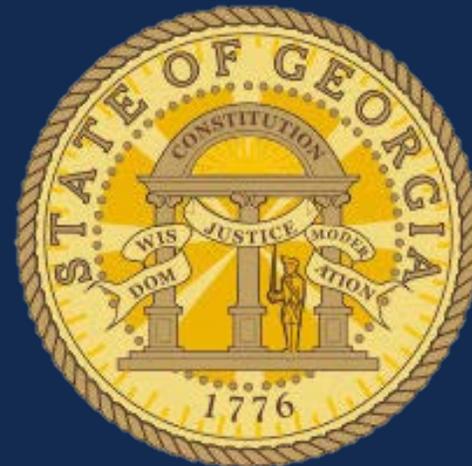


# Legal and Regulatory Compliance

State Charter Schools  
Commission of Georgia



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# Overview

- Legal Requirements Unique to State Charter Schools
  - Board Member Qualifications
  - Board Member Conflicts of Interest
  - Employee Conflicts of Interest
  - Preference in Hiring and Contracting
  - Notice of Enrollment Procedures
  - SCSC Monitoring
- Broad Legal Reminders
  - Open Meetings
  - Open Records
  - Special Education as an LEA
  - Due Process for Students

# Board Member Training

- O.C.G.A. § 20-2-2083(b)(12) provides:  
(b) The commission shall have the following duties:

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(12) Provide for annual training, as determined by the commission, for members of state charter school governing boards. 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.

- O.C.G.A. § 20-2-2084(f) provides:  
The members of the governing board of each state charter school shall participate in annual training conducted by the commission pursuant to paragraph (12) of subsection (b) of Code Section 20-2-2083.

# Board Member Qualifications

- A Member of the Governing Board of a State Charter School MUST be:
  - A United States Citizen
  - A Resident of Georgia
- A Member of the Governing Board of a State Charter School MUST NOT be:
  - An Employee of the School
  - O.C.G.A. § 20-2-2084(e)(1)

# Board Member Conflicts of Interest (By Law)

- A Member of the Governing Board of a State Charter School MUST NOT:
  - 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;
  - 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;
- O.C.G.A. § 20-2-2084(e)(2)

# Board Member Conflicts of Interest (In Other Words)

- A Member of the Governing Board of a State Charter School MUST NOT:
  - 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 that would be perceived as a conflict of interest;
  - Solicit or accept or knowingly allow his or her immediate family member or anything of value to influence the board member in conducting his or her official duties;
- An immediate family member is: spouse, child, sibling, or parent or the spouse of a child, sibling, or parent.

# Board Member Conflicts of Interest (By Law)

- Also, Member of the Governing Board of a State Charter School MUST NOT:
    - 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; or
    - Be an officer or serve on the board of directors of any organization that sells goods or services to that state charter school.
- O.C.G.A. § 20-2-2084(e)(2)

# Board Member Conflicts of Interest (In Other Words)

- A Member of the Governing Board of a State Charter School MUST NOT:
  - Use information not generally available for the purpose of securing financial gain; or
  - Be an officer or serve on the board of directors of any organization that sells goods or services to that state charter school.

# Board Member Conflicts of Interest Examples

- Potential conflicts of interests are notoriously fact-specific.
- Nevertheless, the following are clear examples of prohibited transactions:
  - Fred's father-in-law owns a transportation company that wishes to contract with the state charter school. Fred should recuse himself from any action involving the transportation contract.
  - Hilda is approached by a textbook company that offers her a free vacation if she votes for her state charter school to adopt the company's texts. Hilda should not engage in this transaction (and may wish to report the textbook company).

# Board Member Conflicts of Interest Examples

- Pablo is aware that his state charter school is about to execute a management contract with a new EMO. Pablo considers purchasing a stake in the EMO before the announcement of the contract knowing the value of the company will rise based on their new agreement. Pablo could be in big trouble.
- Nina is the chairperson of a food service company that the state charter school uses as part of its nutrition program. Nina must resign one of her positions.

# Employee Conflict of Interest

- Employees of State Charter Schools MUST NOT:
  - Serve on the board of directors of an organization that sells goods or services to the state charter school.
- “Employee” means an individual that works at the school or an individual that has administrative oversight at a state charter school.

# Preference in Hiring and Contracting

## ■ Preference in Hiring:

- If two candidates are equally qualified, a state charter school must hire the candidate who is a citizen or national of the United States over another individual who is not a citizen or national of the United States.
- Preference does not apply to foreign exchange teachers.
- Prior to hiring an individual other than a citizen or national of the United States or a protected individual as defined in 8 U.S.C. Section 1324b, a state charter school shall receive approval by the commission and demonstrate that qualified teachers and other personnel were sought but not available in such area which warrants hiring an individual other than a citizen or national of the United States or a protected individual as defined in 8 U.S.C. Section 1324b.

■ O.C.G.A. § 20-2-2084(d)(1)

# Preference in Hiring and Contracting

## ■ Preference in Contracting:

- A state charter school must give preference in contracting and purchasing of services and materials to businesses incorporated in Georgia (or qualified to do business within Georgia) that have a regularly maintained and established place of business within the state.
- This preference applies only when two or more businesses are otherwise similarly situated and qualified.

■ O.C.G.A. § 20-2-2084(d)(2)

# Notice of Enrollment Procedures

- O.C.G.A. § 20-2-2083(c)(1) requires the SCSC to establish rules requiring each state charter school to:

Provide adequate notice of its enrollment procedures, including any provision for the use of a random selection process where all applicants have an equal chance of being admitted in the event that the number of applications to enroll in the school exceeds the capacity of the program, grade, or school.

# Notice of Enrollment Procedures

- SCSC Rule 691-2-.05 *State Charter School Student Admissions and Lotteries* outlines requirements related to enrollment procedures.
- Those requirements include:
  - An admissions application that only requests information necessary to allow the state charter school to identify the student and determine the grade to which the student will be enrolled.
  - A written policy adopted by the governing board that details how the admission lottery will be conducted.
  - Active communication of the school's enrollment and admissions opportunities and procedures, beginning no later than two weeks prior to the enrollment or admission opportunity.

# SCSC Monitoring

- All state charter schools are monitored by the SCSC to determine the school's attainment of its performance goals and operational compliance (which includes academic and financial performance).
  - The SCSC monitors student performance data, school reports and audits, and information gathered through site visits.
- SCSC Rule 691-2-.03

# SCSC Monitoring

- Each state charter school must allow the SCSC access to its records, reports, documents, and files for the purposes of monitoring and evaluating and monitoring the school's performance or compliance.
  - Each state charter school must allow the SCSC to conduct onsite inspections of all facilities for the purposes of monitoring the school.
- SCSC Rule 691-2-.03

# Open Meetings

- The governing boards of state charter schools are subject to all provisions of the Georgia Open Meetings Act (O.C.G.A. § 50-14-1 et. seq.).
- A meeting is: A gathering of a quorum of the members of the governing board, **or committee** thereof, of a state charter school at which any official business, policy, or public matter of the state charter school is formulated, presented, discussed, or voted upon.

# Open Meetings

- An agency with state-wide jurisdiction may conduct meetings by teleconference.
- Agencies other than those with statewide jurisdiction may conduct meetings by teleconference only under circumstances necessitated by emergency conditions involving public safety or the preservation of property or public services.
- However, as long as a quorum is present in person, a member may participate by teleconference if necessary due to reasons of health or absence from the jurisdiction so long as the other requirements of the law are met.
- Absent emergency conditions or the written opinion of a physician or other health professional that reasons of health prevent a member's physical presence, no member shall participate by teleconference more than twice in one calendar year.

■ O.C.G.A. § 50-14-1(f) and (g)

# Open Records

- A public record of a state charter school is any tangible or intangible document created, received, or maintained by the school or any entity on behalf of the school.
  - A public record of a state charter school remains a public record of the state charter school even if it is transferred to another party for storage or maintenance.
  - All public records, except for those specifically exempt from disclosure by law or court order, must be available for public review and copying.
  - Common Exemptions:
    - Education records containing personally identifiable student information.
    - Records concerning public employees that reveal the public employee's home address, home telephone number, day and month of birth, social security number, insurance...
- O.C.G.A. § 50-18-70 et. seq.

# Special Education as an LEA

- Under IDEA, each child with a disability is entitled to receive a free appropriate public education (FAPE) through an Individualized Education Program (IEP).
- 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 not turn away a student with a disability because the state charter school does not typically provide services needed by the student.**

■ 20 U.S.C. § 1400 et. seq.

# Special Education as an LEA

- A state charter school must ensure the availability of a continuum of alternative placements to meet the needs of children with disabilities.
- The continuum of placements includes both class placement (general education, special classes, etc.) and supplementary services and aids to be provided in the class or other settings.

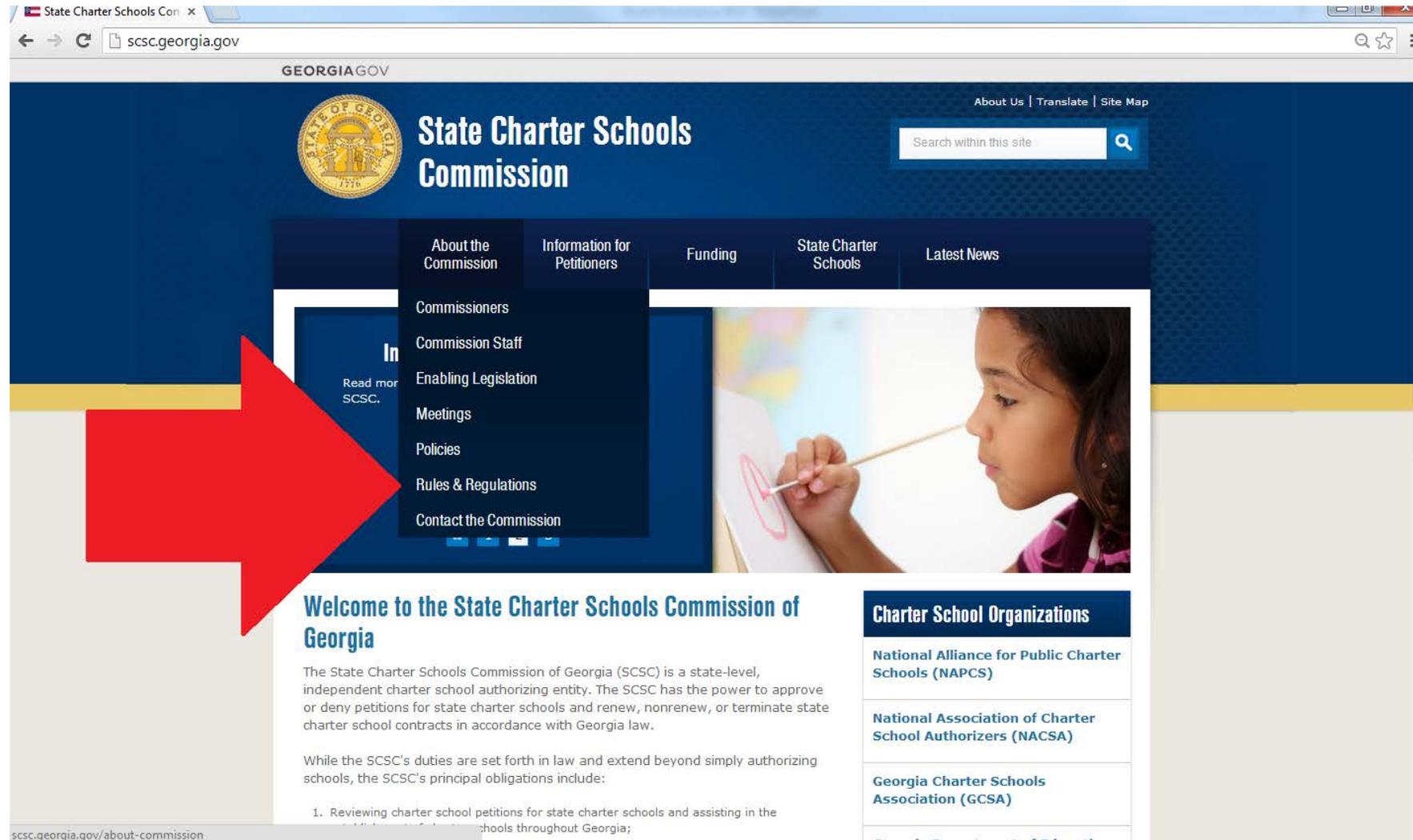
■ 20 U.S.C. § 1412

# Due Process for Students

- A student must be provided due process for each disciplinary action.
- The level of due process afforded to a student will vary depending on the level of discipline.
- Due process may be as simple as providing prior notice that a behavior is unacceptable.
- Due process may be as complicated as providing the student a hearing prior to imposing the disciplinary action.
- **A student should never be the subject of disciplinary action or expulsion due to the actions of his or her parent.**

■ *Goss v. Lopez*, 419 U.S. 565 (1975)

# Where to Find SCSC Rules



The screenshot shows the website for the State Charter Schools Commission of Georgia. The browser address bar displays 'scsc.georgia.gov'. The page header includes the Georgia state seal and the text 'GEORGIA GOV State Charter Schools Commission'. A search bar is located in the top right corner. A navigation menu is open, showing several categories: 'About the Commission', 'Information for Petitioners', 'Funding', 'State Charter Schools', and 'Latest News'. Under 'About the Commission', a sub-menu is visible with the following items: 'Commissioners', 'Commission Staff', 'Enabling Legislation', 'Meetings', 'Policies', 'Rules & Regulations', and 'Contact the Commission'. A large red arrow points from the left towards the 'Rules & Regulations' link. Below the navigation menu, there is a banner image of a young girl drawing on a whiteboard. The main content area features a 'Welcome to the State Charter Schools Commission of Georgia' section with introductory text and a list of principal obligations. On the right side, there is a 'Charter School Organizations' section listing the National Alliance for Public Charter Schools (NAPCS), the National Association of Charter School Authorizers (NACSA), and the Georgia Charter Schools Association (GCSA).

State Charter Schools Commission

GEORGIA GOV

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Search within this site

Information for Petitioners

Commissioners

Commission Staff

Enabling Legislation

Meetings

Policies

Rules & Regulations

Contact the Commission

Welcome to the State Charter Schools Commission of Georgia

The State Charter Schools Commission of Georgia (SCSC) is a state-level, independent charter school authorizing entity. The SCSC has the power to approve or deny petitions for state charter schools and renew, nonrenew, or terminate state charter school contracts in accordance with Georgia law.

While the SCSC's duties are set forth in law and extend beyond simply authorizing schools, the SCSC's principal obligations include:

1. Reviewing charter school petitions for state charter schools and assisting in the...

Charter School Organizations

- National Alliance for Public Charter Schools (NAPCS)
- National Association of Charter School Authorizers (NACSA)
- Georgia Charter Schools Association (GCSA)

scsc.georgia.gov/about-commission

# Where to Find SCSC Guidance

The image displays two screenshots of the State Charter Schools Commission (SCSC) website. The left screenshot shows the main homepage with a navigation menu where 'State Charter Schools' is highlighted. A red arrow points from this menu item to the right screenshot. The right screenshot shows the 'Resources for Existing Schools' page, where a red arrow points to the 'Guidance' link in the left-hand navigation sidebar. The breadcrumb trail at the top of the right page reads: Home » State Charter Schools » Resources for Existing Schools.

**Left Screenshot (Homepage):**

- Search: Search within this site
- Navigation: About the Commission, Information for Petitioners, Funding, **State Charter Schools**, Latest News
- Section: Internships at the Commission (Read more about fall internship opportunities at the SCSC. [READ MORE](#))
- Section: Welcome to the State Charter Schools Commission of Georgia
- Section: Charter School Organizations
  - National Alliance for Public Charter Schools (NAPCS)
  - National Association of Charter School Authorizers (NACSA)
  - Georgia Charter Schools Association (GCSA)

**Right Screenshot (Resources for Existing Schools):**

- Search: Search within this site
- Navigation: About the Commission, Information for Petitioners, Funding, **State Charter Schools**, Latest News
- Breadcrumb: Home » State Charter Schools » Resources for Existing Schools
- Section: Resources for Existing Schools (Please visit the links on the left for information on the availability of resources for current state charter schools.)
- Left Sidebar Navigation:
  - Resources for State Charter Schools
  - Additional Funding Streams
  - Charter School Organizations
  - Training Opportunities
  - Guidance**
  - Recommendations for New Schools
  - Approved Charter Contracts

**Page Footer:**

- Georgia logo: An official website of the State of Georgia
- ELECTED OFFICIALS: Governor, Lieutenant Governor, Attorney General, [More Officials >>](#)
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# Questions

