



ALAN WILSON
ATTORNEY GENERAL

May 8, 2013

The Honorable Todd K. Atwater
Representative, District No. 87
P.O. Box 1056
Lexington, South Carolina 29071

Dear Representative Atwater,

You have requested an opinion of this Office as to whether the South Carolina Public Charter School District (the "District") can require charter schools it has sponsored to perform certain accounting tasks. By way of background, you indicate that the South Carolina Charter Schools Act requires charter schools to submit to their sponsoring school district an annual report. The sponsoring school district is then required to compile these reports from each sponsored school district into a single document and submit it to the Department of Education (the "Department"). You indicate the following actions of the District are the subject of this opinion:

[The District] has placed additional requirements on its sponsored charter schools – beyond reporting – requiring them to log into the District's financial accounting software (Smartfusion) monthly and make *accounting entries* so that "Smartfusion mirrors the schools' books." "A letter of non-financial compliance could be sent to the school" for failure to comply with this requirement. These accounting entries are actual Journal Entries (debiting and crediting accounting codes).

(Emphasis in original).

Furthermore, as indicated by one of your constituents:

The District purchased CSI Financial Software and attempted to develop a reporting module that would allow its sponsored schools – with different financial accounting software – to interface with CSI and provide seamless reporting. When this development failed this past Spring, the District began requiring the schools to log into the District's financial accounting software and make actual accounting entries so that the District's books mirrored the schools' books. This mirroring requirement was due wholly to the District's reporting requirements to their higher-ups and was not based on any reporting requirements of the school.

....

(Emphasis in original).

With this information in mind, you specifically ask whether the District can “place requirements on its sponsored schools beyond ‘reporting’ as required by the Law, whereby the District requires its sponsored charter schools to perform accounting tasks for the District so that the District can have its books mirrored to the schools’ books in order to meet its own reporting requirements?”

Law/Analysis

As indicated in your letter, the question presented is generally governed by the South Carolina Charter Schools Act (the “Act”), S.C. Code §§ 59-40-10 *et seq.* Numerous provisions of the Act govern relations between, and the responsibilities of, charter schools and their sponsors. The “sponsor” at issue in this case is the District.¹

As you indicate, the Act requires charter schools to submit an annual audit report to their sponsors. S.C. Code § 59-40-50(B)(3) states that charter schools must “adhere to the same financial audits, audit procedures, and audit required as are applied to public schools.” See also § 59-40-140(G) (indicating § 59-40-50(B)(3) requires a charter school to submit an “annual audit report” to their sponsor). Subsection (H) of § 59-40-140 provides that “a charter school shall report at least annually to its sponsor and the sponsor shall compile those reports in a single document which must be submitted to the [Department of Education].” § 59-40-140(H). That subsection goes on to state that such an annual report submitted by a charter school to its sponsor “shall provide all information required by the sponsor or the department” as well as certain other enumerated information. *Id.* (emphasis added).

The Act also sets forth the responsibility of the District and other sponsors with regards to financial audits and monitoring of sponsored charter schools. Subsection (E) of § 59-40-230, which applies exclusively to the District, provides that the District shall, *inter alia*:

(1) exercise general supervision over public charter schools sponsored by the district;

....

(8) keep financial records in accordance with state and federal accounting codes and procedures; [and]

....

(10) procure an outside annual certified financial audit on funds and submit to the State Department of Education as required by the State Department of Education

.....

§ 59-40-230(E).

¹ See § 59-40-40(4) (“‘Sponsor’ means the South Carolina Public Charter School District Board of Trustees [or] the local school board of trustees in which the charter school is to be located ... from which the charter school applicant requested its charter and which granted approval for the charter’s school’s existence”).

In addition, subsection (A) of § 59-40-55 provides that the District, as a charter school sponsor, shall, *inter alia*:

....

(4) monitor, **in accordance with charter contract² terms**, the performance and legal/fiscal compliance of charter schools to include collecting and analyzing data to support ongoing evaluation **according to the charter contract**;

(5) conduct or require oversight activities that enable the sponsor to fulfill its responsibilities outlined in this chapter, including conducting appropriate inquiries and investigations, **only if those activities** are consistent with the intent of this chapter, **adhere to the terms of the charter contract**, and do not unduly inhibit the autonomy granted to public charter schools;

(6) collect, in accordance with Section 59-40-140(H), an annual report from each of its sponsored charter schools and submit the reports to the Department of Education

§ 59-40-55(A) (emphasis added).

It is clear from the provisions of § 59-40-55(A) quoted above that a charter school's duties with regards to fiscal compliance and auditing are not necessarily limited to the submission of an annual audit report to its sponsor. According to subsection (A)(4), the District has the power to collect data for the purpose of monitoring "the performance and legal/fiscal compliance of charter schools." § 59-40-55(A)(4). However, such data collection and monitoring must be conducted "in accordance with charter contract terms." *Id.* In addition, § 59-40-55(A)(5) empowers the District to require certain oversight activities with regards to sponsored charter schools that enable the District "to fulfill its responsibilities outlined in this chapter" such as its financial, accounting, and auditing responsibilities set forth in § 59-40-230(E). However, this power is also limited in that it may only be exercised to the extent consistent with the terms of the charter contract and the intent of the Act, and to the extent it does not "unduly inhibit the autonomy granted to public charter schools." § 59-40-55(A)(5).

Accordingly, it is clear from the plain language³ of the § 59-40-55(A) that, generally, the District may require a charter school to perform accounting tasks beyond that required for the school's annual audit report if such requirements are consistent with the terms of the charter school contract. However, the determination of whether any such additional requirements are consistent with the terms of a charter school contract is a factual question which must be answered on a case-by-case basis; thus, such a determination is beyond the scope of an opinion of this Office. See *Op. S.C. Att'y Gen.*, 2010 WL

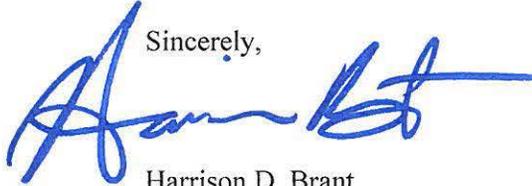
² The Act defines a "charter school contract" as "a fixed term, renewable contract between a charter school and a sponsor that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract." § 59-40-40(9).

³ See *Hodges v. Rainey*, 341 S.C. 79, 86, 533 S.E.2d 578, 581 (2000) ("[Courts] will give words their plain and ordinary meaning, and will not resort to a subtle or forced construction that would limit or expand the statute's operation").

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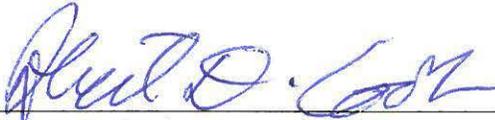
3896162 (Sept. 29, 2010) (“This Office is not a fact-finding entity; investigations and determinations of fact are beyond the scope of an opinion of this Office and are better resolved by a court”). Furthermore, “this Office ordinarily does not review and interpret contractual agreements where it has not participated in the negotiation thereof.” Op. S.C. Att’y Gen., 2013 WL 650578 (Feb. 7, 2013) (quotations omitted). Therefore, we suggest the charter schools consult with an attorney regarding any contractual disputes with the District.

Sincerely,



Harrison D. Brant
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General