

SENATE CONCURRENT RESOLUTION NO. 20

BY SENATOR MURRAY

A CONCURRENT RESOLUTION

To urge and request the Louisiana Board of Ethics to issue an advisory opinion determining whether persons working at a public school, even if employed by a private company, 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) provides that charter school officers and employees are exempt from statutory mandates or other statutory requirements that are applicable to public school officers and employees, except for certain specified statutes, including 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 of many of these contracts specifically provide that the employees at the public charter school, including administration officials, staff, and educators, are employees of the private for-profit operator; and

WHEREAS, the employees at these public charter schools are being informed by their private employer that they are not public employees and not subject to the provisions of the Code of Governmental Ethics, including but not limited to R.S. 42:1170 which mandates that every public servant, including every public employee, receive one hour of training in the Code of Governmental Ethics, annually; and

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

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

WHEREAS, traditional public schools also enter into contracts with private for-profit companies for employees to work in public schools, and these contract employees are also being told that they are not public employees; and

WHEREAS, there exists a serious and significant public policy issue as to whether the employees of a public school are subject to the Code of Governmental Ethics.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana Board of Ethics to issue an advisory opinion on the question of whether persons working at a public school, even if employed by a private company, are "public employees" as defined in the Louisiana Code of Governmental Ethics.

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

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

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

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES