Charter schools, entitlement to public funding

Number: INFORMAL

Date: January 14, 2013

Mr. Lewis E. Dinkins
201 Northeast 8th Avenue
Ocala, Florida 34470

Dear Mr. Dinkins:

As attorney for the Francis Marion Military Academy, a charter school, you have requested this office's assistance regarding entitlement and distribution of funds to charter schools pursuant to provisions of the Florida Statutes. Attorney General Bondi has asked me to respond to your letter.

In order to supplement the educational opportunities of children, the Florida Legislature, in 1996, authorized the creation of charter schools.[1] The statute, now codified at section 1002.33, Florida Statutes, allows for both the creation of new charter schools and the conversion of existing public schools to charter status.[2] Section 1002.33 provides for the creation of such charter schools as part of the state's program of public education.[3]

Section 1002.33(17), Florida Statutes, makes provision for the funding of charter schools. The statute states:

"Students enrolled in a charter school, regardless of the sponsorship, shall be funded as if they are in a basic program or a special program, the same as students enrolled in other public schools in the school district. Funding for a charter lab school shall be as provided in s. 1002.32."

Charter schools are required to report their student enrollment to the district school board and the school board must include each charter school's enrollment in the district's report of student enrollment.[4]

The statute provides the basis for funding students enrolled in a charter school. Section 1002.33(17)(b), provides:

"The basis for the agreement for funding students enrolled in a charter school shall be the sum of the school district's operating funds from the Florida Education Finance Program as provided in s. 1011.62 and the General Appropriations Act, including gross state and local funds, discretionary lottery funds, and funds from the school district's current operating discretionary millage levy; divided by total funded weighted full-time equivalent students in the school district; multiplied by the weighted full-time equivalent students for the charter school. Charter schools whose students or programs meet the eligibility criteria in law shall be entitled to their proportionate share of categorical program funds included in the total funds available in the Florida Education Finance Program by the Legislature, including transportation. Total funding for

each charter school shall be recalculated during the year to reflect the revised calculations under the Florida Education Finance Program by the state and the actual weighted full-time equivalent students reported by the charter school during the full-time equivalent student survey periods designated by the Commissioner of Education."

A district school board that is providing student programs or services funded by federal funds must provide federal funds for the same level of service to any eligible students enrolled in charter schools in the district.[5] In addition, the statute requires that "[p]ursuant to provisions of 20 U.S.C. 8061 s. 10306, all charter schools shall receive all federal funding for which the school is otherwise eligible, including Title 1 funding . . . ." The statute also requires the timely and efficient reimbursement of charter schools by district school boards.[6]

It is a general rule of statutory construction that the intent of the Legislature is to be determined initially from the language of the statute itself.[7] Thus, where the language of a statute is plain and definite in meaning without ambiguity, it fixes the legislative intention such that interpretation and construction are not needed.[8]

Section 1002.33(17), Florida Statutes, provides that "[s]tudents enrolled in a charter school . . . shall be funded as if they are in a basic program or a special program, the same as students enrolled in other public schools in the school district." The language of the statute appears to be plain and definite and the intention of the Legislature is conveyed clearly and must be followed.

In sum, charter schools are funded through the Florida Education Finance Program (FEFP) in the same way as all other public schools in the school district. The charter school receives operating funds from the FEFP based on the number of full-time (FTE) students enrolled. Charter school funding includes gross state and local funds, discretionary lottery funds, and funds from the school district's current operating discretionary millage levy; divided by the total funded weighted full-time equivalent (FTE) students in the school district; multiplied by the weighted FTE students in the charter school. Charter schools are entitled to their proportionate share of categorical program funds, for eligible students and programs.[9]

A brief review of the Florida Department of Education, Office of Funding and Financial Reporting (OFFR) website reveals data on charter school funding. You may wish to contact the department for more in depth consideration of your particular question. The OFFR has two primary functions: (1) Calculation and distribution of funds provided through the FEFP and state categorical aid programs such as pupil transportation; and (2) Financial reporting of school districts. Questions relating to the responsibilities of the Office of Funding and Financial Reporting, may be directed as follows:

Mark Eggers
Bureau Chief of School Business Services
325 W. Gaines Street
824 Turlington Building
Tallahassee, Florida 32399-0400
Phone: (850) 245-0405
Fax: (850) 245-9135
E-mail: askoffr@fldoe.org

I am enclosing a recent Research Report by the Florida TaxWatch Center for Educational Performance and Accountability entitled "How Charter School Funding Compares" and Attorney General Opinion 2004-67 which dealt with charter school funding. I am also enclosing a copy of an article from the Florida Department of Education Office of Independent Education & Parental Choice, entitled "Charter Schools – FAQs." I trust that these informal comments and the copies I enclose will be helpful to you.

Sincerely,

Gerry Hammond
Senior Assistant Attorney General

GH/tsh

Enclosures

---

[1] *See* s. 1, Ch. 96-186, Laws of Fla.

[2] Section 1002.33(3), Fla. Stat.

[3] Section 1002.33(1), Fla. Stat.

[4] Section 1002.33(17)(a), Fla. Stat.

[5] Section 1002.33(17)(c), Fla. Stat.

[6] Section 1002.33(17)(e), Fla. Stat.

[7] *See, e.g., M.W. v. Davis*, 756 So. 2d 90 (Fla. 2000) (when language of statute is clear and unambiguous and conveys a clear and definite meaning, there is no occasion for resorting to rules of statutory interpretation and construction as statute must be given its plain and obvious meaning); *McLaughlin v. State*, 721 So. 2d 1170 (Fla. 1998); *Osborne v. Simpson*, 114 So. 543 (Fla. 1927) (where statute's language is plain, without ambiguity, it fixes legislative intention and interpretation and construction are not needed); *Holly v. Auld*, 450 So. 2d 217 (Fla. 1984).

[8] *See* Ops. Att'y Gen. Fla. 00-46 (2000), 99-44 (1999), and 97-81 (1997).

[9] *See* Florida Department of Education Office of Independent Education & Parental Choice, "Charter Schools – FAQs" at: http://www.floridaschoolchoice.org/information/charter_schools/faqs.asp, accessed on 01/09/2013.