.F.R. Part 35](#)

*Section 504 Statute:* [29 U.S.C. § 794 et. seq.](#)

*Section 504 Education Regulations:* [34 C.F.R. Part 104](#)

Though ADA and Section 504 are separate and distinct laws, their applicability to state charter schools is very similar, particularly with respect to program accessibility. In short, ADA and Section 504 prohibit schools from discriminating against individuals with disabilities. A public school, including a state charter school, must ensure that individuals with disabilities are provided access to all programs and activities of the school. It may be necessary for the school to provide accommodations to its policies or additional services to ensure that individuals with disabilities have access to the school's programs and activities. ADA also requires facilities utilized by public schools to meet certain accessibility requirements. The protections afforded by ADA and Section 504 apply to all individuals that may participate in school activities. In other words, state charter schools must adhere to the requirements of ADA for students, employees, parents, and other invitees. A school typically cannot utilize federal funding to meet the requirements of ADA and Section 504.

The United States Department of Education's Office for Civil Rights has many publications related to ADA and Section 504 on its website [here](#), as well as a thorough Frequently Asked Question document available [here](#). The Office for Civil Rights will also provide technical assistance and

training on request. The United States Department of Justice also maintains a comprehensive website regarding the ADA [here](#).

## **Title IX of the Educational Amendments Act of 1972**

*Federal Law:* [20 U.S.C. § 1681 et. seq.](#)

*Federal Regulations:* [34 C.F.R. Part 106](#)

Title IX of the Educational Amendments Act of 1972 (Title IX) ensures that no person is excluded from participation in, denied the benefits of, or is otherwise subjected to discrimination on the basis of sex in all programs and activities conducted by schools receiving federal financial assistance, including state charter schools. A state charter school must ensure that all its programs and activities, including admissions, recruitment, curriculum, assignment, grading, and athletics, are conducted in a manner that does not discriminate on the basis of sex.

## **Age Discrimination Act of 1975**

*Federal Law:* [42 U.S.C. § 6101 et. seq.](#)

*Federal Regulations:* [34 C.F.R. Part 110](#)

The Age Discrimination Act of 1975 ensures that no person is excluded from participation in, denied the benefits of, or is otherwise subjected to discrimination on the basis of age in all programs and activities conducted by schools receiving federal financial assistance, including state charter schools. A state charter school must ensure that all its programs and activities, including admissions, recruitment, curriculum, assignment, grading, and athletics, are conducted in a manner that does not discriminate on the basis of age.

## **Family Educational Rights and Privacy Act (FERPA)**

*Federal Law:* [20 U.S.C. § 1232g](#)

*Federal Regulations:* [34 C.F.R. Part 99](#)

The Family Educational Rights and Privacy Act (FERPA) provides parents and eligible students certain rights relating to accessing education records. FERPA also restricts a school's disclosure of education records. Except in limited circumstances, a school cannot disclose educational records without prior written consent from the parent or eligible student. Each educational agency or institution, including state charter schools, must provide an annual notification to parents and eligible students that contains the information identified in of 34 C.F.R. § 99.7.

The United States Department of Education's Family Policy Compliance Office monitors and enforces FERPA. More information regarding FERPA is available through the Family Policy and Compliance Office [here](#).

## **Protection of Pupil Rights Amendment (PPRA)**

*Federal Law:* [20 U.S.C. § 1232h](#)

*Federal Regulations:* [34 C.F.R. Part 98](#)

The Protection of Pupil Rights Amendment (PPRA) gives parents of students certain rights regarding, among other things, participation in surveys, the collection and use of information for marketing purposes, and certain physical exams. These include, but are not limited to, the right to: (a) consent before students are required to submit to a survey that concerns specific information areas; (b) receive notice and an opportunity to opt out of certain surveys, screenings, and activities; and, (c)

inspect, upon request, certain surveys, information, and instructional materials. These rights transfer from parents to students when the student turns 18 or becomes emancipated.

The United States Department of Education’s Family Policy Compliance Office monitors and enforces PPRA. More information regarding PPRA is available through the Family Policy and Compliance Office [here](#).

## **Grievance Procedures and Nondiscrimination Statements**

Many of the laws discussed above require state charter schools to adopt grievance procedures and nondiscrimination statements, including the designation of an employee to coordinate compliance efforts. State charter schools are encouraged to work with their legal counsel to develop a grievance procedure. More details regarding nondiscrimination statements required in the school setting may be found through the United States Department of Education’s Office for Civil Rights website.

## Chapter Three – Every Student Succeeds Act

### Overview of the Every Student Succeeds Act (ESSA)

*Federal Law:* [ESSA](#)

The Elementary and Secondary Education Act (ESEA) was initially passed by Congress in 1965 as one of the first comprehensive federal laws addressing education, providing federal funding for specific categorical educational programs to support federal policies. ESEA was reauthorized in 1994 and again in 2001, and most recently 2015 as the Every Student Succeeds Act (ESSA). ESSA scaled back the authority of the U.S. Department of Education, granting states additional autonomy and flexibility over their education systems.

ESSA is divided into “Titles” or parts ranging in coverage from improving the educational opportunities for disadvantaged students (Title I) to providing professional development to teachers and school leaders (Title II). ESSA also includes various laws with specific, narrow aims, such as the McKinney-Vento Homeless Assistance Act. This guide does not address ESSA comprehensively; however, the Georgia Department of Education, Federal Programs Division website contains a variety of resources for school-level state managing ESSA Title programs.

### Comprehensive LEA Implementation Plan

*Federal Law:* [20 U.S.C. § 6312](#)

To receive funding under ESSA, LEAs must submit a comprehensive plan for the coordination and implementation of ESSA and federal program requirements. Often referred to as the “CLIP”, this plan must meet state and federal requirements for an LEA to receive state funding. The CLIP is submitted to the Georgia Department of Education electronically for approval through the Consolidated Application.

### Title I, Part A- Improving the Academic Achievement of the Disadvantaged

*Federal Law:* [20 U.S.C. § 6311 et. seq.](#)

LEAs may consolidate Title I, Part A funding with other federal and state funding to upgrade the entire educational program of a school if the school serves an eligible school attendance area. Under a schoolwide program, the school does not need to identify particular children as eligible for services. A schoolwide program must utilize the funding under Title I, Part A only to supplement the amount of funds that would otherwise be available from non-federal sources to provide services.

State charter schools not eligible to conduct, or choose not to conduct, a schoolwide program must deliver services under Title I, Part A through a targeted assistance program. Under a targeted assistance program, a state charter school may use funds received under Title I, Part A only to eligible students of the eligible population. Determining children eligible for Title I, Part A services can be difficult, particularly as there may be insufficient funding to serve all children determined to be eligible. The Georgia Department of Education provides additional resources for developing selection criteria [here](#).

## **Title I - Maintenance of Effort**

*Federal Law:* [20 U.S.C. § 6321,7901](#)

To receive funding under ESSA, the state charter school must maintain a level of funding of at least 90% of the preceding fiscal year of aggregate expenditures of state and local funding or the combined state and local funding per full-time equivalent student. The Georgia Department of Education calculates the aggregate expenditures of the state charter school. If this calculation indicates that the state charter school did not meet its maintenance of effort, the state charter school may calculate combined state and local funding expenditures per full-time equivalent student using a worksheet provided by the Georgia Department of Education.

If a state charter school does not meet the maintenance of effort requirements, the Georgia Department of Education will reduce the funding allocation provided to the state charter school in the same proportion by which the state charter school did not meet its maintenance of effort. The United States Department of Education may waive maintenance of effort requirements if it determines that exceptional or uncontrollable circumstances contributed to the state charter school's failure to meet its maintenance of effort.

## **Supplement not Supplant**

*Federal Law:* [20 U.S.C. § 6321](#)

With very limited exceptions, federal funding under ESSA must be used only to supplement the funds that would be made available to a state charter school from nonfederal sources for the education of students participating in programs under ESSA. In other words, the federal funding cannot take the place of other funding the state charter school would have utilized. If a state charter school is found to have utilized federal funding to supplant nonfederal funding, the state charter school will be required to return the funding that was used to supplant. The funds the state charter school returns must come from nonfederal sources.

## **Budget Requirements and Reporting**

*Federal Law:* [20 U.S.C. § 6312](#)

A state charter school must submit a budget for approval by the Georgia Department of Education as part of the state charter school's consolidated application for federal funding. The budget details how the state charter school intends to utilize its federal allocation to meet the requirements of law. A state charter school must utilize the chart of accounts adopted by the Georgia Department of Education to determine the correct fund codes and object classes. More information regarding budget requirements and the reporting process is provided in the Georgia Department of Education's handbook for Title I directors [here](#).

## **Use of Funding**

*Federal Law:* [20 U.S.C. § 6312](#)

One of the more difficult aspects of ESSA, including Title I, Part A, is determining the allowable uses of the associated federal funding. ESSA funds must be spent in accordance with the regulations in the Education Department General Administrative Regulations (EDGAR) and OMB Uniform Guidance at 2 CFR part 200. Additionally, Title I, Part A funding may only be used to meet the needs

of eligible students in schools with targeted assistance programs. The use of federal funding is subject to the state charter school's annual audit and is an important component of program monitoring.

An employee paid with funding made available through ESSA (or any federal program) must demonstrate that his or her time and effort is devoted to the federal program. An employee must report his or her time and effort through a semi-annual certification or a personnel activity report (PAR). Time and effort reporting documentation must be kept and maintained in accordance with federal record retention requirements for the specific program.

## **Single Statewide Accountability System**

*Federal Law:* [20 U.S.C. § 6311](#)

*State Law:* [O.C.G.A. § 20-14-33](#)

*SBOE Rule:* [160-7-1-.01](#)

ESSA requires all schools and LEAs to participate in and be evaluated by a Single Statewide Accountability System (SSAS). The SSAS relies on the results of assessments developed in accordance with ESSA. In Georgia, the Georgia Milestones Assessment System (Georgia Milestones) measures student progress under ESSA. To maintain validity and reliability, Georgia Milestones must be administered in accordance with assessment requirements. State charter schools cannot waive requirements related to Georgia Milestones administration. State charter schools must adhere to the testing requirements established by the Georgia Department of Education.

The Georgia Department of Education and the Governor's Office of Student Achievement implement the SSAS. Information about the calculation of the graduation rate is available [here](#).

## **Education of Migratory Children**

*Federal Law:* [20 U.S.C. § 6391 et. seq.](#)

Title I, Part C of ESSA provides funding to LEAs for supplemental educational services to identified migrant children ages 3-21 who do not have a high school diploma or GED. The allocations are calculated through a specific funding formula. Title I, Part C funds must be used to provide designated supplemental instructional and support services to eligible migrant children. As with all federal funding, Title I, Part C funding must be spent in accordance with its program requirements and federal regulations. More information regarding Title I, Part C is available [here](#).

## **Title I, Part D, Subpart 2 – LEA Programs for Neglected and Delinquent Children**

*Federal Law:* [20 U.S.C. § 6421 et. seq.](#)

Title I, Part D provides funding to states to ensure that children who are neglected, delinquent, or at risk receive appropriate education and support services. Each state charter school's consolidated application to the Georgia Department of Education must include an annual neglected and delinquent survey. Additionally, LEAs may apply to the Georgia Department of Education to receive funding under Title I, Part D, Subpart 2, to provide high-quality education programs to assist neglected and delinquent students. More information regarding Title I, Part D is available [here](#).

## **Title III – Language Instruction for Limited English Proficient and Immigrant Students**

*Federal Law:* [20 U.S.C. § 6811 et. seq.](#)

Title III of ESSA provides funding to LEAs to provide supplemental educational services to English learners and immigrant students. Title III funding is provided through formula calculations that take into account the number of English learners the LEA identifies. The Civil Rights Act of 1964 (discussed in Chapter 2) also requires schools to provide language assistance programs. Language assistance programs are different than supplemental services under Title III. All schools, regardless of funding received, must identify students with different language needs and provide language assistance programs under the Civil Rights Act. Conversely, only LEAs receiving Title III funding for eligible English learners must provide supplemental language services under Title III. Services provided under Title III must adhere to the very specific student eligibility and program requirements. Guidance in providing services under Title III is available from the Georgia Department of Education [here](#).

## **Constitutionally Protected Prayer**

*Federal Law:* [20 U.S.C. § 7904](#)

ESSA requires each state charter school to certify in writing to the Georgia Department of Education that no policy of the state charter school prevents or otherwise denies participation in constitutionally protected prayer as detailed in guidance issued by the United States Department of Education. This certification must be completed by October 1 of each year and is included in the school's consolidated application. The guidance from the United States Department of Education regarding constitutionally protected prayer is available [here](#).

## **Armed Forces Recruiting**

*Federal Law:* [20 U.S.C. § 7908](#)

ESSA requires that each state charter school provide access to secondary school students' names, address, and telephone numbers when requested by military recruiters unless the secondary school student or parent requests that such contact information not be provided. A state charter school must notify secondary students and their parents of their option to request that the contact information not be provided. Additionally, a state charter school must provide military recruiters with the same access to secondary students that the school provides to postsecondary institutions or prospective employers of those students.

## **Unsafe School Choice Option**

*Federal Law:* [20 U.S.C. § 7912](#)

ESSA requires each state to implement a statewide policy that allows students at persistently dangerous public schools and victims of a violent criminal offense at school the option to attend another school in the LEA. Because most state charter schools will only have one school in the LEA, the state charter school is not required to provide a school choice option. However, state charter



schools must report discipline and school safety data to the Georgia Department of Education to allow the Department to determine if the state charter school is a “persistently dangerous school.”

A state charter school that is identified as persistently dangerous must develop a plan to create a safer school environment and be removed from the list of persistently dangerous schools. This plan must include the requirements identified by the Georgia Department of Education for corrective action. More information regarding the requirements of persistently dangerous schools can be found [here](#).

## **McKinney-Vento Homeless Assistance Act**

*Federal Law:* [42 U.S.C. § 11431 et. seq.](#)

ESSA reauthorized the McKinney-Vento Homeless Assistance Act (McKinney-Vento), which was originally codified in 1987. McKinney-Vento ensures that homeless children receive appropriate educational services and are not the subject of discrimination based on their homeless status. The United States Department of Education, through the Georgia Department of Education, provides grant funding to assist LEAs in conducting activities to serve their homeless population. The grants are awarded on a competitive basis, and prospective grantees must follow the application process and guidelines of the grant competition. State charter schools must serve all homeless youth in accordance with McKinney-Vento regardless of the receipt of grant funding.

The United States Department of Education guidance for serving homeless children and youth under McKinney-Vento is available [here](#). The Georgia Department of Education provides additional resources available [here](#). State charter schools may also contact the Georgia Department of Education for technical assistance in meeting the requirements of McKinney-Vento.

## Chapter Four – Individuals with Disabilities Education Act (IDEA)

*Federal Law:* [20 U.S.C. § 1400 et. seq.](#)

*Federal Regulations:* [34 C.F.R. Part 300](#)

### Overview

The Individuals with Disabilities Education Act (IDEA) is a comprehensive federal law aimed to ensure that all students with disabilities are provided educational services tailored to their specific needs to ensure that each child receives an appropriate education. Under IDEA, each child with a disability is entitled to receive a free appropriate public education (FAPE) through an Individualized Education Program (IEP). Additionally, IDEA affords students with disabilities certain rights and procedural safeguards as well as dispute resolution procedures.

**State charter schools must provide each student with a disability FAPE without regard to the cost or if the services needed by the student are traditionally provided by the school. In other words, a state charter school may not turn away a student with a disability because the state charter school does not typically provide services needed by the student.**

IDEA, and State Board of Education rules implementing IDEA, set forth specific student evaluation and eligibility requirements and procedures for developing a student's IEP. IDEA provides LEAs federal funding for students with disabilities; however, such funding must be spent only on the excess cost of services for students with disabilities and cannot supplant other funding available for the students' education. As with all federal funding, IDEA funding must be spent in accordance with federal regulations. State charter schools must adhere to every aspect of IDEA, its regulations, and the rules of the State Board of Education implementing IDEA, including the following matters.

<b>Free Appropriate Public Education</b> <ul style="list-style-type: none"> <li>• <i>Federal Law:</i> <a href="#">20 U.S.C. § 1412</a>;</li> <li>• <i>Federal Regulations:</i> <a href="#">34 C.F.R. § 300.17, 300.101-104</a></li> <li>• <i>SBOE Rule:</i> <a href="#">160-4-7-.02</a></li> </ul>	<b>Child Find</b> <ul style="list-style-type: none"> <li>• <i>Federal Law:</i> <a href="#">20 U.S.C. § 1401, 1412</a></li> <li>• <i>Federal Regulation:</i> <a href="#">34 C.F.R. § 300.111</a></li> <li>• <i>SBOE Rule:</i> <a href="#">160-4-7-.02</a></li> </ul>
<b>Consent</b> <ul style="list-style-type: none"> <li>• <i>Federal Law:</i> <a href="#">20 U.S.C. § 1414</a></li> <li>• <i>Federal Regulations:</i> <a href="#">34 C.F.R. § 300.9, 300.300</a></li> <li>• <i>SBOE Rule:</i> <a href="#">160-4-7-.09</a></li> </ul>	<b>Evaluations and Re-evaluations</b> <ul style="list-style-type: none"> <li>• <i>Federal Law:</i> <a href="#">20 U.S.C. § 1414</a></li> <li>• <i>Federal Regulations:</i> <a href="#">34 C.F.R. § 300.301-306</a></li> <li>• <i>SBOE Rules:</i> <a href="#">160-4-7-.04; 160-4-7-.09</a></li> </ul>
<b>Eligibility</b> <ul style="list-style-type: none"> <li>• <i>Federal Law:</i> <a href="#">20 U.S.C. § 1414</a></li> <li>• <i>Federal Regulation:</i> <a href="#">34 C.F.R. § 300.306</a></li> <li>• <i>SBOE Rule:</i> <a href="#">160-4-7-.05</a></li> </ul>	<b>Individualized Education Program</b> <ul style="list-style-type: none"> <li>• <i>Federal Law:</i> <a href="#">20 U.S.C. § 1412</a></li> <li>• <i>Federal Regulations:</i> <a href="#">34 C.F.R. § 300.22, 300.112, 300.320-300.324</a></li> <li>• <i>SBOE Rule:</i> <a href="#">160-4-7-.06</a></li> </ul>
<b>Placement</b> <ul style="list-style-type: none"> <li>• <i>Federal Law:</i> <a href="#">20 U.S.C. § 1412</a></li> <li>• <i>Federal Regulations:</i> <a href="#">34 C.F.R. § 300.114-300.117</a></li> </ul>	<b>Related Services</b> <ul style="list-style-type: none"> <li>• <i>Federal Law:</i> <a href="#">20 U.S.C. § 1401</a></li> <li>• <i>Federal Regulation:</i> <a href="#">34 C.F.R. § 300.34</a></li> </ul>

<ul style="list-style-type: none"> <li>• SBOE Rule: <a href="#">160-4-7-.07</a></li> </ul>	
<b>Student Discipline</b> <ul style="list-style-type: none"> <li>• Federal Law: <a href="#">20 U.S.C. § 1415</a></li> <li>• Federal Regulations: <a href="#">34 C.F.R. § 300.530-300.537</a></li> <li>• SBOE Rule: <a href="#">160-4-7-.10</a></li> </ul>	<b>Procedural Safeguards &amp; Prior Written Notice</b> <ul style="list-style-type: none"> <li>• Federal Law: <a href="#">20 U.S.C. § 1415</a></li> <li>• Federal Regulations: <a href="#">34 C.F.R. § 300.504; 34 C.F.R. § 300.503</a></li> <li>• SBOE Rule: <a href="#">160-4-7-.09</a></li> </ul>
<b>Dispute Resolution &amp; Mediation</b> <ul style="list-style-type: none"> <li>• Federal Law: <a href="#">20 U.S.C. § 1415</a></li> <li>• Federal Regulation (dispute resolution): <a href="#">34 C.F.R § 300.151-300.153;</a></li> <li>• Federal Regulation (mediation): <a href="#">34 C.F.R § 300.506</a></li> <li>• Federal Regulation (due process hearings): <a href="#">34 C.F.R § 300.507-300.518</a></li> <li>• SBOE Rule: <a href="#">160-4-7-.12</a></li> </ul>	<b>Student Records &amp; Confidentiality</b> <ul style="list-style-type: none"> <li>• Federal Law: <a href="#">20 U.S.C. § 1417</a></li> <li>• Federal Regulations: <a href="#">34 C.F.R § 300.610-300.627</a></li> <li>• SBOE Rule: <a href="#">160-4-7-.08</a></li> </ul>
<b>Personnel &amp; Caseloads</b> <ul style="list-style-type: none"> <li>• Federal Law: <a href="#">20 U.S.C. § 1401</a></li> <li>• Federal Regulation: <a href="#">34 C.F.R § 300.18</a></li> <li>• SBOE Rule: <a href="#">160-4-7-.14</a></li> </ul>	<b>Annual Reports</b> <ul style="list-style-type: none"> <li>• Federal Law: <a href="#">20 U.S.C. § 1413</a></li> <li>• Federal Regulation: <a href="#">34 C.F.R § 300.211</a></li> <li>• SBOE Rule: <a href="#">160-4-7-.17</a></li> </ul>
<b>State Education Agency (SEA) Monitoring</b> <ul style="list-style-type: none"> <li>• Federal Law: <a href="#">20 U.S.C. § 1416</a></li> <li>• Federal Regulations: <a href="#">34 C.F.R § 300.600-300.609</a></li> </ul>	<b>Use of IDEA Funding &amp; Budgets</b> <ul style="list-style-type: none"> <li>• Federal Law: <a href="#">20 U.S.C. § 1413</a></li> <li>• Federal Regulations: <a href="#">34 C.F.R § 300.202-300.210</a></li> <li>• SBOE Rule: <a href="#">160-4-7-.17</a></li> </ul>

## Special Education Discretionary Grants

### Overview

In addition to formula allocations under IDEA, state charter schools may apply to the Georgia Department of Education for additional funding to serve special education students. These discretionary grants are designated for specific purposes, and often the state charter school will need to apply for the funding on an annual basis using the timeline and deadlines established by the Georgia Department of Education. Many of the discretionary grants are awarded on a reimbursement basis and require specific documentation to be submitted to the Georgia Department of Education before the state charter school will have access to the funds.

### Federal Grant for High-Cost Students

Because state charter schools must provide each student with a disability FAPE without regard to the cost or if the services needed by the student are traditionally provided by the school, a state charter school may receive a student whose special needs present an economic burden for the school. To help offset the sometimes high cost of providing the special education and related services needed to provide a student FAPE, state charter schools, as an LEA, may apply for additional funding from the Georgia Department of Education. If the state charter school serves a special education student whose needs require the school to expend more than three times the state

average per pupil expenditure, the state charter school may apply for the grant for high-cost students. More information regarding the federal grant for high-cost students is available [here](#).

*State Grant for Residential and Reintegration Services*

In situations in which a state charter school must place a student in a residential setting to ensure the student receives FAPE, the state charter school may apply for additional funding through the Georgia Department of Education to offset the cost of the residential placement. The student's placement in the residential facility must be made by the student's IEP Team in accordance with IDEA. Additionally, the residential facility must be a facility that is approved by the Georgia Department of Education as meeting certain criteria consistent with state standards. A list of approved residential facilities is available [here](#). The state charter school remains responsible for ensuring the implementation of the student's IEP even though the student is served through a residential facility. More information regarding the state grant for residential and reintegration services is available [here](#).

## Chapter Five – State Laws Applicable to State Charter Schools

The following sections detail state education laws that are applicable to state charter schools. As noted previously, this guide is not exhaustive and should not be relied upon as the sole resource for the legal obligations of a state charter school. There will be additional laws and requirements that are applicable to state charter schools that are not discussed herein. Additionally, please note that the current application used by the State of Georgia to provide online access to the Official Code of Georgia does not allow one to link to specific code sections. Accordingly, the links below will take the reader to the general website, and specific code sections may be found by utilizing the search feature.

### Governance, Transparency, and Ethics

#### Charter School Governance

*State Law:* [O.C.G.A. § 20-2-2062](#); [O.C.G.A. § 20-2-2081](#)

A charter school governing board is the governing board of a non-profit organization that is involved in school-level governance. School level governance means decision-making authority in personnel decisions, financial decisions, curriculum and instruction, resource allocation, establishing and monitoring the achievement of school improvement goals, and school operations. A charter school governing board is also the charter petitioner for the state charter school. Although Georgia law requires charter schools to be organized and operated as non-profit corporations, Georgia law permits a charter school governing board to contract with for-profit entities for goods and services. If a governing board contracts with a non-profit or for-profit entity, it must ensure that it maintains its authority over school-level governance.

#### Governing Board Composition

*State Law:* [O.C.G.A. § 20-2-2084](#)

Each member of the governing board of a state charter school must be a United States citizen and a resident of Georgia. **Members of the governing board of a state charter school cannot be an employee of the same state charter school.** Each member of a governing board of a state charter school must participate in annual training as required by [O.C.G.A. § 20-2-2072](#).

A member of the governing board of a state charter school must not:

1. Act in his or her official capacity in any matter where he or she, his or her immediate family member, or a business organization in which he or she has an interest has a material financial interest that would reasonably be expected to impair his or her objectivity or independence of judgment;
2. Solicit or accept or knowingly allow his or her immediate family member or a business organization in which he or she has an interest to solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing

of value was given or offered for the purpose of influencing that board member in the discharge of his or her duties as a board member;

3. Use, or knowingly allow to be used, his or her position or any information not generally available to the members of the public which he or she receives or acquires in the course of and by reason of his or her position for the purpose of securing financial gain for himself or herself, his or her immediate family member, or any business organization with which he or she is associated;
4. Be an officer or serve on the board of directors of any organization that sells goods or services to that state charter school; or,
5. Be an officer, member, or employee of a local board of education or an employee of a local school system.

The SCSC interprets the phrase “[b]e an officer, member, or employee of a local board of education or an employee of a local school system” consistent with O.C.G.A. § 20-2-2084(c)(4), which states that the SCSC shall not “approve, renew, or extend a state charter school petition for any school with one or more employees, officers, or governing board members who are also an officer, member, or executive-level employee of a local board of education or an employee of a local school system from the geographic region which the state charter school serves. The term “executive-level employee” means an employee serving as superintendent, deputy, assistant, or associate superintendent, chief financial officer, chief operations officer, or any other similar position which includes substantial decision-making authority on behalf of the local school system.

In addition, the term “immediate family member” means a spouse, child, sibling, or parent or the spouse of a child, sibling, or parent.

## Governing Board Training

*State Law:* [O.C.G.A. § 20-2-2072](#)

Charter school governing board members must participate in initial training for boards of newly approved charter schools and annual training conducted or approved by the state board thereafter. The training shall include, but not be limited to, best practices on school governance, the constitutional and statutory requirements relating to public records and meetings, and the requirements of applicable statutes and rules and regulations. The training shall also include two to three hours annually regarding sound fiscal management and monitoring the implementation of the budget in accordance with state laws and regulations which includes the following elements:

- Board developed policies to ensure sound fiscal management, including but not limited to balanced budget requirements, spending level authorizations and permissions, deficit spending restrictions, establishment of special funds, and reserve maintenance requirements;
- Holding the principal, or its equivalent, accountable for the implementation of the budget in a manner consistent with the school’s strategic plan;
- Establishing through policy, the level of spending beyond the budget for which the school leader must seek board approval;
- Monitoring the school’s audits, monthly financial reports, and additional financial reports needed to make informed decisions and to ensure execution of the budget in a manner consistent with the strategic plan and strategic goals of the school;

- Reviewing and addressing annually audited financial records and audit findings, with a goal of proactively preventing audit exceptions;
- Addressing fiscal matters in a manner consistent with state law, sound business practice, and ethical principles regarding conflicts of interest; and
- Operating in a manner such that the board's financial decisions and actions do not provide unfair financial or other opportunistic advantages to any member of the governance board, their family members, associates, or individual constituents.

## Employment, Contracting, and Purchasing Preferences

State Law: [O.C.G.A. § 20-2-2084](#)

A state charter school must, if two individuals are equally qualified, give preference to hiring an individual who is a citizen or national of the United States over another individual who is not a citizen or national of the United States. Prior to hiring an individual other than a citizen or national of the United States or a protected individual as defined by 8 U.S.C. § 1324b, the state charter school must receive approval from the State Charter Schools Commission of Georgia and demonstrate that other qualified personnel were sought but not available. Foreign exchange teachers hired by a state charter school are not subject to these employment preference requirements.

State charter schools are reminded of their obligations to comply with all federal, state, and local rules, regulations, court orders, and statutes related to civil rights. In addition, where state and federal requirements conflict, federal laws control.

A state charter school must also give preference in the contracting and purchasing of goods and services to business incorporated or authorized to operate in Georgia that has a regularly maintained and established place in Georgia. This contracting and purchasing preference only applies when out-of-state competitors are similarly qualified as the in-state business.

## Open Meetings Act

State Law: [O.C.G.A. § 50-14-1 et. seq.](#)

State charter schools are subject to the Georgia Open Meetings Act, which is designed to ensure that governmental entities operate with transparency. Generally, the Open Meetings Act requires that governing boards provide public notice when quorum members are gathered to discuss school business, that meeting agendas are provided to inform the public about the matters to be discussed, that any such gatherings are open to the public, and that minutes (notes) of the gathering be recorded. In limited circumstances, the Open Meetings Act permits closed gatherings of the governing board. Each state charter school should ensure its understanding and compliance with the specific provisions of the Open Meetings Act. **State charter schools that have statewide attendance zones shall have statewide jurisdiction for purposes of the Georgia Open Meetings Act.**

## Open Records Act

State Law: [O.C.G.A. § 50-18-70 et. seq.](#)

State charter schools are subject to the Georgia Open Records Act, which is designed to allow public access to the records and communications of public entities to help ensure that governmental entities are transparent and accountable to constituents. The Open Records Act defines the term

“public records” broadly. A public record “means all documents, papers, letters, maps, books, tapes, photographs, computer based or generated information, data, data fields, or similar material prepared and maintained or received by an agency or by a private person or entity in the performance of a service or function for or on behalf of an agency or when such documents have been transferred to a private person or entity by an agency for storage or future governmental use.” The Georgia Open Records Act prescribes what public records are subject to and exempt from disclosure and the procedural requirements for responding to requests made under the Open Records Act. Each state charter school should ensure its understanding and compliance with the specific provisions of the Open Records Act.

In addition, state charter schools must remain mindful of the intersection between the Georgia Open Records Act and FERPA, discussed above. State charter schools should consult with their independent legal counsel to ensure compliance.

## Ownership of School Records

*State Law:* [O.C.G.A. § 20-2-2088.1](#)

Records created, received, or maintained in the performance of a charter by a state charter school shall be the property of the state charter school. State charter schools are not precluded from contracting with a third party for services related to the creation and maintenance of records; provided, however, that at no time shall the third party withhold or otherwise prevent access to any record which is the property of the state charter school; and that such contract expressly provides that the third party shall comply with applicable federal, state, and local laws relating to the confidentiality or privacy of the records subject to the contract.

If a state charter school ceases operations for any reason, the nonprofit entity that held the charter contract shall retain ownership, including all incumbent responsibilities of an operational state charter school, of all records for a period of one year from the later of the date the charter contract expired, the date the charter contract was terminated, or the date the state charter school ceased operations. After the one-year period, the nonprofit entity which held the charter contract shall transfer all records, including student records, to the commission in the format and manner specified by the commission.

## Admissions & Enrollment

### Open Enrollment

*State Law:* [O.C.G.A. § 20-2-133](#)

*SCSC Rule:* [691-2-.05](#)

A state charter school must enroll any student who, at the time of enrollment, resides in the attendance zone specified in the charter contract. A state charter school must accept all students and cannot restrict enrollment to a certain population. Pursuant to [O.C.G.A § 20-2-150](#), students of families that present copies of official military orders to transfer to Georgia shall be eligible for enrollment prior to establishing residency within the attendance zone. These students shall be eligible for enrollment at the same time and to the same extent as students residing within the charter school’s attendance zone.



Even if the state charter school's instructional program is geared toward a specific student population, such as at-risk students, students with disabilities, or English learners, the school must accept students that are not within that population if such student chooses to attend and resides within the school's attendance zone. A single-gender state charter school may accept students only in that gender under certain circumstances allowable under Title IX of the Educational Amendments Act of 1972. (See Chapter Two).

The application for admission to the state charter school shall only request information necessary to allow the state charter school to identify the student and determine the grade to which the student will be enrolled. The application may request the student's name and grade as well as basic contact information for the parent, such as a telephone number and email address. Applications for admission shall not request any information related to the student or parent's race, ethnicity, religion, or socio-economic status. (See Weighted Lotteries)

Applications for admission shall not request information related to the student's previous school or academic performance, including, but not limited to the name of the student's school, the student's transcript, the student's work product, whether the student received special education services, or whether the student received language assistance. Information needed by the state charter school to verify the student's eligibility for enrollment and appropriate placement may be obtained after the student is assured an enrollment space in the school.

## Enrollment Priorities

*State Law:* [O.C.G.A. § 20-2-2066](#)

A state charter school may utilize enrollment priorities established in law and outlined in the school's charter. The charter of a state charter school may provide enrollment preference to:

1. A sibling of a student currently enrolled in the state charter school;
2. A sibling of a student currently enrolled in another school designated in the charter of the state charter school;
3. A student whose parent or guardian is a member of the governing board of the charter school or is a full-time teacher, professional, or other employee at the state charter school;
4. A student matriculating from a school designated in the charter of the state charter school; and
5. A student matriculating from a pre-kindergarten program which is associated with the school, including, but not limited to, programs which share common facilities or campuses with the state charter school, or pre-kindergarten programs which have established a partnership or cooperative efforts with the state charter school.

Utilizing all enrollment preferences allowed by state law may disqualify a state charter school from being eligible for grant funding through the Federal Charter School Program. State charter schools that may seek grant funding through the Federal Charter School Program are encouraged to review the program's guidance prior to utilizing enrollment preferences.

## Enrollment Lotteries

*State Law:* [O.C.G.A. § 20-2-2066](#)

*SCSC Rule:* [Rule-691-2-05](#)

Except for “educationally disadvantaged students” (defined in O.C.G.A. § 20-2-2062 (4.1)), when the number of applications exceeds the capacity of the program, class, grade level, or building of the state charter school, the state charter school must conduct an admission lottery after granting any applicable enrollment preferences. The admission lottery must be a random selection process to ensure that all applicants that do not have an enrollment preference (discussed below) have an equal chance of being admitted. The state charter school must have a written policy detailing how the admission lottery is to be conducted and conduct such lottery in accordance with that policy.

A state charter school must make its enrollment information available to the public throughout the year and may not require parents to “log in” or otherwise create accounts to access enrollment information. A state charter school must provide the public with at least two weeks’ notice prior to conducting an enrollment opportunity.

Each state charter school shall actively communicate its enrollment and admissions opportunities and procedures to parents and the community to ensure that students and parents have an equal chance to learn about and apply to the school. If the state charter school will conduct an admission lottery, the notification to parents and the community shall include information regarding the use of an admission lottery. The notification of enrollment and admission communication activities may include advertisements in newspapers or community flyers, posting information on bulletin boards or online forums, and any other method designed to disseminate information to the targeted audience. The state charter school shall conduct notification activities over a period of time, which shall begin no later than two weeks prior to the enrollment or admission opportunity.

If a state charter school is accepting students for a grade that it serves, the school must enroll a student in that grade if there is space available. In other words, a state charter school cannot adopt a policy to restrict enrollment to specific grades or student characteristics. However, pursuant to State Board of Education Rule 160-4-9-.05, a dual language immersion school is authorized to adopt an enrollment policy to restrict enrollment to specific grade levels. This authorization does not waive the requirement that enrollment not be restricted based on student characteristics, such as language track.

## Weighted Lotteries

*State Law:* [O.C.G.A. § 20-2-2066](#)

“Educationally disadvantaged students” may be afforded an increased chance of admission through a weighted lottery provided the charter contract contains a provision permitting the school to implement a weighted lottery. Implementing a weighted lottery can demonstrate a charter school’s commitment to ensuring those students most need it can benefit from school choice.

Pursuant to O.C.G.A. § 20-2-2062 (4.1), educationally disadvantaged students “means all or a subset of the following: students who are economically disadvantaged, students with disabilities, limited English proficient students, neglected or delinquent students, and homeless students, as each such subset is defined by the State Board of Education in accordance with federal education guidelines and regulations.”

Charter schools with executed charters must obtain approval of an amendment to their charter contract to include the weighted lottery. New charter petitioners may request to use the weighted lottery in their application. The school may determine whether the weighted lottery will apply to some, or all of the subgroups listed above. Documentation of educationally disadvantaged status cannot be requested with the application, but it may be requested with enrollment paperwork.

The lottery takes place only after any enrollment preferences included in the school's charter contract are taken into consideration. There is no legal limit on the maximum weight a charter school can give a category in a weighted lottery. It is presumed that the school's governing board will take the school's unique circumstances into consideration when making this decision. Race cannot be a weighted category within the weighted lottery provisions.

## Budgets & Funding

### Operating Budget Approval

*State Law:* [O.C.G.A. § 20-2-167.1](#)

A state charter school may not approve an annual operating budget unless the school has held at least two public meetings to provide an opportunity for public input on the proposed budget. State law does not distinguish an original annual operating budget from a revised operating budget. Accordingly, if a state charter school identifies the need to revise its budget during the school year, the school should conduct two public meetings to provide an opportunity for public input on the revised budget.

A state charter school may utilize regularly scheduled meetings or meetings held for other purposes if the school also utilizes a portion of the meeting to allow public comment on the proposed budget. The two meetings cannot occur within the same 7-day period. The state charter school must advertise the meetings in a local newspaper of general circulation in which other legal announcements for the jurisdiction are advertised. A state charter school with a statewide attendance zone and students residing in 25% or more of the state's counties or students residing in at least three counties that are not geographically contiguous must conduct one meeting in a virtual manner and one meeting in the county in which its primary business office is located.

State charter schools must make a summary of the annual operating budget proposed and adopted by the governing board on a publicly available area of the school's website. The summary of the annual operating budget must include a notice that an individual may request an electronic copy of the school's line item detailed adopted annual operating budget at no cost. The summary of the operating budget must be maintained on its website until the annual operating budget for the next fiscal year is adopted by the state charter school's governing board. A state charter school may comply with this requirement by posting line item detailed proposed and adopted budgets on its website.

A state charter school must provide an electronic copy of its line item detailed adopted annual operating budget in a form that allows analysis to any person who requests the budget. The state charter school must provide an electronic copy of the budget within three business days and at no cost.

### Financial Information

*State Law:* [O.C.G.A. § 20-14-49.11](#)

State charter schools must post specific financial information in a prominent place on its website, including:

- The annual budget submitted to the State Board of Education pursuant to O.C.G.A. § 20-2-167(c).
- The most recent five years of audits conducted by the Department of Audits and Accounts pursuant to O.C.G.A. § 50-6-6(a) and any additional independent audits conducted pursuant O.C.G.A. § 50-6-6(b).
- Any findings of irregularities or budget deficits reported by the Department of Audits and Accounts pursuant to O.C.G.A. § 20-2-67, if applicable.

## **Quality Basic Education (QBE) Act Funding and the Full-Time Equivalent (FTE) Process**

*State Law:* [O.C.G.A. § 20-2-160 et. seq.](#)

*SBOE Rules:* [160-5-1-.07](#), [160-5-1-.03](#)

The QBE formula is a per-pupil weighted allocation that is largely driven by student-teacher ratio. There are 19 statutory QBE categories that are weighted based on the estimated cost of providing education to students in that category.

During the FTE reporting process, a state charter school reports each student in one of the 19 QBE programs for each segment of the school day of the FTE count. FTE counts occur twice a year – once in October and once in March. These counts provide a “snapshot” of the educational services the school provides. QBE allocations are based on the QBE program counts during the previous three FTE counts. As a result, QBE funding is “a year behind” the services provided. Additional funds for teacher training and experience as well as other QBE grants are added for the total amount of state funding provided for schools through QBE.

## **Non-FTE Data Collections**

*State Law:* [O.C.G.A. § 20-2-320](#), [20-2-740](#)

*SBOE Rules:* [160-5-1-.07](#), [160-5-1-.03](#), [160-5-2-.50](#)

State charter schools must comply with all data collection requirements of the Georgia Department of Education in addition to the FTE data collections. State charter schools must adhere to all deadlines established by the Georgia Department of Education in reporting data. All the data collections required by the Georgia Department of Education are based in the requirements of law and can impact the operation of a state charter school. Failure by the state charter school to participate in all data collection efforts of the Georgia Department of Education may affect the funding provided to the state charter school or impact legal designations applicable to the state charter school. Data collections include but may not be limited to Certified/Classified Personnel Information, Pre-ID label, and Student Record.

The Student Record data collection is used to monitor, enforce, and report compliance with a variety of state and federal laws, including, but not limited to: ESEA, IDEA, Section 504, and QBE funding requirements.

## **Personnel**

### **Criminal Record Checks of Personnel/Clearance Certificates**

*State Law:* [O.C.G.A. § 20-2-211.1](#)

*GaPSC Rule:* [505-2-.42](#)

A state charter school must ensure that all of its personnel are fingerprinted in a manner that will allow submission to the Georgia Crime Information Center (GCIC) or the Federal Bureau of Investigation. The state charter school may refer the personnel to a law enforcement agency in Georgia for such fingerprinting. The state charter school must conduct criminal record checks of all personnel. The results of the criminal record checks may be forwarded to the Georgia Professional Standards Commission when necessary for potential action as a violation of the educator code of conduct. The state charter school may require the employee or prospective employee to be responsible for the cost of the fingerprinting or criminal record check.

Access to and use of information received from the GCIC must be within regulations and guidelines established by the Georgia Crime Information Center Council. A state charter school utilizing the GCIC will be subject to a periodic audit to ensure that the GCIC is used appropriately. The official rules of the Georgia Crime Information Center Council are available [here](#).

**All educators employed by a state charter school must receive a Clearance certificate issued by the Georgia Professional Standards Commission (GaPSC).** For the issuance of a new Clearance certificate for an educator employed by the state charter school, the individual must have satisfactorily completed the GCIC criminal record check and not hold a revoked or suspended educator certificate in any state. State charter schools must request the issuance of Clearance certificates for educators within their employ unless the educator holds a valid Clearance certificate issued by another Georgia local unit of administration.

## Employee Evaluations

*State Law:* [O.C.G.A. § 20-2-210 et. seq.](#)

All employees of a state charter school must receive an annual performance evaluation. All teachers, assistant principals, and principals of state charter schools must receive annual evaluations utilizing the evaluation instruments adopted by the State Board of Education. The specific requirements of Teacher and Leader Keys are outlined by the Georgia Department of Education prior to the implementation of the evaluation instruments.

## Prohibition on School Leader as a Chief Financial Officer

*State Law:* [O.C.G.A. § 20-2-2084](#)

A state charter school leader cannot serve simultaneously as the school's chief financial officer.

## Curriculum & Assessments

### Parents' Bill of Rights

*State Law:* [O.C.G.A. § 20-2-786](#)

The Parents' Bill of Rights (Bill of Rights) acknowledges the fundamental rights of parents to direct the upbringing of their minor children, including, by way of illustration only, the right to review instructional materials; to access and review educational and other records; and, in many cases,

the right to consent in writing before a photograph or video recording of their minor child is made. Courts will review actions that infringe upon parental rights with strict legal scrutiny. Access the statute's full list of rights using the embedded weblink above.

The Bill of Rights allows parents to make written requests for information subject to its provisions and prescribes procedures and timelines for school responses and governing board appeals. Generally, when written requests for instructional materials are made, the school principal must respond within three business days. If the request is denied or existing information is not provided within thirty days, the parent may appeal the denial or failure to respond to the governing board. The school's governing board must then place the appeal on the agenda for its next or subsequent public meeting. Review the technical statutory requirements using the embedded link.

Governing Boards must consult with stakeholders to develop and adopt a policy or regulation to promote parental involvement. The policy/regulation must meet the statutory requirements. Further, the policy/regulation must be posted on the governing board's public website and made available for review at the school site.

## **Protect Students First Act**

*State Law:* [O.C.G.A. § 20-1-11](#)

In relevant part, the Protect Students First Act (Act) requires charter school governing boards to prohibit employees from discriminating against students and other employees based on race. Further, governing boards must ensure that curricula and training programs encourage employees and students to practice tolerance and mutual respect and refrain from judging others based on race. Schools may provide curricula and training programs that foster respectful learning and work environments, provided the curricula or training programs do not advocate for "divisive concepts." The Act specifically defines the terms "divisive concepts," "espousing personal political beliefs," "race scapegoating," and "race stereotyping."

Governing boards must adopt a complaint resolution policy for alleged violations of the Act. The complaint resolution policy must meet the Act's specific requirements. If a complainant makes an appropriate written request, the governing board must review certain school-level complaint determinations. The SCSC has jurisdiction to review governing board determinations and take appropriate remedial action.

The Act also provides eligible complainants the right to request nonconfidential records reasonably believed to substantiate a complaint. The Act prescribes procedures and timelines for the school's response and related appeals.

## **Literacy**

*State Law:* [O.C.G.A. § 20-2-153.1](#)

Beginning August 1, 2024, state charter schools must administer a universal reading screener to each student in kindergarten through third grade, with the first administration occurring within 30 days of the beginning of each school year, with some exceptions for students in first and second grades. Screener results must be provided to parents or guardians of participating students and the to the Georgia Department of Education. In addition, state charter schools must implement tiered reading plans for students in kindergarten through third grade who exhibit reading deficiencies. Reading plans must be implemented no later than 30 days after a student has been identified as having a significant reading deficiency. State charter schools must be aware of the specific

requirements of this statute, including identifying appropriate screeners, implementing reading plans that are compliant with the requirements of the statutes, and providing appropriate notices to the parent and guardians of participating students and the Georgia Department of Education.

## Computer Science

*State Law:* [O.C.G.A. § 20-2-149.3](#)

Beginning in the 2022-2023 school year, each state charter school that serves high school students shall offer a course in computer science. In addition, beginning in the 2022-2023 school year, each state charter school that serves middle school students shall offer instruction in exploratory computer science. State charter schools that serve elementary school students may offer instruction in exploratory computer science.

## Early Intervention Program (EIP)

*State Law:* [O.C.G.A. § 20-2-153](#)

*SBOE Rule:* [160-4-2-.17](#)

State charter schools must comply with the requirements of the Georgia Early Intervention Program (EIP), which is designed to serve students in kindergarten through five who are at risk of not reaching or maintaining academic grade level, including but not limited to students who are identified through required first grade readiness assessments. State charter schools receive additional QBE funding to support implementation of the EIP.

EIP guidance can be found at the Georgia Department of Education website [here](#)

## Single Statewide Accountability System

*State Law:* [O.C.G.A. § 20-14-30 et. seq.](#)

*SBOE Rule:* [160-7-1-.01](#)

ESSA requires all schools and LEAs to participate in and be evaluated by a Single Statewide Accountability System. Georgia's Single Statewide Accountability System is implemented through a coordinated effort between the Governor's Office of Student Achievement and the Georgia Department of Education. Georgia applied for, and was granted a waiver from, certain provisions of Title I of ESSA that changed the method the state measures school performance under the Single Statewide Accountability System. Georgia's ESSA waiver allows schools to be assessed on a variety of indicators, which, taken as a whole, comprise the College and Career Ready Performance Index (CCRPI). The CCRPI includes student achievement on multiple state assessments, student progress, and the schools' ability to close achievement gaps.

The Single Statewide Accountability System is discussed in greater detail in Chapter Three.

## Statewide Student Assessment Requirements

*State Law:* [O.C.G.A. § 20-2-281](#)

*SBOE Rule:* [160-3-1-.07](#)

Georgia's student assessments form the foundation of the Single Statewide Accountability System. Because the Single Statewide Accountability system is federally mandated, state charter schools



must adhere to all aspects of the statewide student assessment requirements. This includes administering the appropriate assessments in the specified grades and following the required procedures for assessment administration. The Georgia Department of Education outlines the requirements for the state assessment program in the *Student Assessment Handbook* available [here](#).

State charter schools must adhere to all requirements in the *Student Assessment Handbook*. Additionally, each assessment will be accompanied by manuals for the assessment coordinator and examiners. State charter schools must adhere to all requirements and procedures in the *Examiner's Manuals*, *School Test Coordinator's Manual*, and *System Test Coordinator's Manual*, which will be distributed with the assessment prior to the assessment dates and posted on the Georgia Department of Education's website. Federal law (ESSA) requires states and LEAs to assess all students in public school.

There is no provision of federal or state law that authorizes a parent or student to “opt-out” of an assessment that is part of the Single Statewide Accountability System. Accordingly, a state charter school must administer the Georgia Milestones to all students that are present. If a student does not participate in Georgia Milestones, a school may lack sufficient information to promote the student to the next grade or, if the student is in high school, the student's course grade would reflect the absence of the End-of-Course assessments.

## Individualized Graduation Plans

State Law: [O.C.G.A. § 20-2-327](#)

SBOE Rule: [160-4-8-.09](#)

A state charter school that serves any grade 8 through 12 must ensure that each student has an Individualized Graduation Plan prior to the conclusion of the student's second semester of grade 8. The Individualized Graduation Plan must be revised annually in high school after providing the student guidance and advisement and consulting with the student's parent or guardian and may be changed at any time throughout high school upon approval by the student and his or her parent or guardian with guidance from the student's school counselor or advisor. The Individualized Graduation Plan must meet specific statutory and SBOE requirements.

## Health & Safety

### Facemask Policies & Procedures

State Law: [O.C.G.A. § 20-2-59](#) (effective through June 30, 2027)

The Unmask Georgia Students Act (Act) prohibits governing boards and charter school personnel from making or enforcing rules that require students to wear face coverings on school grounds if the rules do not provide an opportunity for parents to opt out. Schools cannot require parents seeking to opt-out of face covering requirements to provide a rationale or other certification. Further, schools cannot take adverse academic or disciplinary actions against students whose parents have opted out of an applicable rule or requirement.

Given the Act's broad applicability, the governing board should ensure that board members and all school personnel are trained or otherwise aware of the Act's requirements. Governing boards should



review existing policies, procedures, rules, and codes of conduct that mandate face coverings to ensure that they include a parental opt-out provision. Governing boards are encouraged to repeal or amend any policies that do not comply with the requirements of the Act. In addition, schools should develop a mechanism for receiving and tracking parent opt-outs.

## Seizure Action Plans

State Law: [O.C.G.A. § 20-2-779.3](#)

Georgia law requires public schools that receive “seizure support plans” from parents or guardians requesting support or other services for students being treated for epilepsy or other seizure disorders to: (a) have a school nurse or, in the absence of a school nurse, trained seizure action plan personnel onsite and shall during regular school hours to provide the services in the plan and (b) designate trained staff to implement the services in the seizure action plan.

The school should be aware of its obligation to receive, review and implement any seizure action plans submitted by parents or guardians. The school should also designate the appropriate staff to be trained to carry out the support and services outlined in the seizure action plan. These requirements do not release the school from providing services otherwise required under federal special education laws.

## Water Safety

State Law: [O.C.G.A. § 20-2-779.4](#)

State charter schools are required to provide water safety education information to parents and guardians of students under 18 years of age and directly provide the information to students 18 or older annually. At the beginning of each school year, public schools shall provide parents and guardians with either electronic or hard copy information on the role of water safety education courses and swimming lessons in saving lives. The information should include options for age-appropriate water safety education courses, swimming lessons, and the availability of free or reduced-priced courses and lessons. The Act does not require schools to provide water safety education courses or swimming lessons to students or excuse students from all or part of the school day to attend water safety education courses or swimming lessons.

## Division of Family and Children Service – Posting Requirement

State Law: [O.C.G.A. § 20-2-324.4](#)

State charter schools must post in a clearly visible location in a public area of the school that is readily accessible to students a sign in English and other such languages as determined by the school that contains the Division of Family and Children Services (DFCS) toll-free number to receive reports of child abuse and neglect (1-855-GA CHILD / 1-855-422-4453). This number is operated 24 hours a day, seven days a week.

## Cardiac Arrest Prevention

State Law: [O.C.G.A. § 20-2-324.5](#)

State charter schools are required to hold an informational meeting twice per year regarding the **symptoms and warning signs of sudden cardiac arrest**. At such an informational meeting, an information sheet on sudden cardiac arrest **symptoms** and warning signs shall be provided to each

student's parent or guardian. In addition to students, parents or guardians, coaches, and other school officials, such informational meetings may include physicians, pediatric cardiologists, and athletic trainers.

## **Automated External Defibrillator – High Schools**

*State Law:* [O.C.G.A. § 20-2-775](#)

Charter high schools that have interscholastic athletics programs shall have at least one functional automated external defibrillator on site at all times and easily accessible during any school related function, including athletic practices, athletic competitions, and other occasions where students and others will be present, for use during emergencies. Charter schools must meet all activation, consultation, training, notice, and maintenance obligations required by the statute.

## **Dyslexia Screening**

*State Law:* [O.C.G.A. § 20-2-159.6](#)

Beginning with the 2024-2025 school year, state charter schools must screen all kindergarten students for characteristics of dyslexia and may screen kindergarten students for other disorders. In addition, students in grades one through three must be screened for characteristics of dyslexia, and may screen such students for other disorders, who have been identified through the response-to-intervention process. Screening shall be conducted in accordance with the policies developed by the State Board of Education and the dyslexia informational handbook produced by the Department of Education.

## **Vaccination Information**

*State Law:* [O.C.G.A. § 20-2-778](#)

If a state charter school provides information on immunizations, infectious diseases, medications, or other school health issues to parents and guardians of students in grades 6 through 12, then the following information about meningococcal meningitis disease and influenza and their respective vaccines shall be included:

- A description of causes, symptoms, and means of transmission;
- A list of sources for additional information; and
- Related recommendations issued by the Advisory Committee on Immunization Practices of the federal Centers for Disease Control and Prevention.

## **Vision, Hearing, Dental, and Nutrition Screening**

*State Law:* [O.C.G.A. § 20-2-770](#)

*Department of Public Health Rules:* [Chapter 511-5-6](#)

If the state charter school is the first school the student is attending in Georgia, the parent must provide the charter school a properly executed Certificate of Vision, Hearing, Dental, and Nutrition Screening (Department of Public Health Form 3300) prior to attending the state charter school or within three months of the student's admission. The vision, hearing, dental, and nutrition screening must have been completed no more than one year prior to the student's admission. If the student is transferring from another Georgia public school to the state charter school, the school from which

the child is transferring must forward the Certificate of Vision, Hearing, Dental, and Nutrition Screening and any related follow-up information to the state charter school.

A child may be exempt from the screening or any portion thereof if the parent furnishes the state charter school a notarized statement that the required screening conflicts with the religious beliefs of the parent. The state charter school must keep the notarized statement on file at the school and forward the statement to any school the student may later attend.

The state charter school must keep and maintain each student's Certificate of Vision, Hearing, Dental, and Nutrition Screening or notarized document of religious objection. The Georgia Department of Public Health may conduct audits to ensure that the state charter school requires and maintains evidence that each child received the required vision, hearing, dental, and nutrition screening.

## **Immunization of Enrolled Students**

*State Law:* [O.C.G.A. § 20-2-771](#)

*Department of Public Health Rules:* [Chapter 290-5-4](#)

If the state charter school is the first school the student is attending in Georgia, the parent must provide the charter school a valid certificate of immunization (Department of Public Health Form 3231) prior to the student attending the state charter school. The state charter school may, for justified reasons, allow a child to attend school for up to 30 calendar days after first admittance with a valid certificate of immunization.

A certificate of immunization may be issued for a child who has not received all required immunizations if the child is in the process of completing the required immunizations with the shortest intervals recommended in the current Official Immunization Schedules and the certificate of immunization has a date of expiration that relates to the date the next required immunization are due or the date on which a medical exemption must be reviewed. Children of parents who do not provide a certificate of immunization within 30 days of being admitted to the state charter school or fail to provide renew certificates within the time allotted after expiration must not be permitted to attend school unless the child has a medical or religious exemption. A child may obtain a medical exemption for immunization or a specific immunization.

The state charter school must keep, maintain, and monitor for currency a certificate of immunization or evidence of appropriate exemption for each student attending the school. The certificate of immunization or evidence of appropriate exemption must be made available during normal business hours for inspection by authorized health authority officials. The state charter school must forward the certificate of immunization or evidence of appropriate exemption to any school the child later attends.

The Georgia Department of Public Health has more information and resources regarding immunizations and schools [here](#).

## **School Nursing Programs**

*State Law:* [O.C.G.A. § 20-2-771.2](#)

State charter schools must have policies and procedures regarding a school health nurse program. The governing board of a state charter school has wide discretion to create a program that most appropriately meets the needs of its students. A state charter school may choose to employ staff to

implement the program. A state charter school may also choose to contract with health care professionals to carry out a school nursing program. A school nursing program may not dispense contraceptives or abortifacients or perform or refer students for abortions. The QBE funding formula includes a specific allocation to assist LEAs with the implementation of a school nursing program.

## **Disclosure of a Student's HIV status**

State Law: [O.C.G.A. § 24-12-21](#)

A state charter school that has knowledge that a student is infected with HIV or has AIDS must not intentionally or knowingly disclose that information to another person or legal entity.

## **Infectious Diseases**

SBOE Rule: [160-1-3-.03](#)

A state charter school must develop policies, regulations, and procedures related to the impact of infectious diseases on school management and operations. The state charter school must annually provide employees with information, education, or training related to infectious diseases, including transmission, risk, and standard precautions that are based on CDC guidelines or recommendations. Additionally, the state charter school must make personal protective equipment (face masks, gloves, or clothing that acts as a barrier between infectious materials and the skin, mouth, nose, or eyes) available when tasks contain the potential for exposure to infectious disease.

If a state charter school has a reasonable suspicion that a student has an infectious disease, the state charter school must notify the student's parent of the need to obtain a medical evaluation. The state charter school must also counsel employees believed to have an infectious disease to seek a medical evaluation. Operational decisions related to employees or students infected with communicable diseases must be made in conjunction with a school nurse, state or local public health officials, health care professionals, and the administrator of the state charter school.

## **Diabetes Medical Management Plans**

State Law: [O.C.G.A. § 20-2-779](#)

SBOE Rule: [160-4-8-.18](#)

In addition to serving students with diabetes with appropriate services and accommodations under ADA and Section 504, state charter schools must also adhere to state law requirements to ensure the proper implementation of a diabetes medical management plan. If a state charter school has a student enrolled who has diabetes, the state charter school must ensure that at least two school employees are trained in accordance with the Georgia Department of Education's *Guidelines for the Care Needed for Students with Diabetes* (available [here](#)). The state charter school must also provide information regarding the recognition of diabetes-related emergency situation to all persons responsible for the transportation of a student with diabetes.

A state charter school must implement a diabetes medical management plan provided by the parent of a student with diabetes who seeks diabetes care while at school. At least one employee of the state charter school trained in diabetes management must be on site and available during school hours to provide care to a student with a diabetes medical management plan being implemented by

the school. The trained personnel must be capable of performing the functions outlined in the diabetes medical management plan.

If requested by the parent in writing and if authorized by the diabetes medical management plan, the state charter school must allow a student with diabetes to perform blood glucose checks, administer insulin through the insulin delivery system the student uses, treat hypoglycemia and hyperglycemia, and otherwise attend to the monitoring and treatment of his or her diabetes in the classroom, in any area of the school or school grounds, and at any school related activity. Additionally, a student with diabetes must be permitted to possess on his or her person at all times all necessary supplies and equipment to perform monitoring and treatment functions.

## **Suicide Prevention and Awareness Training**

*State Law:* [O.C.G.A. § 20-2-779.1](#)

*SBOE Rule:* [160-4-8-.19](#)

All certificated employees in a state charter school must receive annual training in suicide awareness and prevention. Employees may fulfill the training requirement through trainings offered by the Georgia Department of Education or through state charter schools or local school systems utilizing the training materials approved by the Georgia Department of Education. Additionally, all state charter schools must adopt a policy on student suicide prevention that is developed in consultation with school and community stakeholders, school employed mental health professionals, and suicide prevention experts. At a minimum, state charter school suicide prevention policies must relate to suicide prevention, intervention, and postvention. The Georgia Department of Education developed a model policy to assist school systems in developing individual policies that is available [here](#).

## **Reports of Child Abuse or Neglect**

*State Law:* [O.C.G.A. § 19-7-5](#)

*SBOE Rule:* [160-4-8-.04](#)

Any employee or volunteer of a state charter school who has reasonable cause to believe that a child has or is being abused must notify the lead administrator of the state charter school, or his or her designee, of the suspected abuse. The suspected abuse may be physical injury or death, neglect or exploitation, sexual abuse, or sexual exploitation. A child is defined as any person under 18 years of age.

The school administrator must immediately (and within 24 hours) make an oral report to a child welfare agency providing protective services as designated by the Georgia Department of Human Services, or to the appropriate police authority or district attorney in the absence of a child welfare agency. The school administrator may be asked by the child welfare agency or police authority to follow his or her oral report with a written report, and the school administrator should promptly comply with the request for a written report. The school administrator cannot exercise any control, restraint, modification, or make any other change to the information provided by the person reporting the suspected abuse to him or her. The school administrator may consult the person reporting the suspected abuse for additional relevant and necessary information when making the report to the child welfare agency or police authority.

The state charter school must adopt and implement policies and procedures to effectuate the reporting of suspected child abuse as required by law. The state charter school must provide all school personnel who have contact with students annual training in the identification and reporting of suspected child abuse. The training may be in the form of memoranda, directives, or other written information. Additional information regarding recognizing and reporting suspected child abuse is available from the Georgia Department of Education [here](#).

## **Unlawful Conduct at or Near a Public School**

### *Overview*

A state charter school is expected to enforce provisions of law related to unlawful conduct at or near a public school. This includes provisions relating to restricting visitors, removing unauthorized individuals, contacting law enforcement when individuals disrupt the school environment, and restricting weapons on school property. The provisions outlined below are common provisions regarding unlawful conduct at a public school. There are additional provisions of law that protect students and staff of a public school. A state charter school should take any step appropriate to protect the health and safety of its students and staff.

## **Loitering at a Public School**

*State Law:* [O.C.G.A. § 20-2-1180](#)

No individual may remain on the premises of a school when that person does not have a legitimate cause or need to be at the school. The school principal or his or her designee has the authority to exercise control over the buildings and grounds of the school to prohibit any person who does not have legitimate cause or need to be present from remaining on the premises. If necessary, the school principal or designee must notify the appropriate law enforcement agency to prohibit the individual without legitimate cause or need from loitering on the premises.

Any person other than a student, employee of the state charter school, governing board member, approved volunteer, or other school invitee, must present themselves at the designated check in and provide a reason for his or her presence at the school. The state charter school should post signs at entrances to the school requiring visitors to check in at the designated location, and such signs are evidence that individuals entering the school are on notice of the check-in requirements. A school administrator or designee may ask any visitor at any time while school is in session to explain his or her presence.

Any person who willfully fails to remove himself or herself from the school premises after the principal or designee requests him or her to do so or fails to check in at the designated location is guilty of a misdemeanor of a high and aggravated nature.

## **Disrupting a Public School**

*State Law:* [O.C.G.A. § 20-2-1181](#)

No individual may knowingly, intentionally, or recklessly disrupt or interfere with the operation of any public school, public school bus, or designated public school bus stop. Any individual that commits this violation is guilty of a misdemeanor of a high and aggravated nature.

## **Insulting or Abusing School Personnel in the Presence of Minors**

*State Law:* [O.C.G.A. § 20-2-1182](#)

Any individual other than a student at the state charter school who has been advised that minors are present and who continues to upbraid, insult, or abuse any teacher, administrator, or bus driver in the presence of and hearing of a student while on the premises of the school may be ordered to leave the premises by the school personnel. Failure of that person to leave the school premises is a misdemeanor.

## **Reporting of Students Committing Certain Acts**

*State Law:* [O.C.G.A. § 20-2-1184](#)

Any employee of a state charter school who has reasonable cause to believe that a student at the school committed any of the following acts on school property or at a school function must immediately report the act and the name of the student to the school principal or designee:

- Aggravated assault involving a firearm (in violation of O.C.G.A. § 16-5-21);
- Aggravated battery (in violation of O.C.G.A. § 16-5-24);
- Sexual offenses (in violation of O.C.G.A. § 16-6-1 et. seq.);
- Carrying a weapon or long gun in an unauthorized location (in violation of O.C.G.A. § 16-11-127);
- Carrying weapons on school property, at a school function, or within a school safety zone (in violation of O.C.G.A. § 16-11-127.1);
- Illegal possession of a handgun by a person under 18 years of age (in violation of O.C.G.A. § 16-11-132); and
- Possession and other activities regarding marijuana and controlled substances (in violation of O.C.G.A. § 16-13-30).

The principal or designee receiving this report who has reasonable cause to believe that the report is valid must make an oral report immediately to the appropriate police authority and district attorney.

Any person making a report under this law who is acting in good faith is immune from any civil or criminal liability. Any person required to make a report under this law that knowingly and willfully fails to do so is guilty of a misdemeanor.

## **Carrying Weapons in a School Safety Zone**

*State Law:* [O.C.G.A. § 16-11-127.1](#)

No individual may carry, possess, or have under their control a weapon or explosive compound while within a school safety zone or at a school building, school function, school property, or school bus. A school safety zone is defined as any real property owned or leased to the state charter school. A weapon as defined by the law is a broad term that includes many instruments, including but not limited to firearms, knives, bludgeoning and flailing equipment, projectiles, and stun guns. Weapons under the law do not include baseball bats or other sports equipment for legitimate athletic purposes or firearms when used for organized sport or training.

Certain law enforcement personnel are exempt from the provisions of the law and may carry a weapon on school property. Additionally, individuals licensed to carry weapons that are on campus for a legitimate reason (such as picking up or dropping off a student or serving as a teacher) may possess a weapon in a school safety zone in a locked compartment of a motor vehicle or one which is in a locked container in or a locked firearms rack which is on a motor vehicle. Individuals who are not licensed to carry weapons in accordance with applicable law may keep a weapon in his or her



vehicle in a locked compartment within the vehicle when that vehicle is being used by someone 21 years of age or older and he or she is dropping off or picking up a student at the school or official school function. The provisions of the law apply at all times, even when school is not in session. Violation of the law by a licensed individual is a misdemeanor, and violation of the law by an unlicensed individual is a felony. Violation of the law by any individual with a dangerous weapon or machine gun is a felony.

## School Safety Plans

*State Law:* [O.C.G.A. § 20-2-1185](#)

Each state charter school must complete a school safety plan. The school safety plan is designed to address and respond to violent incidents to promote a safe learning environment for students and healthy school climate for employees. The school safety plan also addresses preparedness for natural disasters, hazardous materials, or radiological accidents, acts of violence, and acts of terrorism. Further, the plans must be prepared with input from the stakeholders identified in the relevant statute and provide for the coordination with local law enforcement agencies and the local juvenile court system. The substance of school safety plans must meet the requirements of the applicable statute. Additionally, the security of students in the school safety zone and transportation to and from school and school functions must be included in the school safety plan.

The school safety plan must be reviewed and updated on an annual basis. The state charter school must submit the school safety plan to the local emergency management agency, the local law enforcement agency, and the Georgia Emergency Management and Homeland Security Agency (GEMA) for approval. The GEMA provides training and technical assistance in the development of school safety plans.

In addition, state charter schools must conduct drills with school administrators, teachers, and other school personnel on the execution of school safety plans as recommended by the GEMA. By October 1 of each school year, each state charter school must conduct an intruder alert drill for students, school administrators, teachers, and other school personnel based upon guidance from the GEMA. The completion of such drills shall be promptly reported to the GEMA.

All students shall participate in intruder alert drills. However, the governing board may provide an option for parents or guardians to opt-out in writing.

More information on school safety planning is available from the Georgia Emergency Management Agency [here](#).

## Alcoholic Beverages on School Property

*State Law:* [O.C.G.A. § 3-3-21.1](#)

Except when used by a teacher for educational purposes or as part of a religious ceremony or observance, no individual may possess any alcoholic beverage on the grounds of any public school.

## Facilities Requirements Relating to Health and Safety

*State Law:* [O.C.G.A. § 20-2-260, 20-2-2065](#)

*SBOE Rules:* [160-5-4-.10, 160-5-4-.15, 160-5-4-.16](#)

The State Board of Education, through the Georgia Department of Education, is charged with ensuring that all public school facilities are located, built, and maintained in a manner that protects



the health and safety of students. To effectuate that duty, the Georgia Department of Education Facilities Services Division plays an active role in the development and maintenance of school facilities and will assist the state charter school in finding creative solutions to meet its needs while ensuring student safety.

Each state charter school with a facility must receive a site code, facility code, and school code from the Georgia Department of Education Facilities Services Division prior to housing students at a facility. Depending on the state charter school's proposed facility, this may require submitting plans and specifications, conducting a risk-hazard assessment, an environmental assessment, or other documentation needed to verify the school meets the safety requirements. The Facilities Services Division will review the site and building data to determine if the proposed facility can serve as a public school and will provide specific feedback regarding any necessary changes to the facility that are required prior to the facility's use as a public school.

No municipality, county, or local political subdivision may require a state charter school that has passed the Facilities Services Division review and that holds a valid certificate of occupancy to obtain any other licensure to operate the school, including, but not limited to, a business license, professional license, or occupational tax certificate. However, any for-profit vendor of the charter school must comply with all applicable requirements for conducting business in the state. State Charter Schools must adhere to all applicable zoning, planning, and building permitting requirements when constructing or renovating a facility.

The Georgia Department of Education Facilities Services Division has specific guidance for charter schools in meeting facility safety requirements [here](#).

## School Bus Operational and Safety Requirements

### *Overview*

Laws relating the operation of school buses and the safety of students during transportation are contained in both Title 20 of the Official Code of Georgia Annotated and Title 40 of the Official Code of Georgia Annotated. Generally, transportation laws in Title 20 are included in the broad flexibility waiver utilized by state charter schools as such laws usually relate to the operation of buses in a manner not related to student safety. There are, however, a few laws in Title 20 that relate to student safety in transportation, and as a result, all state charter schools must adhere to those requirements. Additionally, all state charter schools must adhere to all transportation laws in Title 40 as the broad flexibility waiver only waives laws included in Title 20.

## Student Transportation

*State Law:* [O.C.G.A. § 20-2-188](#)

State charter schools may authorize vehicles other than school buses to transport students with an IEP or students eligible for McKinney-Vento Homeless Assistance Act for transportation services to or from school. State charter schools must comply with the minimum specifications for vehicles used or contracted to be used for transporting students, including a motor vehicle with a capacity of 8 persons or less that are operated and marked for the transportation of children to and from school and related activities. Minimum specifications may relate to maintenance, repair, inspection, and use of such vehicles and minimum qualifications for the drivers of such vehicles. The SBOE shall require, monitor, and fund a program of safety instruction in the practices of safe riding and emergency bus evacuation drills for both school bus drivers and students riding school buses.

## **Criminal Record Check**

*State Law:* [O.C.G.A. § 20-2-211.1](#)

All bus drivers for a state charter school must be fingerprinted and be the subject of a criminal record check as required by O.C.G.A. § 20-2-211.1. These requirements are discussed in more detail above in the section entitled Criminal Record Checks of Personnel.

## **Student Safety on Buses Generally**

*SBOE Rule:* [160-5-3-.13](#), [160-5-3-.14](#)

State charter schools that conduct a transportation program must provide annual instruction to students in safe riding practices and emergency evacuation. The state charter school must not exceed 120% of the manufacturer's rated seating capacity of the bus, and no audio speakers used for music or entertainment can be located in the driver's compartment of the school bus. No explosives or combustible materials may be transported on a school bus at any time. No student may be on a school bus while it is being fueled.

## **Student Conduct on Buses to Promote Safety**

*State Law:* [O.C.G.A. § 20-2-751.5](#)

State charter schools must enforce a student code of conduct that prohibits certain conduct and actions on school buses that may interfere with the orderly operation of the bus. Students must be prohibited from acts of physical violence, bullying, physical assault or battery, verbal assault, disrespectful conduct towards the school bus driver, and other unruly conduct. Additionally, students must be prohibited from using electronic devices during the operation of a school bus, including, but not limited to cell phones; pagers; radios, compact disc, or other music players without headphones; and any other electronic device in a manner that might interfere with the school bus communications equipment or the driver's operation of the school bus. Students must also be prohibited from using mirrors, lasers, flash cameras, and other lights or reflective devices in a manner that might interfere with the driver's operation of the school bus.

## **Transportation When Detrimental to a Student's Health**

*State Law:* [O.C.G.A. § 20-2-1073](#)

A state charter school cannot transport any student to or from school if a physician licensed in Georgia has certified to the state charter school in writing that the transportation of that student would be detrimental to the health of the student. A state charter school may not use any public funds for the transportation of such students, and the transportation of students when detrimental to a student's health is a misdemeanor.

## **Insurance**

*State Law:* [O.C.G.A. § 20-2-1090 et. seq.](#)

*SBOE Rule:* [160-5-3-.04](#)

A state charter school must maintain insurance policies that insure the school children being transported against bodily injury or death resulting from an accident or collision. The amount of the insurance is in the discretion of the state charter school but must be consistent with the terms of the school's charter and State Board of Education Rule 160-5-3-.04, which requires a minimum of: \$100,000 per person and \$300,000 per accident of liability coverage, \$50,000 of property damage coverage, and \$5,000 in medical and death payment coverage. The insurance policy must be kept and maintained by the state charter school and be available for review by parents and the general public upon request.

## Definition of a School Bus

*State Law:* [O.C.G.A. § 40-1-1\(55\)](#)

A school bus is defined as:

1. A motor vehicle operated for the transportation of school children to and from school or school activities or for the transportation of children to and from church or church activities. Such term shall not include a motor vehicle with a capacity of 15 persons or less operated for the transportation of school children to and from school activities or for the transportation of children to and from church or church activities if such motor vehicle is not being used for the transportation of school children to and from school; or
2. A motor vehicle operated by a local transit system which meets the equipment and identification requirements of Code Section 40-8-115; provided, however, that such vehicle shall be a school bus only while transporting school children and no other passengers to or from school.

## Licenses for Bus Drivers

*State Law:* [O.C.G.A. § 40-5-147; 40-5-150](#)

All bus drivers for state charter schools must have and maintain appropriate licensure issued by the Georgia Department of Driver Services for operating a school bus. A Commercial Driver's License (CDL) with passenger and school bus endorsements is required for operating a school bus. Applicants for a CDL with passenger and school bus endorsements must pass a general knowledge test for the CDL and each endorsement. The applicant must also pass a driving skills test using the same vehicle group as the applicant will drive. More information regarding the licensure requirements of school bus drivers is available from the Georgia Department of Driver Services [here](#).

## Uniform Rules of the Road

*State Law:* [O.C.G.A. § 40-6-1 et. seq.](#)

All school buses must be operated in accordance with the uniform rules of the road generally and requirements for school buses specifically. In addition to the generally applicable rules of the road, bus drivers must adhere to the specific legal requirements for school buses included in the statute.

## School Bus Equipment

*State Law:* [O.C.G.A. § 40-8-110 et. seq.](#)

*SBOE Rules:* [160-5-3-.01](#), [160-5-3-.03](#)

All school buses operated by state charter schools must adhere to the school bus specifications adopted by the State Board of Education and must be kept in good working condition. The current school bus specifications adopted by the State Board of Education are available [here](#). All school buses must be National School Bus Chrome Yellow and identified with the words “School Bus” in letters at least eight inches high on the front and rear of the bus. Each school bus must be inspected annually by an employee of the Department of Public Safety. A state charter school may not operate a school bus until it receives a certificate of safety inspection for the school bus.

## Other Requirements

### Gender Equity

*State Law:* [O.C.G.A. § 20-2-315](#)

*SBOE Rule:* [160-5-1-.20](#)

In addition to Title IX of the Educational Amendments Act of 1972, state law prevents discrimination on the basis of gender in interscholastic or intramural athletics. State charter schools that offer interscholastic or intramural athletics must take all reasonable efforts to ensure an equal athletic opportunity for members of both genders. State law, like Title IX, requires a state charter school to establish a grievance procedure and appoint an employee to coordinate compliance efforts. This may be the same grievance procedure and employee coordinator the state charter school adopted to comply with Title IX.

### Brief Period of Quiet Reflection

*State Law:* [O.C.G.A. § 20-2-1050 et seq.](#)

Each state charter school must, at the beginning of school each day, conduct a brief period of quiet reflection for no more than 60 seconds. The law states that the period of quiet reflection is not intended to be and shall not be used as a religious service or exercise. Instead, the period of quiet reflection should be considered as an opportunity for a moment of silent reflection on the anticipated activities of the day. No teacher, principal, or other representative of the state charter school may require or prescribe any particular method or manner in which a child participates in the period of quiet reflection. Each student in the state charter school must be free to participate or refuse to participate in the period of quiet as he or she desires in a manner consistent with his or her beliefs.

## Chapter Six – Listing of Laws Related to Personnel

### Overview

This chapter will very briefly list and describe statutes that relate to the management of state charter school staff. This chapter will **not** provide the level of detail found in previous chapters as employment law is extremely intricate and case-specific – particularly as applied to charter schools. This guide is not exhaustive. There will be laws that apply to charter schools that are not discussed herein. Instead, the following listing is intended to serve as a starting point for further study and inquiry. Further, this guide will not address employees' rights of Freedom of Speech, academic freedom of teachers, sovereign immunity, vicarious liability, *in loco parentis*, and other employer-employee legal principles that affect school operations. It is the responsibility of each state charter school to consult legal counsel for definitive requirements of law and advice.

The links in the citations to the United States Code do not permit immediate access to the code section identified. To access the relevant code section, enter the title and section of the code section in the appropriate fields on the weblink. The title is the first number that appears before the abbreviation "U.S.C." The section is the number that immediately follows the abbreviation "U.S.C." For the citation 29 U.S.C. 201, 29 is the title number; 201 is the section number.

### The Fair Labor Standards Act

*Federal Law:* [29 U.S.C. § 201 et. seq](#)

*Federal Regulations:* [29 C.F.R. Chapter V](#)

The Fair Labor Standards Act (FLSA) is a comprehensive labor law that establishes requirements related to minimum wages, overtime pay, recordkeeping, and child labor. The federal minimum wage established by the FLSA is \$7.25 per hour. Generally, employers covered by the FLSA must provide overtime pay to employees who work over 40 hours in a workweek. Certain employees in executive, administrative, and professional roles are exempt from FLSA overtime provisions. The FLSA requires employers to display a poster outlining the requirements of the FLSA and maintain employee time and payment records.

More information regarding the FLSA is available from the United States Department of Labor [here](#).

### The Family Medical Leave Act

*Federal Law:* [29 U.S.C. 2601, et seq.](#)

*Federal Regulations:* [29 C.F.R. Part 825](#)

The Family Medical Leave Act (FMLA) provides eligible employees unpaid and job-protected leave for certain family and medical reasons. Generally, eligible employees are those that worked for the employer for at least 12 months, worked at least 1,250 hours in the 12 months preceding the leave, and work at a site with at least 50 employees within 75 miles. Eligible employees are entitled to 12 workweeks of unpaid leave in a 12-month period for specific medical reasons.

Also, eligible employees may utilize 26 workweeks of unpaid leave in a 12-month period to care for a covered service member with a serious injury or illness if that eligible employee is the servicemember's spouse, son, daughter, parent, or next of kin.

More information regarding the FMLA is available from the United States Department of Labor [here](#).

## The Civil Rights Act of 1964

*Federal Law:* [42 U.S.C. § 2000e et. seq.](#)

*Federal Regulations:* [29 C.F.R. Chapter XIV](#)

Title VII of the Civil Rights Act prohibits employment discrimination based on race, color, religion, sex, and national origin. Discrimination includes directly treating someone unfavorably because of their protected status and enforcing policies that have a greater impact on persons because of their protected status. Discrimination also includes harassment by supervisors and coworkers. All aspects of employment must be free from discrimination, including hiring, separation, compensation, job assignments, promotions, training, and benefits.

More information regarding the Civil Rights Act is available from the United States Equal Employment Opportunity Commission [here](#).

## The Age Discrimination in Employment Act

*Federal Law:* [29 U.S.C. § 621 et. seq.](#)

*Federal Regulations:* [29 C.F.R. Part 1625](#), [1626](#), and [1627](#)

The Age Discrimination in Employment Act (ADEA) prohibits employment discrimination based on the age of employees who are over the age of 40. Discrimination includes directly treating someone unfavorably because he or she is over 40 and enforcing policies that have a greater impact on persons who are over the age of 40. Discrimination also includes harassment by supervisors and coworkers. All aspects of employment must be free from discrimination, including hiring, separation, compensation, job assignments, promotions, training, and benefits.

More information regarding the ADEA is available from the United States Equal Employment Opportunity Commission [here](#).

## The Americans with Disabilities Act

*Federal Law:* [42 U.S.C. § 12111 et. seq.](#)

*Federal Regulations (employees):* [29 C.F.R. Part 1630](#)

The Americans with Disabilities Act (and Section 504 of the Rehabilitation Act) prohibits employment discrimination on the basis of an individual's disability or history of a disability. Discrimination includes directly treating someone unfavorably because of their disability and enforcing policies that have a greater impact on persons because of their disabilities. Discrimination also includes harassment by supervisors and coworkers. All aspects of employment must be free from discrimination, including hiring, separation, compensation, job assignments, promotions, training, and benefits. Employers must provide reasonable accommodations to an employee or job applicant with a disability unless the accommodation would cause an undue hardship for the employer. The Americans with Disabilities Act defines an individual with a disability as one who has a physical or mental impairment that substantially limits a major life activity. A person may also be protected from discrimination if they have a history of a disability or are regarded as an individual with a disability.

More information regarding the ADA is available from the United States Department of Justice [here](#).

## The Pregnancy Discrimination Act

*Federal Law:* [42 U.S.C. § 2000e et. seq.](#)

*Federal Regulations:* [29 C.F.R. Part 1604](#)

The Pregnancy Discrimination Act (PDA) is an amendment to the Civil Rights Act that prohibits employment discrimination on the basis of pregnancy. Discrimination includes directly treating an employee unfavorably because she is pregnant and harassment by supervisors and coworkers of an employee who is pregnant. All aspects of employment must be free from discrimination, including hiring, separation, compensation, job assignments, promotions, training, and benefits. An employer must ensure that employees who are pregnant are subject to the same policies and procedures as those who are not. In other words, an employer cannot require pregnant employees to provide additional documentation or submit to special procedures that are not required of other workers. More information regarding the PDA is available from the United States Equal Employment Opportunity Commission [here](#).

## The Genetic Information Nondiscrimination Act

*Federal Law:* [42 U.S.C. § 2000ff et. seq.](#)

*Federal Regulations:* [29 C.F.R. Part 1635](#)

Title II of the Genetic Information Nondiscrimination Act (GINA) prohibits employers from discriminating against employees or applicants because of genetic information. Genetic information includes information about a person's genetic tests, manifestation of a disease or disorder in an individual's family (such as a family medical history), and genetic tests of an individual's family. Except in very limited circumstances, an employer may not inquire as to an employee's family medical history. In the event an employer does have access to an employee's genetic information, the employer must ensure that the information is kept confidential. All aspects of employment must be free from discrimination, including hiring, separation, compensation, job assignments, promotions, training, and benefits.

More information regarding GINA is available from the United States Equal Employment Opportunity Commission [here](#).

## The Equal Pay Act

*Federal Law:* [29 U.S.C. § 206\(d\)](#)

*Federal Regulations:* [29 C.F.R. Part 1620](#)

The equal pay act requires employers to compensate employees without regard to gender. In other words, male and female employees must receive the same compensation for substantially equal work. All aspects of compensation are covered by the Equal Pay Act, including salary, bonuses, benefits, allowances, and reimbursements.

More information regarding the Equal Pay Act available from the United States Equal Employment Opportunity Commission [here](#).

## The Uniformed Services Employment and Reemployment Rights Act

*Federal Law:* [38 U.S.C. § 4301 et. seq.](#)

*Federal Regulations:* [20 C.F.R. Part 1002](#)



The Uniformed Services Employment and Reemployment Rights Act (USERRA) protects the employment and reemployment rights of members of the uniformed services. An employer may not discriminate on the basis of an applicant or employee's past, present, or future membership in the uniformed services. Additionally, an employee is entitled to reemployment after a leave of absence for service in the uniformed service if the employee provided advance notice of the military service, served in the uniformed service for less than five years (the service may be longer in some cases), reported back to work within certain time limits, and the employee was not separated from service with a disqualifying discharge. If the employee is entitled to reemployment, he or she must be restored to the job and benefits he or she would have attained had the leave of absence not occurred. The uniformed services include active and reserve members of the: Army, Navy, Marine Corps, Air Force, Coast Guard, Army National Guard, Air National Guard, and the Commissioned Corps of the Public Health Service.

More information regarding USERRA is available from the United States Department of Labor [here](#).

## **The Affordable Care Act**

*Federal Law:* [42 U.S.C. 18001 et. seq.](#)

The Affordable Care Act (ACA) is a comprehensive health care reform law that requires most individuals to obtain health insurance and establishes guidelines for health insurance plans. Individuals and businesses will be assessed fees for failing to obtain health insurance or offering plans to employees that do not meet the guidelines required by law.

## **Criminal Record Checks of Personnel**

*State Law:* [O.C.G.A. § 20-2-211.1](#)

Please see the description of requirements relating to criminal record checks of Personnel in [Chapter Five](#).

## **Employee Evaluations**

*State Law:* [O.C.G.A. § 20-2-210 et. seq.](#)

Please see the description of requirements relating to employee evaluations in [Chapter Five](#).

## **Math and Science Teacher Supplement**

*State Law:* [O.C.G.A. § 20-2-212.5](#)

State charter schools that employ teachers who are certified in mathematics or science by the Georgia Professional Standards Commission and teach in those areas receive additional funding for the salary of those teachers. The funding supplement is based, among other things, on the grade level taught. State charter schools have the flexibility to set compensation for individual teachers without regard to the state salary schedule. However, any additional funding received by a school pursuant to the Math and Science Teacher Supplement must be provided to the teachers who earned that funding and not allocated for any other purpose. A state charter school that does not



provide the Math and Science Supplement to teachers that earned the compensation is violating the rights of those teachers, in violation of O.C.G.A. § 20-2-2065(b)(5).

## **The Teachers Retirement System of Georgia**

*State Law:* [O.C.G.A. § 47-3-1 et. seq.](#)

All state charter schools have certain responsibilities related to employees covered by the Teachers Retirement System of Georgia (TRS). These responsibilities include remitting the required monthly employee and employer contributions to TRS and maintaining employment records and member information. All teachers in a state charter school are required to participate in TRS as a condition of their employment. Laws relating to TRS define “teacher” very broadly. As a result, most employees of a state charter school are required to participate in TRS.

More information regarding TRS is available at its website [here](#).

## **Verification of Lawful Residence**

*State Law:* [O.C.G.A. § 13-10-90 et. seq.](#)

Every public employer, including state charter schools, must register and participate in E-Verify to verify employment eligibility of all newly hired employees. E-Verify is an electronic service provided by the United States Homeland Security that allows employers to determine the eligibility of employees to work in the United States.

More information regarding E-Verify is available at the United States Department of Homeland Security [here](#).