

State Charter Schools Commission of Georgia
Notice of Proposed Rulemaking – January 25, 2023

Pursuant to O.C.G.A. § 50-13-4, all interested parties are notified that the State Charter Schools Commission of Georgia (SCSC) is initiating rulemaking procedures to create SCSC Rule 691-2-.10 relating to charter school suspension and probation.

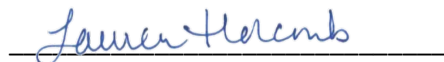
Rulemaking authority is pursuant to O.C.G.A. §§ 20-2-2083 and 20-2-2091. A synopsis and exact copy of the proposed rule are attached to this notice and may be viewed in their entirety at <http://scsc.georgia.gov>. Underlines represent additions and strikethroughs represent deletions.

All interested persons are invited to submit data, views, or arguments, orally or in writing, regarding the proposed rule. Written statements may be submitted electronically at <http://scsc.georgia.gov> by March 15, 2023 or by mailing a copy to the following address by March 13, 2023:

State Charter Schools Commission of Georgia
c/o Erin Wright, Deputy General Counsel
205 Jesse Hill Jr. Drive, SE
Atlanta, Georgia 30334

Alternatively, oral comments may be submitted by contacting the SCSC at (404) 656-2837 by March 15, 2023.

The SCSC will consider the adoption of the proposed creation of the rule at its meeting on March 29, 2023, at 10 a.m. in the State Charter Schools Commission of Georgia Board Room located at 205 Jesse Hill Jr. Drive, SE, East Tower, 13th Floor, Atlanta, Georgia 30334. Individuals wishing to speak at the meeting must contact Crystal Saldana at crystal.saldana@scsc.georgia.gov and are encouraged to also submit their comments in advance pursuant to the process included in this notice.



Lauren Holcomb

Executive Director, State Charter Schools Commission of Georgia

State Charter Schools Commission of Georgia
Synopsis of Rule 691-2-.10 Suspension and Probation

The State Charter Schools Commission of Georgia (SCSC) proposes the creation of Rule 691-2-.10 Suspension and Probation. The rule conveys authority for the SCSC Executive Director to suspend a school that fails to demonstrate adequate preparation to open and to place a school on probationary status in specific circumstances. The rule also permits the board to suspend a school's operations in emergency situations.

691-2-.10 Suspension and Probation

(1) Pre-Opening Suspension

- (a) The governing board of any non-profit organization approved to operate a start-up, replication, or transfer state charter school must demonstrate that the charter school is adequately prepared to begin operations by meeting the State Charter Schools Commission's (SCSC) pre-opening requirements and demonstrating the state charter school's ability to meet the obligations of the charter contract.
- (b) To demonstrate that the charter school is adequately prepared to begin operations, the charter school must meet all SCSC pre-opening requirements in the form and manner prescribed by the SCSC and must demonstrate its compliance with applicable laws; rules of the State Board of Education; rules, and policies of the SCSC; and the charter contract. The SCSC Executive Director shall have the sole discretion to determine whether a charter school has demonstrated adequate preparation for operations.
- (c) If the SCSC Executive Director determines that a charter school has failed to demonstrate adequate preparation to begin operations, the Executive Director may suspend the charter school's opening until the SCSC Executive Director determines that the charter school has demonstrated adequate preparation to begin operations.
- (d) Any pre-opening suspension imposed pursuant to this rule shall not result in the automatic extension of the charter term.

(2) Suspension

- (a) In cases where the physical and/or mental health, safety, or welfare of students or staff of a charter school is in danger or the charter school has experienced financial irregularities, the SCSC may, through a regular or called meeting, suspend the operations of the charter school.
 - 1. If the SCSC suspends the operations of a state charter school, the charter school shall not enroll new students or continue to implement its education program, or otherwise provide instruction to enrolled students. The charter school shall not receive state funding allocations for the period of suspension. The charter school shall not enter any new contractual agreements without prior written consent from the SCSC Executive Director. The charter school shall be prohibited from continuing all but essential functions for the period of suspension.
 - 2. Essential functions include oversight of pre-existing contractual obligations, ensuring the protection of school records, funds, property and equipment, transfer of records to other schools, school districts, or educational providers, and other activities deemed essential by SCSC staff.
- (b) If operations are suspended, the charter school shall be required to provide documents and information to the SCSC in the form and at the time required by the SCSC relevant to school

operations, finance, and academics through the period of suspension and until the end of the suspension period or until such time that the charter contract is terminated pursuant to procedures in 691-2-.04(3).

- (c) Nothing in this subsection shall prohibit a charter school placed on suspension from requesting that the SCSC terminate its charter pursuant to SCSC rule 691-2-.04(4). Such request shall be made in writing to the SCSC. The SCSC shall act upon the request for termination without conducting a hearing.

(3) Placing a Charter on Probationary Status

- (a) The SCSC Executive Director may place a state charter school on probationary status if there is reason to believe that any of the following has occurred or is imminent:

- (i) failure to adhere to any material term of the charter, including but not limited to the performance goals set forth in the charter;
- (ii) repeated failure to adhere to the rules, policies, and guidelines adopted or established by the SCSC;
- (iii) failure to meet generally accepted government accounting (GAAP) standards.
- (iv) violation of applicable federal, state, or local laws or court orders;
- (v) the existence of substantial evidence that the continued operation of the state charter school could be contrary to the best interest of the students or the community;
- (vi) failure to comply with any provisions of O.C.G.A. § 20-2-2065;
- (vii) the governing board has demonstrated an inability to provide effective leadership or otherwise oversee the charter school's operation;
- (viii) failure to disclose material information regarding violations or potential violations of any material term of the charter or applicable federal, state, or local laws or court orders;
- (ix) failure to disclose to the SCSC the conditions that place the health, safety, or welfare of students or staff of the charter school at risk;
- (x) repeated failure to disclose to the SCSC circumstances that may impair or prevent the charter school from implementing the education program required by the charter contract;
- (xi) failure to meet one or more of the academic, financial, and operational standards in the SCSC's Comprehensive Performance Framework (CPF);
- (xii) for schools serving students in grades 8 through 12, loss of accreditation from an agency identified in O.C.G.A. § 20-3-519(6)(A); and,
- (xiii) any other reason that would lead to the eventual termination or non-renewal of the charter if not resolved.

- (b) If a charter school is placed on probation, the following shall apply:

- (i) the SCSC shall provide written notice to the charter school of the reasons for such placement and the duration of probation, not later than five (5) days after the placement;
 - (ii) no later than thirty (30) days after the date of such placement, the charter school shall file with the SCSC a corrective action plan that addresses the reasons outlined for the probation and timeline for remedying those issues;
 - (iii) the SCSC may approve the corrective action plan as submitted; require specific corrective action; or impose additional terms of probation on the school that it deems necessary;
 - (iv) the charter school shall implement the corrective action plan and complete any required corrective or other actions that the SCSC requires;
 - (v) during the term of probation, the SCSC may require the school to file interim reports concerning any matter deemed relevant to the probationary status of the school; non-renewal of the charter; or termination of the charter, including inventory and financial reports or statements.
 - (vi) the SCSC may amend the probation length based on its review of the interim reports or corrective actions.
- (c) The charter school may be removed from probation upon fulfilling the terms of its corrective action plan and upon the SCSC's determination that the conditions which precipitated the probation no longer exist and that no new conditions necessitate probationary status.
- (d) Failure to implement the corrective action plan within the required time; to produce interim reports in the form and at the time required by the SCSC; or, to remediate the conditions that precipitated the probation may result in the SCSC initiating charter termination proceedings consistent with the provisions of SCSC Rule 691-2-.04(3) or providing notice to the charter school of its intent not to renew the charter.
- (e) If the SCSC notifies the school that it will not renew the charter during the probationary period, the charter school shall be required to provide documents and information to the SCSC in the form and at the time required by the SCSC relevant to the school's operations, finance, and academics. The SCSC may require the school to communicate specific information to its stakeholders. If the SCSC requires the school to communicate specific information to its community, the charter school must do so in the form and at the time required by the SCSC.
- (f) The SCSC shall consider a charter school's probationary status at any time, including but not limited to at the time of charter renewal or termination and when considering a return of surplus funds from its authorized administrative withhold to state charter schools.
- (g) No charter school on probation may expand, enroll new students, add additional grades, or be eligible to submit a replication or transfer application without the prior written consent of the SCSC Executive Director.