

2015 Regular Session

SENATE CONCURRENT RESOLUTION NO. 20

BY SENATOR MURRAY

ETHICS. Requests the Louisiana Board of Ethics to issue an advisory opinion regarding employees of private charter school operators.

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A CONCURRENT RESOLUTION

To urge and request the Louisiana Board of Ethics to issue an advisory opinion determining whether the employees of a private charter school operator who work at the public charter school operated by their employer are "public employees" as defined in the Louisiana Code of Governmental Ethics.

WHEREAS, R.S. 17:3973(2)(a) defines a "charter school" as an "independent public school"; and

WHEREAS, R.S. 17:3996(B)(20) provides that charter school officers and employees are exempt from all statutory requirements, except the Code of Governmental Ethics; and

WHEREAS, the Code of Governmental Ethics, specifically R.S. 42:1102(18)(a)(iii), provides that "public employee" means anyone, whether compensated or not, who is engaged in the performance of a governmental function; and

WHEREAS, it has become prevalent in Louisiana that public charter schools, of varying types, are operated by for-profit private educational management companies, under contract with the not-for-profit company that was the recipient of the charter; and

WHEREAS, the terms many of these contracts specifically provide that the employees at the public charter school, including administration officials, staff, and

1 educators, are employees of the private for-profit operator; and

2 WHEREAS, the employees at these public charter schools are being informed by
3 their private employer that they are not public employees and not subject to the provisions
4 of the Code of Governmental Ethics, including but not limited to R.S. 17:1170 which
5 mandates that every public servant, including every public employee, receive one hour of
6 training in the Code of Governmental Ethics, annually; and

7 WHEREAS, a review of the records of the Louisiana Ethics Administration revealed
8 that for calendar year 2014, a number of charter school employees did not obtain the
9 mandatory training, evidencing confusion as to whether those employees are public servants
10 and subject to the Code of Governmental Ethics; and

11 WHEREAS, the Louisiana School Boards Association filed a request with the
12 Louisiana Board of Ethics for an advisory opinion, but the Louisiana Board of Ethics
13 rejected that request; and

14 WHEREAS, there exists a serious and significant public policy issue as to whether
15 the employees of a public charter school are subject to the Code of Governmental Ethics, as
16 those public charter schools are funded wholly, or nearly wholly, by public education
17 dollars.

18 THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby
19 urge and request the Louisiana Board of Ethics to issue an advisory opinion on the question
20 of whether persons working at a public charter school, even if employed by a private
21 company engaged to operate the public charter school, are public employees, as defined in
22 Louisiana law.

23 BE IT FURTHER RESOLVED that the advisory opinion be issued no later than
24 October 1, 2015.

25 BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the
26 Louisiana Board of Ethics.

27 BE IT FURTHER RESOLVED that a copy of the advisory opinion be forwarded to
28 each member of the Louisiana Legislature and to each public charter school in the State of
29 Louisiana.

