

By: Representative Ladner

To: Education

HOUSE BILL NO. 1194

1 AN ACT TO AMEND SECTIONS 37-28-5, 37-28-7, 37-28-9, 37-28-11,  
 2 37-28-13, 37-28-19, 37-28-21, 37-28-33, 37-28-37 AND 37-28-49,  
 3 MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF PROVIDING PUBLIC  
 4 UNIVERSITIES AND PUBLIC COMMUNITY AND JUNIOR COLLEGES WITH THE  
 5 AUTHORITY TO SERVE AS CHARTER SCHOOL AUTHORIZERS, WHICH OPERATE  
 6 SEPARATE AND INDEPENDENT OF THE MISSISSIPPI CHARTER SCHOOL  
 7 AUTHORIZER BOARD; AND FOR RELATED PURPOSES.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

9 **SECTION 1.** Section 37-28-5, Mississippi Code of 1972, is  
 10 amended as follows:

11 37-28-5. As used in this chapter, the following words and  
 12 phrases have the meanings ascribed in this section unless the  
 13 context clearly indicates otherwise:

14 (a) "Applicant" means any person or group that develops  
 15 and submits an application for a charter school to \* \* \* an  
 16 authorizer identified under Section 37-28-7.

17 (b) "Application" means a proposal from an applicant to  
 18 the authorizer to enter into a charter contract whereby the  
 19 proposed school obtains charter school status.



20 (c) "Authorizer" means \* \* \* an entity approved under  
21 Section 37-28-7 to review applications, decide whether to approve  
22 or reject applications, enter into charter contracts with  
23 applicants, oversee charter schools, and decide whether to renew,  
24 not renew, or revoke charter contracts.

25 (d) "Charter contract" means a fixed-term, renewable  
26 contract between a charter school and \* \* \* an authorizer which  
27 outlines the roles, powers, responsibilities and performance  
28 expectations for each party to the contract.

29 (e) "Charter school" means a public school that is  
30 established and operating under the terms of charter contract  
31 between the school's governing board and \* \* \* an authorizer. The  
32 term "charter school" includes a conversion charter school and  
33 start-up charter school.

34 (f) "Conversion charter school" means a charter school  
35 that existed as a noncharter public school before becoming a  
36 charter school.

37 (g) "Education service provider" means a charter  
38 management organization, school design provider or any other  
39 partner entity with which a charter school intends to contract for  
40 educational design, implementation or comprehensive management.

41 (h) "Governing board" means the independent board of a  
42 charter school which is party to the charter contract with \* \* \*  
43 an authorizer and whose members have been elected or selected  
44 pursuant to the school's application.



45 (i) "Noncharter public school" means a public school  
46 that is under the direct management, governance and control of a  
47 school board or the state.

48 (j) "Parent" means a parent, guardian or other person  
49 or entity having legal custody of a child.

50 (k) "School board" means a school board exercising  
51 management and control over a local school district and the  
52 schools of that district pursuant to the State Constitution and  
53 state statutes.

54 (l) "School district" means a governmental entity that  
55 establishes and supervises one or more public schools within its  
56 geographical limits pursuant to state statutes.

57 (m) "Start-up charter school" means a charter school  
58 that did not exist as a noncharter public school before becoming a  
59 charter school.

60 (n) "Student" means any child who is eligible for  
61 attendance in a public school in the state.

62 (o) "Underserved students" means students participating  
63 in the federal free lunch program who qualify for at-risk student  
64 funding under the Mississippi Adequate Education Program and  
65 students who are identified as having special educational needs.

66 **SECTION 2.** Section 37-28-7, Mississippi Code of 1972, is  
67 amended as follows:



68           37-28-7. (1) There is created the Mississippi Charter  
69 School Authorizer Board as a state agency with \* \* \* chartering  
70 jurisdiction in the State of Mississippi. \* \* \*

71           (2) (a) The mission of the Mississippi Charter School  
72 Authorizer Board is to authorize high-quality charter schools,  
73 particularly schools designed to expand opportunities for  
74 underserved students, consistent with the purposes of this  
75 chapter. Subject to the restrictions and conditions prescribed in  
76 this subsection, the Mississippi Charter School Authorizer Board  
77 may authorize charter schools within the geographical boundaries  
78 of any school district.

79           (b) The Mississippi Charter School Authorizer Board may  
80 approve a maximum of fifteen (15) qualified charter applications  
81 during a fiscal year.

82           (c) In any school district designated as an "A," "B" or  
83 "C" school district by the State Board of Education under the  
84 accreditation rating system at the time of application, the  
85 Mississippi Charter School Authorizer Board may authorize charter  
86 schools only if a majority of the members of the local school  
87 board votes at a public meeting to endorse the application or to  
88 initiate the application on its own initiative.

89           (3) The Mississippi Charter School Authorizer Board shall  
90 consist of seven (7) members, to be appointed as follows:



91 (a) Three (3) members appointed by the Governor, with  
92 one (1) member being from each of the Mississippi Supreme Court  
93 Districts.

94 (b) Three (3) members appointed by the Lieutenant  
95 Governor, with one (1) member being from each of the Mississippi  
96 Supreme Court Districts.

97 (c) One (1) member appointed by the State  
98 Superintendent of Public Education.

99 All appointments must be made with the advice and consent of  
100 the Senate. In making the appointments, the appointing authority  
101 shall ensure diversity among members of the Mississippi Charter  
102 School Authorizer Board.

103 (4) Members appointed to the Mississippi Charter School  
104 Authorizer Board collectively must possess strong experience and  
105 expertise in public and nonprofit governance, management and  
106 finance, public school leadership, assessment, curriculum and  
107 instruction, and public education law. Each member of the  
108 Mississippi Charter School Authorizer Board must have demonstrated  
109 an understanding of and commitment to charter schooling as a  
110 strategy for strengthening public education.

111 (5) To establish staggered terms of office, the initial term  
112 of office for the three (3) Mississippi Charter School Authorizer  
113 Board members appointed by the Governor shall be four (4) years  
114 and thereafter shall be three (3) years; the initial term of  
115 office for the three (3) members appointed by the Lieutenant



116 Governor shall be three (3) years and thereafter shall be three  
117 (3) years; and the initial term of office for the member appointed  
118 by the State Superintendent of Public Education shall be two (2)  
119 years and thereafter shall be three (3) years. No member may  
120 serve more than two (2) consecutive terms. The initial  
121 appointments must be made before September 1, 2013.

122 (6) The Mississippi Charter School Authorizer Board shall  
123 meet as soon as practical after September 1, 2013, upon the call  
124 of the Governor, and shall organize for business by selecting a  
125 chairman and adopting bylaws. Subsequent meetings shall be called  
126 by the chairman.

127 (7) An individual member of the Mississippi Charter School  
128 Authorizer Board may be removed by the board if the member's  
129 personal incapacity renders the member incapable or unfit to  
130 discharge the duties of the office or if the member is absent from  
131 a number of meetings of the board, as determined and specified by  
132 the board in its bylaws. Whenever a vacancy on the Mississippi  
133 Charter School Authorizer Board exists, the original appointing  
134 authority shall appoint a member for the remaining portion of the  
135 term.

136 (8) No member of the Mississippi Charter School Authorizer  
137 Board or employee, agent or representative of the board may serve  
138 simultaneously as an employee, trustee, agent, representative,  
139 vendor or contractor of a charter school authorized by the board.



140 (9) The Mississippi Charter School Authorizer Board shall  
141 appoint an individual to serve as the Executive Director of the  
142 Mississippi Charter School Authorizer Board. The executive  
143 director shall possess the qualifications established by the board  
144 which are based on national best practices, and shall possess an  
145 understanding of state and federal education law. The executive  
146 director, who shall serve at the will and pleasure of the board,  
147 shall devote his full time to the proper administration of the  
148 board and the duties assigned to him by the board and shall be  
149 paid a salary established by the board, subject to the approval of  
150 the State Personnel Board. Subject to the availability of  
151 funding, the executive director may employ such administrative  
152 staff as may be necessary to assist the director and board in  
153 carrying out the duties and directives of the Mississippi Charter  
154 School Authorizer Board.

155 (10) The Mississippi Charter School Authorizer Board is  
156 authorized to obtain suitable office space for administrative  
157 purposes. In acquiring a facility or office space, the authorizer  
158 board shall adhere to all policies and procedures required by the  
159 Department of Finance and Administration and the Public  
160 Procurement Review Board.

161 (11) In addition to the Mississippi Charter School  
162 Authorizer Board, any public university, junior college or  
163 community college in this state may elect to establish a  
164 department or office to accept applications and authorize



165 contracts for the organization and operation of a charter school  
166 in this state, pursuant to the limitations and requirements of  
167 this section and Sections 37-28-7 and 37-28-9.

168 **SECTION 3.** Section 37-28-9, Mississippi Code of 1972, is  
169 amended as follows:

170 37-28-9. (1) \* \* \* Authorizers, as defined in Section  
171 37-28-5 and identified in Section 37-28-7(11) \* \* \* are  
172 responsible for exercising, in accordance with this chapter, the  
173 following powers and duties:

174 (a) Developing chartering policies and maintaining  
175 practices consistent with nationally recognized principles and  
176 standards for quality charter authorizing in all major areas of  
177 authorizing responsibility, including:

178 (i) Organizational capacity and infrastructure;

179 (ii) Solicitation and evaluation of charter  
180 applications;

181 (iii) Performance contracting;

182 (iv) Ongoing charter school oversight and  
183 evaluation; and

184 (v) Charter renewal decision-making;

185 (b) Approving quality charter applications that meet  
186 identified educational needs and promote a diversity of  
187 educational choices;

188 (c) Declining to approve weak or inadequate charter  
189 applications;





190 (d) Negotiating and executing charter contracts with  
191 approved charter schools;

192 (e) Monitoring, in accordance with charter contract  
193 terms, the performance and legal compliance of charter schools;

194 (f) Determining whether each charter contract merits  
195 renewal, nonrenewal or revocation; and

196 (g) Applying for any federal funds that may be  
197 available for the implementation of charter school programs.

198 (2) \* \* \* An authorizer shall carry out all of its duties  
199 under this chapter in a manner consistent with nationally  
200 recognized principles and standards and with the spirit and intent  
201 of this \* \* \* chapter.

202 (3) \* \* \* An authorizer may delegate its duties to the  
203 executive director \* \* \*, general counsel or office appointed to  
204 manage charter authorizing operations.

205 (4) Regulation by \* \* \* authorizers shall be limited to  
206 those powers and duties prescribed in this section and all others  
207 prescribed by law, consistent with the spirit and intent of this  
208 chapter.

209 (5) Except in the case of gross negligence or reckless  
210 disregard of the safety and well-being of another person, \* \* \* an  
211 authorizer, members of \* \* \* an authorizer's board, acting in  
212 their official capacity, and employees of \* \* \* an authorizer  
213 tasked with managing or executing charter authorizing operations,  
214 acting in their official capacity, are immune from civil liability



215 with respect to all activities related to a charter school  
216 approved by the authorizer.

217 **SECTION 4.** Section 37-28-11, Mississippi Code of 1972, is  
218 amended as follows:

219 37-28-11. (1) To cover the costs of overseeing charter  
220 schools in accordance with this chapter, \* \* \* an authorizer  
221 defined in Section 37-28-5 and identified in Section 37-28-7(11)  
222 shall receive three percent (3%) of annual per-pupil allocations  
223 received by a charter school from state and local funds for each  
224 charter school it authorizes.

225 (2) \* \* \* An authorizer may receive appropriate gifts,  
226 grants and donations of any kind from any public or private entity  
227 to carry out the purposes of this chapter, subject to all lawful  
228 terms and conditions under which the gifts, grants or donations  
229 are given.

230 (3) \* \* \* An authorizer may expend its resources, seek grant  
231 funds and establish partnerships to support its charter school  
232 authorizing activities.

233 **SECTION 5.** Section 37-28-13, Mississippi Code of 1972, is  
234 amended as follows:

235 37-28-13. (1) Upon request, the State Department of  
236 Education shall assist \* \* \* an authorizer defined in Section  
237 37-28-5 and identified in Section 37-28-7(11) with implementing  
238 the authorizer's decisions by providing such technical assistance



239 and information as may be necessary for the implementation of this  
240 chapter.

241 (2) Before July 1 of each year, \* \* \* each authorizer shall  
242 publish a pamphlet, which may be in electronic form, containing:

243 (a) All statutes in Title 37, Mississippi Code of 1972,  
244 which are applicable to the charter schools;

245 (b) Any rules, regulations and policies adopted by the  
246 State Superintendent of Public Education, the State Board of  
247 Education or the State Department of Education with which charter  
248 schools must comply by virtue of the applicability to charter  
249 schools, as well as other public schools, of the state law to  
250 which those relevant rules, regulations and policies pertain; and

251 (c) Any other state and federal laws and matters that  
252 are relevant to the establishment and operation of charter schools  
253 in the State of Mississippi.

254 \* \* \* Each authorizer shall make the pamphlet available to  
255 the public on \* \* \* its website and shall notify all prospective  
256 applicants of the pamphlet.

257 **SECTION 6.** Section 37-28-19, Mississippi Code of 1972, is  
258 amended as follows:

259 37-28-19. (1) In reviewing and evaluating charter  
260 applications, \* \* \* authorizers shall employ procedures, practices  
261 and criteria consistent with nationally recognized principles and  
262 standards for quality charter authorizing. The application review



263 process must include thorough evaluation of each written charter  
264 application and in-person interview with the applicant group.

265 (2) In deciding whether to approve charter  
266 applications, \* \* \* an authorizer must:

267 (a) Grant charters only to applicants that have  
268 provided evidence of competence in each element of the  
269 authorizer's published approval criteria, and in the case of an  
270 applicant that currently operates one or more schools in any state  
271 or nation, clear evidence that the management or leadership team  
272 of the charter school or schools currently operated by the  
273 applicant has produced statistically significant gains in student  
274 achievement or consistently produced proficiency levels as  
275 measured on state achievement test;

276 (b) Base decisions on documented evidence collected  
277 through the application review process; and

278 (c) Follow charter-granting policies and practices that  
279 are transparent, based on merit and avoid conflicts of interest or  
280 any appearance thereof.

281 (3) Before the expiration of one hundred eighty (180) days  
282 after the filing of a charter application, the authorizer in  
283 receipt of such application must approve or deny the charter  
284 application; however, an application submitted by a public  
285 historically black college or university (HBCU), in partnership  
286 with a national nonprofit public HBCU support organization, for a  
287 charter school to be operated on or near the campus of the HBCU



288 must be considered for expedited approval by the authorizer.

289 \* \* \* Authorizers shall adopt by resolution all charter approval  
290 or denial decisions in an open meeting of the authorizers \* \* \*.

291 (4) An approval decision may include, if appropriate,  
292 reasonable conditions that the charter applicant must meet before  
293 a charter contract may be executed pursuant to Section 37-28-21.

294 (5) For a charter denial, the authorizer in receipt of such  
295 application shall state clearly, for public record, its reasons  
296 for denial. A denied applicant may reapply subsequently with the  
297 same authorizer or may submit application for charter status with  
298 a different authorizer.

299 (6) Before the expiration of ten (10) days after taking  
300 action to approve or deny a charter application, the authorizer in  
301 receipt of such application shall provide a report to the  
302 applicant. The report must include a copy of the authorizer's  
303 resolution setting forth the action taken and reasons for the  
304 decision and assurances as to compliance with all of the  
305 procedural requirements and application elements set forth in this  
306 chapter.

307 **SECTION 7.** Section 37-28-21, Mississippi Code of 1972, is  
308 amended as follows:

309 37-28-21. (1) \* \* \* An authorizer shall grant an initial  
310 charter to each qualified applicant for a term of five (5)  
311 operating years. The term of the charter shall commence on the  
312 charter school's first day of operation. An approved charter



313 school may delay its opening for one (1) school year in order to  
314 plan and prepare for the school's opening. If the school requires  
315 an opening delay of more than one (1) school year, the school must  
316 request an extension from the authorizer granting initial charter  
317 status. The authorizer may grant or deny the extension depending  
318 on the particular school's circumstances.

319 (2) (a) \* \* \* An authorizer and the governing board of the  
320 approved charter school shall execute a charter contract that  
321 clearly sets forth the academic and operational performance  
322 expectations and measures by which the charter school will be  
323 judged and the administrative relationship between the authorizer  
324 and charter school, including each party's rights and duties. The  
325 performance expectations and measures set forth in the charter  
326 contract must include, but need not be limited to, applicable  
327 federal and state accountability requirements. The performance  
328 provisions may be refined or amended by mutual agreement after the  
329 charter school is operating and has collected baseline achievement  
330 data for its enrolled students.

331 (b) The charter contract must be signed by either of  
332 the following:

333 (i) The chairman of the Mississippi Charter School  
334 Authorizer Board and the president of the charter school's  
335 governing board;



336                   (ii) The president of a public university electing  
337 to serve as an authorizer, the Commissioner of Higher Education  
338 and the president of the charter school's governing board; or

339                   (iii) The chairman of the board of trustees of a  
340 community or junior college electing to serve as an authorizer and  
341 the president of the charter school's governing board.

342                   (c) A charter school may not commence operations  
343 without a charter contract executed in accordance with this  
344 section and approved in an open meeting of the authorizer \* \* \*  
345 which granted charter status.

346                   (3) \* \* \* Authorizers may establish reasonable preopening  
347 requirements or conditions to monitor the start-up progress of a  
348 newly approved charter school and to ensure that the school is  
349 prepared to open smoothly on the date agreed and that the school  
350 meets all building, health, safety, insurance and other legal  
351 requirements before the school's opening.

352                   **SECTION 8.** Section 37-28-33, Mississippi Code of 1972, is  
353 amended as follows:

354                   37-28-33. (1) A charter may be renewed for successive  
355 five-year terms of duration. The authorizer, which granted  
356 charter status, may grant renewal with specific conditions for  
357 necessary improvements to a charter school and may lessen the  
358 renewal term based on the performance, demonstrated capacities and  
359 particular circumstances of each charter school.



360 (2) Before September 30, \* \* \* each authorizer shall issue a  
361 charter school performance report and charter renewal application  
362 guidance to any charter school under its chartering authority  
363 whose charter will expire the following year. The performance  
364 report must summarize the charter school's performance record to  
365 date, based on the data required by this chapter and the charter  
366 contract, and must provide notice of any weaknesses or concerns  
367 perceived by the authorizer which granted charter status, which  
368 may jeopardize the charter school's position in seeking renewal if  
369 not timely rectified. The charter school must respond and submit  
370 any corrections or clarifications for the performance report  
371 within ninety (90) days after receiving the report.

372 (3) The charter renewal application guidance must provide,  
373 at a minimum, an opportunity for the charter school to:

374 (a) Present additional evidence, beyond the data  
375 contained in the performance report, supporting its case for  
376 charter renewal;

377 (b) Describe improvements undertaken or planned for the  
378 school; and

379 (c) Detail the school's plans for the next charter  
380 term.

381 (4) The charter renewal application guidance must include or  
382 refer explicitly to the criteria that will guide the authorizer's  
383 renewal decision, which must be based on the performance framework





384 set forth in the charter contract and consistent with this  
385 chapter.

386 (5) Before February 1, the governing board of a charter  
387 school seeking renewal shall submit a renewal application to the  
388 respective authorizer which granted charter status pursuant to the  
389 charter renewal application guidance issued by the authorizer.  
390 The authorizer shall adopt a resolution ruling on the renewal  
391 application no later than ninety (90) days after the filing of the  
392 renewal application.

393 (6) In making each charter renewal decision, \* \* \* an  
394 authorizer must:

395 (a) Ground its decision in evidence of the school's  
396 performance over the term of the charter contract in accordance  
397 with the performance framework set forth in the charter contract;

398 (b) Ensure that data used in making the renewal  
399 decision is available to the school and the public; and

400 (c) Provide a public report summarizing the evidence  
401 that is the basis for the renewal decision.

402 (7) A charter contract must be revoked at any time or not  
403 renewed if the authorizer determines that the charter school has  
404 done any of the following or otherwise failed to comply with the  
405 provisions of this chapter:

406 (a) Committed a material and substantial violation of  
407 any of the terms, conditions, standards or procedures required  
408 under this chapter or the charter contract;



409 (b) Failed to meet or make sufficient progress toward  
410 the performance expectations set forth in the charter contract;

411 (c) Failed to meet generally accepted standards of  
412 fiscal management; or

413 (d) Substantially violated any material provision of  
414 law which is applicable to the charter school.

415 (8) \* \* \* Each authorizer shall develop revocation and  
416 nonrenewal processes that:

417 (a) Provide the governing board of a charter school  
418 with a timely notification of the prospect of revocation or  
419 nonrenewal and of the reasons for such possible closure;

420 (b) Allow the governing board a reasonable amount of  
421 time in which to prepare a response;

422 (c) Provide the governing board with an opportunity to  
423 submit documents and give testimony challenging the rationale for  
424 closure and in support of the continuation of the school at an  
425 orderly proceeding held for that purpose;

426 (d) Allow the governing board access to representation  
427 by counsel and to call witnesses on the school's behalf;

428 (e) Permit the recording of such proceedings; and

429 (f) After a reasonable period for deliberation, require  
430 a final determination to be made and conveyed in writing to the  
431 governing board.

432 (9) Notwithstanding any provision to the contrary, \* \* \* an  
433 authorizer may not renew the charter of any charter school that,



434 during the school's final operating year under the term of the  
435 charter contract, is designated an "F" school under the school  
436 accreditation rating system.

437 (10) If \* \* \* an authorizer revokes or does not renew a  
438 charter, the authorizer must state clearly, in a resolution \* \* \*  
439 duly adopted by the authorizer's \* \* \* governing entity, the  
440 reasons for the revocation or nonrenewal.

441 (11) Within ten (10) days after taking action to renew, not  
442 renew or revoke a charter, \* \* \* an authorizer shall provide a  
443 report to the charter school. The report must include a copy of  
444 the authorizer's \* \* \* resolution, duly adopted by the  
445 authorizer's governing entity, setting forth the action taken,  
446 reasons for \* \* \* its decision and assurances as to compliance  
447 with all of the requirements set forth in this chapter.

448 **SECTION 9.** Section 37-28-37, Mississippi Code of 1972, is  
449 amended as follows:

450 37-28-37. (1) Before October 1 of each year, beginning in  
451 the year that the state has had at least one (1) charter school  
452 operating for a full school year, \* \* \* each authorizer with at  
453 least one (1) charter school approved and operating under its  
454 supervision shall issue to the Governor, Legislature, State Board  
455 of Education and the public an annual report on the \* \* \* charter  
456 schools approved and operating under its supervision for the  
457 preceding school year. The report must include a comparison of  
458 the performance of charter school students with the performance of



459 academically, ethnically and economically comparable groups of  
460 students in the school district in which a charter school is  
461 located. In addition, the report must include the authorizer's  
462 assessment of the successes, challenges and areas for improvement  
463 in meeting the purposes of this chapter. The report also must  
464 include an assessment on whether the number and size of operating  
465 charter schools are sufficient to meet demand, as calculated  
466 according to admissions data and the number of students denied  
467 enrollment based on lottery results. The reports due from \* \* \*  
468 authorizers under this section must be coordinated with reports  
469 due from charter school governing boards, as near as possible, to  
470 decrease or eliminate duplication.

471 (2) The Joint Legislative Committee on Performance  
472 Evaluation and Expenditure Review (PEER) shall prepare an annual  
473 report assessing the sufficiency of funding for charter schools,  
474 the efficacy of the state formula for authorizer funding, and any  
475 suggested changes in state law or policy necessary to strengthen  
476 the state's charter schools.

477 **SECTION 10.** Section 37-28-49, Mississippi Code of 1972, is  
478 amended as follows:

479 37-28-49. (1) Charter school teachers and other school  
480 personnel, as well as members of the governing board and any  
481 education service provider with whom a charter school contracts,  
482 are subject to criminal history record checks and fingerprinting  
483 requirements applicable to employees of other public schools.



484 \* \* \* Authorizers shall require that current criminal records  
485 background checks and current child abuse registry checks are  
486 obtained, and that the criminal record information and registry  
487 checks are on file at the charter school for any new hires  
488 applying for employment. In order to determine an applicant's  
489 suitability for employment, the applicant must be fingerprinted.  
490 If no disqualifying record is identified at the state level, the  
491 fingerprints must be forwarded by the Department of Public Safety  
492 to the Federal Bureau of Investigation for a national criminal  
493 history record check. Under no circumstances may a member  
494 of \* \* \* an authorizer's governing body, member of the charter  
495 school governing board or any individual other than the subject of  
496 the criminal history record checks disseminate information  
497 received through the checks except as may be required to fulfill  
498 the purposes of this section. The determination whether the  
499 applicant has a disqualifying crime, as set forth in subsection  
500 (2) of this section, must be made by the appropriate state or  
501 federal governmental authority, which must notify the charter  
502 school whether a disqualifying crime exists.

503 (2) If the fingerprinting or criminal record checks disclose  
504 a felony conviction, guilty plea or plea of nolo contendere to a  
505 felony of possession or sale of drugs, murder, manslaughter, armed  
506 robbery, rape, sexual battery, sex offense listed in Section  
507 45-33-23(g), child abuse, arson, grand larceny, burglary,  
508 gratification of lust or aggravated assault which has not been



509 reversed on appeal or for which a pardon has not been granted, the  
510 new hire is not eligible to be employed at the charter school.  
511 However, the charter school, in its discretion, may allow any  
512 applicant aggrieved by the employment decision under this section  
513 to show mitigating circumstances that exist and may allow, subject  
514 to the approval of the \* \* \* authorizer, the new hire to be  
515 employed at the school. \* \* \* An authorizer may approve the  
516 employment depending on the mitigating circumstances, which may  
517 include, but need not be limited to: (a) age at which the crime  
518 was committed; (b) circumstances surrounding the crime; (c) length  
519 of time since the conviction and criminal history since the  
520 conviction; (d) work history; (e) current employment and character  
521 references; and (f) other evidence demonstrating the ability of  
522 the person to perform the employment responsibilities competently  
523 and that the person does not pose a threat to the health or safety  
524 of children.

525 (3) No charter school, charter school employee, member of  
526 the charter school governing board, \* \* \* authorizer, \* \* \* member  
527 of the authorizer's governing body or employee of the \* \* \*  
528 authorizer may be held liable in any employment discrimination  
529 suit in which an allegation of discrimination is made regarding an  
530 employment decision authorized under this section.

531 (4) A charter school shall terminate any teacher or  
532 administrator for committing one or more of the following acts:



533 (a) Engaging in unethical conduct relating to an  
534 educator-student relationship as identified by the \* \* \*  
535 authorizer;

536 (b) Fondling a student as described in Section 97-5-23  
537 or engaging in any type of sexual involvement with a student as  
538 described in Section 97-3-95; or

539 (c) Failure to report sexual involvement of a charter  
540 school employee with a student as required by Section 97-5-24.

541 **SECTION 11.** This act shall take effect and be in force from  
542 and after July 1, 2022.

