



STATE OF SOUTH CAROLINA DEPARTMENT OF EDUCATION

Mick Zais
Superintendent

1429 Senate Street
Columbia, South Carolina 29201

February 6, 2012

The Honorable Timothy F. Geithner
Secretary, U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

The Honorable Douglas H. Shulman
Commissioner, Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20004

Dear Secretary Geithner and Commissioner Shulman:

President Ronald Reagan once said, "The nine most terrifying words in the English language are: 'I'm from the government and I'm here to help.'" On the 101st anniversary of his birth, proposed regulations by the U.S. Department of the Treasury and Internal Revenue Service perfectly exemplify President Reagan's concerns about government overreach.

The purpose of my letter is to express my strong reservations about changes to the definition of a "governmental plan" relating to state retirement systems and participation by public charter school teachers. These changes would negatively impact the hard-working employees of South Carolina's forty-seven public charter schools. Respectfully, I am requesting these regulations be withdrawn immediately and revised so public charter school employees will not be negatively affected by fiat of the federal government.

South Carolina state statute permits, but does not require, employees of public charter schools to participate in the state retirement system. According to the most recent data, at least 830 teachers and other employees participate in the state retirement system. Under the proposed regulations, these employees would be faced with either leaving their students or lose their retirement savings in our state's system.

Many teachers and principals in South Carolina's public charter schools began their professional careers in traditional public schools and are now fully vested in the state retirement system. Currently, forty-one states and the District of Columbia have laws authorizing public charter schools. While each state law differs to some degree, all charter school laws share a foundation premised on enhanced autonomy in return for greater accountability. Without exception, all charter schools are public schools under every state's constitution and statutory scheme; likewise, all charter school teachers are public school teachers.

As currently written, the regulations would force states to prohibit participation in state retirement systems by public charter school teachers. Such a result would not only jeopardize the retirement security of charter school teachers already participating in such plans, but would also effectively prevent many public charter schools from recruiting or retaining veteran public school teachers. Furthermore, excluding charter school teachers from state retirement systems could cause significant funding problems for some plans. Though hopefully unintentional, this rule will only serve to leave students subject to greater limitations in accessing an education that best meets their needs.

More specifically, each state charter law grants authority for certain types of entities to apply for a public school charter. Once a charter is granted, the school is funded with public revenue. In many states, charter school teachers must be licensed by the state to the same extent as teachers in traditional public schools. While charter schools are exempt from many types of state regulations, they must comply with all health and safety regulations and are subject to the same education assessments as traditional public schools. Charters are reviewed on a periodic basis, and charter school sponsors retain the ability to revoke charters. Perhaps most importantly, charter schools clearly serve a governmental function by providing a free, public education under the supervision of state and local governments.

Twenty-four state statutes mandate charter school participation in the state-sponsored retirement system, while eighteen states permit, but do not require, such participation. In other words, every single state sponsoring charter schools either requires or permits charter school participation in the state's retirement system. The National Alliance for Public Charter Schools estimates more than 90,000 charter school teachers will be impacted; as such, the Internal Revenue Service's proposed regulations will negatively affect more than 90 percent of our country's charter school workforce –forcing them out of charter schools or their retirement. This is not fair to the public school teachers who have played by the rules, some required to join the state retirement plans, and now they are faced with a devastating choice. This runs completely counter to your colleague at the Department of Education, Secretary Arne Duncan, who supports the goal of creating effective charter schools around the country.

On behalf of the forty-seven public charter schools in South Carolina, as well more than 2 million children educated in nearly 5,600 public charter schools across the country, I respectfully request that the proposed regulations be withdrawn immediately and revised so public charter school employees will not be affected.

The evidence is clear: charter schools are public schools (and are embraced as such by every state's constitution); the degree of state control over charter schools and public funding of such schools justify this position; and to hold otherwise would harm more than 90 percent of the nation's charter school teachers and staff. South Carolina schools have more than enough intrusion from Washington thanks to Congress and the U.S. Department of Education. To paraphrase President Reagan, they have all the "help" they can manage from the government.

Sincerely,

A handwritten signature in black ink that reads "Mick Zais". The signature is written in a cursive, slightly stylized font. There are horizontal lines above and below the signature, extending to the left and right respectively.

Mick Zais, Ph.D.
State Superintendent of Education

Cc: South Carolina Congressional Delegation
The Honorable Nikki R. Haley, Governor
The Honorable Robert W. Harrell, Jr., Speaker of the House
The Honorable Glenn F. McConnell, Senate President Pro Tempore
The Honorable Arne Duncan, Secretary, U.S. Department of Education
Mr. Dennis Thompson, Chair, State Board of Education
Mr. William M. Blume, Jr., Director, South Carolina Retirement Systems
Mr. Gene Wilhoit, Executive Director, Council of Chief State School Officers