

Strong Charter School Laws Produce Better Results

Special Report

After nine years of analyzing and scoring charter school laws, a clear pattern has emerged: *the strength of a law is more often than not a predictor of charter success*. The 41 laws and nearly 4,000 schools whose operations, successes and struggles are tracked regularly, provide a deep understanding of what kind of law it takes to create and sustain healthy charter schools.

It is a fact that the strength of a law has direct bearing on the quantity and viability of charter schools in each state. These conclusions drawn from earlier reports have been widely accepted. But now there is additional evidence that academic achievement and strength of the charter school law directly correlate. This is perhaps the most important finding of charter research yet — that higher and more comprehensive student achievement is found in charter schools in states that have stronger laws.

Of the 26 strong laws, 65 percent of those states saw significant gains in evaluations of test and No Child Left Behind (NCLB) data over two years. Of the weak laws, only two states demonstrated positive gains. It should be noted, however, that many of the states with weak laws have yet to release reliable data on charter achievement.

As Table 1 suggests, states with stronger laws have a positive effect on student achievement. Two different sources, the detailed scientifically-based method produced by The Brookings Institution, entitled *“How Well are American Students Learning?”* and recently-released state achievement data, which was summarized in the CER October 2003 report entitled *“Charter Schools Today: A Record of Success,”* were used as the baseline for measuring achievement. These two sources represent the best and most widely used data available.

When correlated with a law’s strength, these data sources provide a gauge that help predict that states with weak laws will unlikely yield high percentages of charters with strong student achievement.

Why is this the case? First, it’s important to consider what distinguishes a strong law from a weak law.

- Charter school laws that are weak constrict operations, impose administrative burdens, stifle creativity and because they require charters to rely heavily on existing education rules and offices, these laws often deter rather than encourage applicants and charter operations.

- Charters in weak law states are normally managed by school districts, which creates tension. The data on charter school closures reveal an interesting pattern. Between 1993 and 2003, 429 charters have been closed for one of five reasons. Seventy-seven, or 2.5 percent of the total number of schools, were closed because of school district imposed burdens or control issues. States with weaker laws – and fewer charter schools – average a seven percent closure rate. States with stronger laws – and *sixteen* times the number of charter schools – have had an eight percent closure rate, and have produced the greatest gains.

Multiple authorities lead to more and healthier charter schools.

School board-only laws limit the nature and scope of charter schools, and often limit their innovation and funding. School boards have also proven to be lax about accountability. A recent state audit in California, for example, found that local districts are not adequately monitoring the academic and fiscal operations of their schools. The audit also found that the local districts were not ensuring that charter schools abided by the required state regulations.

In Georgia, the charter law allows only local school boards to authorize charter schools, with an appeal to the state board of education. If the state board approves a school on appeal, it may also impose additional regulations.

Only 28 percent of the nation's charter schools are located in states with similar local board-only provisions.

States with multiple chartering authorities have 4.5 times more charter schools than states requiring local school board approval only. Only four percent of charter schools are in the 0 states that allow for only one authorizer and no appeals, while 96 percent are located in states with multiple chartering authorities or strong appeals process. Proposed *Model Legislation* creates a new, public but independent charter authority, modeled after the Florida Schools of Excellence Commission

AYP and Charter Schools

The new accountability model for all public schools that NCLB created provides more insights into the relationship between charter laws and achievement.

Brookings researchers found that when comparing Annual Yearly Progress (AYP) levels of charter schools with traditional public schools, charter schools are over-represented, with a higher percentage of charter schools not making AYP. This is not a surprise. Charter schools will always be over-represented. A majority of the nation's

charter schools serve at-risk and disadvantaged populations or children not unsatisfied with by traditional public schools. Nevertheless, the percentage of charter schools not making AYP is decreasing, while that same percentage is increasing for traditional public schools. The progress charters are making in getting off low performing schools lists is most notable in strong law states.

The Brookings study focused on 10 states, all of which are considered to have strong laws, and have been part of the movement for over five years. Charter schools that operate in friendly environments, under good oversight from their authorizers, and are allowed to operate with a high degree of autonomy, will always outpace those that are burdened by resistance and unnecessary regulation. The schools in the 2003 study made significant gains from the previous year, and they continue to make gains from year to year.

Education Providers and Charter Schools

Many of the states with stronger laws permit education providers to manage charter schools. While in the past this has sparked concern from some observers, these arrangements are now showing remarkable success. The often controversial but not uncommon relationship between business and education has spurred growth and positive results in charter schools that serve the most at-risk populations. Charter schools that partner with education providers register higher gains than those that do not, including traditional public schools serving similar populations.

Conclusion

This report provides policymakers, parents and the media with an uncompromising look into what makes a charter law. The components that make up the nation's strongest laws should not be substituted or ignored. It's no surprise that more children are being served in states that *encourage* flexibility, autonomy and high standards, than those that do not. Knowing what it takes to enact a law that will yield numerous high quality charter schools is an obligation of policymakers, and a mandate for parents.

This analysis provides a guidepost to the kinds of charter activity that is likely to occur under certain legislative conditions. This document is intended to serve as a resource for those evaluating their existing laws against other states', and as a primer for those in the remaining 10 states who want to get it right the first time.

After eight years of analyzing and ranking the laws, CER is able to offer detailed evidence of the fact that strong laws do more than foster growth— they produce better results.

Leaving anything to be “negotiated in charter” gives the sponsoring agency carte blanche and the charter school little legal autonomy.

In such states where the phrase is found within the law, authorizers – normally school boards – use this discretion to over-regulate in the body of the charter contract. The nation’s newest law, from Maryland, is a perfect example. Of the 32 main components that comprise a typical charter school law, 10 have not been specified. Instead, discretion is left to the local districts, many of which have submitted charter school policies that are even more restrictive than the actual law.

What Makes a Strong Charter School Law?

There are 10 criteria for a strong charter school law:

- 1) **Number of schools:** States that permit an unlimited or substantial number of autonomous charter schools encourage more activity than states that either limit the number of autonomous schools.
- 2) **Multiple chartering authorities / binding appeals process:** States that permit a number of entities in addition to or instead of local school boards to authorize charter schools, or that provide applicants with a binding appeals process, encourage more activity.
- 3) **Variety of applicants:** States that permit a variety of individuals and groups both inside and outside the existing public school system to start charter schools encourage more activity than states that limit eligible applicants to public schools or public school personnel.
- 4) **New starts:** States that permit new schools to start up encourage more activity than those that permit only public school conversions.
- 5) **Formal evidence of local support:** States that permit charter schools to form without proving specified levels of local support encourage more activity than.
- 6) **Automatic waiver from laws and regulations:** States that provide automatic blanket waivers from most or all state and district education laws, regulations, and policies encourage more activity than states that provide no waivers or require charter schools to negotiate waivers on an issue-by-issue basis.
- 7) **Legal / operational autonomy:** States that allow charter schools to be independent legal entities that can own property, sue and be sued, incur debt, control budget and personnel, and contract for services, encourage more activity than states in which charter schools remain under district jurisdiction. In addition, legal autonomy refers to the ability of charter schools to control their own enrollment numbers.
- 8) **Guaranteed full funding:** States where 100 percent of per-pupil funding automatically follows students enrolled in charter schools encourage more activity than states where the amount is automatically lower or negotiated with the district.

9) Fiscal Autonomy: States that give charter schools full control over their own budgets, without the district holding the funds, encourage more activity than states that do not.

10) Exemption from collective bargaining agreements / district work rules: States that give charter schools complete control over personnel decisions encourage more activity than states where charter school teachers must remain subject to the terms of district collective bargaining agreements or work rules

NOTE: Additional evidence is available in earlier edited versions of *Charter School Laws Across the States* found at <http://www.edreform.com/index.cfm?fuseAction=document&documentID=998§ionID=74&NEWSYEAR=2004>

4/4/05

Summary of changes to the Georgia Charter School Law (SB 35)

- The blanket waiver was restored in full (This was NCEP priority #1)
- There are incremental improvements in operational funding
- The annual audit for charters can now be performed by the State Auditor rather than having to hire an independent CPA firm, saving thousands
- There is potential for a feeder system of start up schools or cluster-wide conversions
- Governing board members may now have priority to admit their children
- The charter term was raised to up to 10 years (from maximum 5)
- Currently operating State Charter schools (as opposed to just proposed State Charter schools) may have a local referendum on the ballot to allow them to get a portion of the local funding they are currently not receiving; and
- 'Surplus' facilities that are owned by local school systems are now easier to obtain.

How a new Authorizer would help produce quality charter schools

- An independent commission represents a degree of

accountability that is far and above that which the local boards can provide. Financials, academics, best practices are all going to have more of a focused eye on higher accountability. Applications for new charters are held to a higher standard by the Commission as well so you are creating better schools.

- Higher institutions of learning can become co-sponsors and thus be involved in bringing about a new partnership among the new education actors that ensures accelerated learning, college level courses, better accountability on academics, best practices and preparing students for college in a more rigorous academic setting.
- An independent authorizer removes the burden of local boards trying to adapt to the creativity and flexibility of charters, and regulating them in a stifling bureaucratic manner.

Higher Standards in Florida Law

Independent State-Level Commission whose primary focus is the development and support of charter schools and to further ensure that charter schools of the highest academic quality are approved and supported throughout the state in an efficient manner.

Authorizes municipalities, state universities, community colleges, and regional educational consortia to act as cosponsors of charter schools, including the approval or denial of cosponsor applications pursuant to State Board of Education rule and subsection and the revocation of approval of cosponsors.

Develop, promote, and disseminate best practices for charter schools and charter school sponsors in order to ensure that high-quality charter schools are developed and incentivized. At a minimum, the best practices shall encourage the development and replication of academically and financially proven charter school programs.

Develop, promote, and require high standards of accountability for any school that applies for and is granted a charter under this section.

Monitor and annually review and evaluate the academic and financial performance of the charter schools it sponsors and hold the school responsible. Work with its cosponsors to monitor the financial management of each FSE charter school.

Review and recommend to the Legislature any necessary revisions to statutory requirements regarding the standards for accountability and criteria for revocation of approval of cosponsors of FSE charter schools.

Meet the needs of charter schools and school districts by uniformly administering high-quality charter schools, thereby removing administrative burdens from the school districts.

Collaborate with municipalities, state universities, community colleges, and regional educational consortia as cosponsors for FSE charter schools for the purpose of providing the highest level of public education to low-income, low-performing, gifted, or underserved student populations. Such collaborations shall: a. Allow state universities and community colleges that cosponsor FSE charter schools to enable students attending a charter school to take college courses and receive high school and college credit for such courses.

Benefits of Multiple Authorizers of Charter Schools

- 58% of the nation's charter schools are chartered in states with multiple authorizers. The states include: Arizona, Colorado, Delaware, Washington, DC, Indiana, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New York, Ohio, Oklahoma, Pennsylvania, Texas, and Wisconsin.
- Eight of the above 16 states incorporate higher education into their chartering process. Eighty-two percent of Michigan's charter schools and seventy-eight percent of New York's charter schools are monitored by institutions of higher education.
- As sole authorizers / sponsors of charter schools, districts tend to: be organized to operate public schools in a highly prescribed and regulated manner, have difficulty embracing the creativity and flexibility of the charter school approach, view charter schools as taking "their students" and "their money" from the school system.
- By allowing multiple entities to sponsor charter schools, competition stimulates flexibility and accountability in charter schools. Sponsors will have to compete for the business of educating these children. A direct result should be a more collaborative environment between the sponsor and the charter schools to provide high quality, accountable charter schools. The state should continue to implement additional choice options in its education system by enacting multiple sponsors of charter schools.

FLORIDA Release

Charter School Authorizing Entity

Background

The 2006 Legislature enacted HB 135 creating an independent, state-level commission whose focus is the development and support of charter schools and to ensure that charter schools of the highest academic quality are approved and supported throughout the state. The Florida Schools of

Excellence Commission (FSE) is established as a charter school sponsoring entity working in collaboration with the Department of Education and under the supervision of the State Board of Education.

Powers and Duties of the Florida Schools of Excellence Commission

- Authorize and act as a sponsor of charter schools, including the approval or denial of applications and the nonrenewal or termination of charter schools
- Authorize municipalities, state universities, community colleges, and regional educational consortia to act as cosponsors, including the approval or denial of cosponsor applications and the revocation of approval of cosponsors
- Approve or deny FSE charter school applications and renew or terminate charters of FSE schools
- Conduct facility and curriculum reviews of charter schools approved by the commission or one of its cosponsors
- Develop and promote best practices and charter school accountability
- Actively seek supplemental funding
- Focus on service to low-income, low-performing, gifted, and disabled populations
- Train charter school governing bodies regarding best practices, public record requirements, and requirements of statute and State Board of Education rules
- Provide optimal access to parents, including maintaining a user-friendly website
- Other powers and duties as described in HB 135

Questions and Answers

1. How are members appointed to the Florida Schools of Excellence Commission?

The members are appointed by the State Board of Education (SBE) from recommendations by the governor (three appointees), the President of the Senate (two appointees), and the Speaker of the House of Representatives (two appointees). The members are to be appointed as soon as possible but no later than September 1, 2006. The members of the commission annually elect a chair and vice chair.

2. Can existing charter schools submit an application to the FSE?

An application may be submitted by an existing charter school approved by a district school board provided that the obligations of its charter contract with the district school board will expire prior to entering into a new charter contract with the FSE or one of its cosponsors. A district school board may agree to rescind or waive the obligations of a current charter contract to allow an application to be submitted to the FSE. A charter school that changes sponsors is allowed to continue the use of all facilities, equipment, and other assets it owned or leased prior to the expiration or rescission of its contract with the district school board.

3. Can conversion charter schools submit an application to the FSE?

A conversion charter school may only submit an application to the FSE or one of its cosponsors upon consent of the district school board. The district school board may retain

the facilities, equipment, and other assets of the conversion charter school for its own use or agree to reasonable terms for their continued use by the conversion charter school.

4. Is there an appeal process for denied applications?

For charter school applications in school districts that have not been granted exclusive authority to sponsor charter schools, the right to appeal an application denial is contingent upon the applicant having submitted the same or a substantially similar application to the FSE or one of its sponsors.

Any such applicant whose application is denied by the FSE or one of its cosponsors subsequent to its denial by the district school board may exercise its right to appeal the district school board's denial within 30 days after receipt of the FSE or cosponsors denial or failure to act on the application. However, the applicant forfeits its right to appeal if it fails to submit its application to the FSE or one of its cosponsors by August 1 of the school year immediately following the district school board's denial of the application. For charter schools in districts that have been granted exclusive authority, the appeal process will remain as it is currently.

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This concept of multiple sponsorship for charter schools is not new.

In

24 states and the District of Columbia, laws have been enacted to allow for multiple sponsors of their state's charter schools.

. This bill establishes the Florida Schools of Excellence Commission (FSE) as an alternative sponsor of charter schools in the state. The Commission would be a new, independent state-level commission whose primary focus is to develop, sponsor and oversee high quality charter schools in the state.

. This Bill does not erode the authority of a school district to sponsor charter schools, establish charter schools with elite populations or weaken the quality and oversight over current and future charter schools.

. This Bill does provide higher accountability for charter schools that are sponsored by this Commission, higher transparency to the public and a more rigorous accountability process to become and remain a charter school sponsored by the Commission

MODEL CHARTER SCHOOL LAW
(Independent Charter Commission Version) 21-3-305 (c)
Revocation of Chartering Authority 21-3-305 (d) & (e)

ARTICLE 3: CHARTER SCHOOLS

21-3-301. Purpose.

(a) It is the purpose of this article to provide opportunities for teachers, parents, pupils and community members to establish and maintain schools that operate independently from the existing school district structure as a method to:

- (i) Improve pupil learning;
- (ii) Increase learning opportunities for all pupils, with special emphasis

on

expanded learning experiences;

(iii) Encourage the use of different and innovative teaching methods;

(iv) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site;

and

(v) Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system.

21-3-302. Definitions.

(a) As used in this article a “charter school” means:

- (i) Any school converted from an existing public or private school operating within the district;
- (ii) Any new school or a distance-learning program which is not currently being operated by the district as a public or private school;

(b) “District board” means the board of trustees of a school district elected as the governing body of the school district;

(c) “School District” means each school district now or hereafter legally organized as a body corporate pursuant to [insert statute];

(d) “State board” means the state board of education appointed pursuant to [insert statute].

(e) “Charter entity” means a charter authorizing body as established in subsection (c) of section 21-3-305

21-3-303. Charter school prohibitions.

(a) This article shall not prohibit any private person or organization from funding or providing other assistance for the establishment or operation of a charter school established pursuant to this article when the charter entity determines the funding or assistance is compatible with the mission of the district.

21-3-304. Charter school; requirements; authority.

(a) A charter school shall be a public, nonsectarian, nonreligious school which operates within a school district. Tuition shall not be charged by a charter school.

(b) A charter school shall be a public school and shall be accountable to the charter entity for purposes of ensuring compliance with applicable laws and charter provisions and the requirements of the state constitution.

(c) A charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry or need for special education services. Enrollment decisions shall be made in a nondiscriminatory manner specified by the charter school applicant in the charter school application. Enrollment decisions shall not discriminate against at-risk students or special program students.

(d) A charter school shall be administered and governed by a governing body in a manner agreed to by the charter school applicant and the charter entity. A charter school may organize as a nonprofit corporation pursuant to the [insert state] Nonprofit Corporation Act, which shall not affect its status as a public school for any purposes under state law.

(e) A charter school, as a public school, is a governmental entity. Direct leases and financial obligations of a charter school shall not constitute debt or financial obligations of the school district unless the district board expressly assumes such obligations in writing.

(f) Notwithstanding the provisions of this article to the contrary, a charter school and the charter entity may agree to extend the length of the charter beyond five (5) years for the purpose of enhancing the terms of any lease or financial obligation.

(g) A charter school is a public school and is part of the state's system of public education. Except as provided in this section, a charter school is exempt from all statutes and rules applicable to a school, a board, or a district, although it may elect to comply with one or more provisions of statutes or rules.

(h) A charter school shall be responsible for its own operation including, but not limited to, preparation of a budget, contracting for services and personnel matters.

(i) A charter school may negotiate and contract with a charter entity, the governing body of a state college or university, or any third party for the use of a school building and grounds, the operation and maintenance thereof, and the provision of any service, activity or undertaking that the charter school is required to perform in order to carry out the educational program described in its charter. Any services for which a charter school contracts with a school district shall be provided by the district at cost. The charter school shall have standing to sue and be sued in its own name for the enforcement of any contract created pursuant to this subsection. A charter school may own, lease or rent its space. For purposes of local zoning, land use regulation and building code compliance, a charter school shall be deemed a nonpublic school. A charter school may pledge, assign or encumber its assets to be used as collateral for loans or extensions of credit; provided, however, that a charter school shall not pledge or assign monies provided, or to be provided, pursuant to section 21-3-312 of this article in connection with the purchase or construction, acquisition, reconstruction, rehabilitation or improvement of a school facility. The office of general services (or applicable state/county office designated to oversee government owned real property) shall annually publish a list of vacant and unused buildings and vacant and unused portions of buildings that are owned by the state and that

may be suitable for the operation of a charter school. Such list shall be provided to applicants for charter schools and to existing charter schools. At the request of a charter school or a prospective applicant, a school district shall make available a list of vacant and unused school buildings and vacant and unused portions of school buildings, including private school buildings, within the school district that may be suitable for the operation of a charter school.

(j) Public and private assistance to charter schools.

(i) Special education programs and services shall be provided to students with a disability attending a charter school in accordance with the individualized education program recommended by the committee or subcommittee on special education of the student's school district of residence. The charter school may arrange to have such services provided by such school district of residence or by the charter school directly or by contract with another provider.

(ii) The charter and application therefore shall set forth the manner in which students ineligible for transportation pursuant to section thirty-six hundred thirty-five of this chapter shall be transported to and from school (or applicable educational transportation service section. Any supplemental transportation provided by a charter school shall comply with all transportation safety laws and regulations applicable to other public schools. A school district may enter into a contract for the provision of supplemental transportation services to a charter school, and any such services shall be provided by the school district at cost.

(iii) Private persons and organizations are encouraged to provide funding and other assistance to the establishment or operation of charter schools.

(iv) The school district of residence of children attending a charter school may, but is not required to, allow such children to participate in athletic and extra-curricular activities of the district's schools.

(k) All decisions regarding the planning, siting and inspection of charter school facilities shall be made in accordance with law and as specified by contract with the district board.

(l) Admissions; enrollment; students.

(i) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations and shall not charge tuition or fees; provided that a charter school may require the payment of fees on the same basis and to the same extent as other public schools. A charter school shall not discriminate against any student, employee or any other person on the basis of ethnicity, national origin, gender, or disability or any other ground that would be unlawful if done by a school. Admission of students shall not be limited on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, disability, race, creed, gender, national origin, religion, or ancestry; provided, however, that nothing in this article shall be construed to prevent the establishment of a single-sex charter school or a charter school designed to provide expanded learning opportunities for students at-risk of academic failure. A charter shall not be issued to any school that would be wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine would be taught.

(ii) Any child who is qualified under the laws of this state for admission to a public school is qualified for admission to a charter school. The school shall enroll each eligible student who submits a timely application, unless the number of applications exceeds the capacity of the grade level or building. In such cases, students shall be accepted from among applicants by a random selection process, provided, however, that an enrollment preference shall be provided to pupils returning to the charter school in the second or any subsequent year of operation and pupils residing in the school district in which the charter school is located, and siblings of pupils already enrolled in the charter school.

(iii) A charter school shall serve one or more of the grades one through twelve, and shall limit admission to pupils within the grade levels served. Nothing herein shall prohibit a charter school from establishing a kindergarten program.

(iv) A student may withdraw from a charter school at any time and enroll in a public school. A charter school may refuse admission to any student who has been expelled or suspended from a public school until the period of suspension or expulsion from the public school has expired, consistent with the requirements of due process.

21-3-305. Eligible applicants; applications; submission.

(a) An application to establish a charter school may be submitted by teachers, parents, school administrators, community residents or any combination thereof. Such application may be filed in conjunction with a college, university, museum, educational institution, not-for-profit corporation exempt from taxation under paragraph 3 of subsection (c) of section 501 of the internal revenue code or for-profit business or corporate entity authorized to do business in [insert state]. For charter schools established in conjunction with a for-profit business or corporate entity, the charter shall specify the extent of the entity's participation in the management and operation of the school.

(b) The information provided on the application shall be consistent with the provisions of this article and other applicable laws, rules and regulations. Such information shall include:

(i) A mission statement for the school and a description of an educational program that implements one or more of the purposes described in section 21-3-301.

(ii) A description of student achievement goals for the school's educational program and the chosen methods of evaluating that students have attained the skills and knowledge specified for those goals. Such educational program shall meet or exceed the student performance standards adopted by the state board of education for other public schools.

(iii) The proposed governance structure of the school, including a list of members of the initial board of trustees, a description of the qualifications, terms and method of appointment or election of trustees, the organizational structure of the school, and the processes to be followed by the school to promote parental and staff involvement in school governance.

(iv) Admission policies and procedures for the school, which shall be consistent with the requirements of subdivision (l) of section 21-3-304 of this article.

- (v) A proposed budget and fiscal plan for the school, including supporting evidence that the fiscal plan is sound and that sufficient start-up funds will be available to the charter school.
- (vi) Requirements and procedures for programmatic and independent fiscal audits at least once annually, with such audits being comparable in scope to those required of other public schools.
- (vii) The hiring and personnel policies and procedures of the school, including the qualifications to be used in the hiring of teachers, school administrators and other school employees, and a description of staff responsibilities.
- (viii) The rules and procedures by which students may be disciplined, including but not limited to expulsion or suspension from the school, which shall be consistent with the requirements of due process and with federal laws and regulations governing the placement of students with disabilities.
- (ix) The number of students to be served by the school, which number shall be at least fifty at a single site and the minimum number of teachers to be employed at the school, which shall be at least three. Provided, however, that a charter school may serve fewer than fifty students or employ fewer than three teachers in the school's first year of operation or if the applicant presents a compelling justification, such as the school would serve a geographically remote region (or community with a sparse population)
- (x) Information regarding the facilities to be used by the school, including the location of the school, if known, and the means by which pupils will be transported to and from the school. If the facilities to be used by the proposed school are not known at the time the application is submitted, the applicant shall notify the charter entity and, if applicable, the state board of education within ten business days of acquiring facilities for such school; provided, however, that the charter school must obtain a certificate of occupancy for such facilities prior to the date on which instruction is to commence at the school.
- (xi) A description of the ages and grade levels to be served by the school.
- (xii) Identification and background information on all applicants and proposed members of the board of trustees.
- (xiii) The school calendar and school day schedule, which shall provide at least as much instruction time during a school year as required of other public schools.
- (xiv) Types and amounts of insurance coverage to be obtained by the school, which shall include adequate insurance for liability, property loss and the personal injury of students. The commissioner and the superintendent of instruction (or other applicable state department of instruction) may jointly promulgate regulations to implement the provisions of this paragraph.
- (xv) The term of the proposed charter, which shall not exceed five years.
- (xvi) Evidence of adequate community support for and interest in the charter school sufficient to allow the school to reach its anticipated enrollment, and an assessment of the projected programmatic and fiscal impact of the school on other public and nonpublic schools in the area.
- (xvii) A description of the health and food services to be provided to students attending the school.
- (xviii) Methods and strategies for serving students with disabilities in compliance with all federal laws and regulations relating thereto.

(xix) Procedures to be followed in the case of the closure or dissolution of the charter school, including provisions for the transfer of students and student records to the school district in which the charter school is located and for the disposition of the school's assets to the school district in which the charter school is located or another charter school located within the school district.

(xx) Requirements for the grant of a diploma, if the school serves the twelfth grade.

(xxi) A code of ethics for the charter school, setting forth for the guidance of its trustees, officers and employees the standards of conduct expected of them.

(xxii) A description of the residential facilities, if any, provided by the charter school.

(xxiii) Any other information relevant to the issuance of a charter required by the charter entity.

(c) An applicant shall submit the application to a charter entity for approval. For purposes of this article, a charter entity shall be:

- (i) The board of a local school district that operates grades K to 12.
- (ii) The board of a state public university community or technical college.
- (iii) A public charter school board established and maintained according to the following requirements.

(a) *Establishment.* --

(1) *In general.* -- There is established within the state of Florida, a Public Charter School Board (in this section referred to as the "Board").

(2) *Membership.* -- The Governor, the Speaker of the House and the President of the Senate shall select 7 individuals to serve on the Board. The Governor, the Speaker of the House and the President of the Senate shall appoint, members to serve on the Board so that a knowledge of each of the following areas is represented on the Board:

(3) Research about and experience in student learning, quality teaching, and evaluation of and accountability in successful schools;

(4) The operation of a financially sound enterprise, including leadership and management techniques, as well as the budgeting and accounting skills critical to the startup of a successful enterprise;

(5) The educational, social, and economic development needs of the state; and

(6) The needs and interests of students and parents in the state, as well as methods of involving parents and other members of the community in individual schools.

(b) *Vacancies.* --

(1) *Other than from expiration of term.* -- Where a vacancy occurs in the membership of the Board for reasons other than the expiration of the term of a

member of the Board, the Governor, the Speaker of the House and the President of the Senate, not later than 30 days after the vacancy occurs, shall identify a list of 3 people determined to be qualified to serve on the Board. The Governor, in consultation with the Speaker and the President, shall appoint 1 person from the list to serve on the Board. The Governor shall appoint, such member of the Board taking into consideration the criteria described in paragraph (2) of this subsection. Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of the term.

(c) *Expiration of term.* – (1) Not later than the date that is 60 days

before the expiration of the term of a member of the Board, the Governor, the Speaker and the President shall identify, with respect to each such impending vacancy, a list of 3 people determined to be qualified to serve on the Board. The Governor, in consultation with the Speaker of the House and the President of the Senate, shall appoint one person from each such list to serve on the Board. The Governor shall appoint, any member of the Board taking into consideration the criteria described in paragraph (2) of this subsection.

(d) *Time limit for appointments.* -- If, at any time, the Governor does

not appoint members to the Board sufficient to bring the Board's membership to 7 within 30 days the Speaker of the House and the President of the Senate not later than 10 days after the final date for such appointments, shall make such appointments as are necessary to bring the membership of the Board to 7.

(e) *Terms of members.* --

(1) *In general.* -- Members of the Board shall serve for terms of 4 years.

(f) *Reappointment.* -- Members of the Board shall be eligible to be

reappointed for one 4 year term beyond their initial term of appointment.

(g) *Independence.* -- No person employed by a public school or a

public charter school shall be eligible to be a member of the Board or to be employed by the Board.

(h) *Operations of the Board.* –

(1) *Chair.* -- The members of the Board shall elect from among their membership 1 individual to serve as Chair. Such election shall be held each year after

members of the Board have been appointed to fill any vacancies caused by the regular expiration of previous members' terms, or when requested by a majority vote of the members of the Board.

(2) *Quorum.* -- A majority of the members of the Board, not including any positions that may be vacant, shall constitute a quorum sufficient for conducting the business of the Board.

(3) *Meetings.* -- The Board shall meet at the call of the Chair, subject to the following hearing requirements

(i) *Date and time of hearing.* --

(A) *Notice.* -- Upon receiving a timely written request for a hearing by a charter applicant the board shall set a date and time for the hearing and shall provide reasonable notice of the date and time, as well as the procedures to be followed at the hearing, to the Board of Trustees of the applicant.

(ii) *Deadline.* -- A hearing under this subsection shall take place not later than 30 days after the board receives a timely written request in accordance with 21-3-305 of this act.

(iii) *Revocation.* -- A hearing for a revocation will follow the same standards as established in (i) when a hearing has been requested by a party seeking revocation in accordance with section **21-3-313** of this act.

(i) *No compensation for service.* -- Members of the Board shall serve without pay, but may receive reimbursement for any reasonable and necessary expenses incurred by reason of service on the Board.

(j) *Personnel and resources.* -- (1) *In general.* -- Subject to such rules as

may be made by the Board, the Chair shall have the power to appoint, terminate, and fix the pay of an Executive Director and such other personnel of the Board as the Chair considers necessary, but no individual so appointed shall be paid in excess of the rate payable for level (appropriate level) of the Educational Service of the state of Florida.

(2) *Special rule.* -- The Board is authorized to use the services, personnel, and facilities of the District of Columbia.

(k) *Expenses of Board.* -- Any expenses of the Board shall be paid

from such funds as may be available to the Governor;
provided,

(l) *Audit.* -- The Board shall provide for an audit of the financial

statements of the Board by an independent certified public accountant in accordance with Government auditing standards for financial audits issued by the State Comptroller.

(m) *Authorization of appropriations.* -- For the purpose of carrying out

the provisions of this section and conducting the Board's functions required by this subchapter, there are authorized to be appropriated to the Board \$300,000 for fiscal year 1997 and such sums as may be necessary for each of the 3 succeeding fiscal years.

(d) Oversight of charter entities; revocation of approval.

(i) If at any time the state board of education finds that a sponsor is not in compliance or is no longer willing to comply with its contract with any public charter school or with the department's rules for sponsorship, the state

board or designee shall conduct a hearing in accordance (insert applicable state law or regulation on that matter). If after the hearing, the state board or

designee has confirmed the original finding, the department of education

may revoke the sponsor's approval to sponsor community schools and may assume

the sponsorship of any schools with which the sponsor has contracted until the earlier of the expiration of two school years or until a new sponsor as described in 21-3-305(c) of the charter school bill is secured by the school's governing authority. The department may extend the term of the contract in the case of a school for which it has assumed sponsorship under this division as necessary to accommodate the term of the department's authorization to sponsor the school specified in this division.

(e) The decision of the department to disapprove an entity for sponsorship of a community school or to revoke approval for such sponsorship, as provided by (insert applicable state law or working here).

(f) Charters may be renewed, upon application, for a term of up to five years in accordance with the provisions of this article for the issuance of such charters pursuant to section 21-3-306 of this article; provided, however, that a renewal application shall include:

(i) A report of the progress of the charter school in achieving the educational objectives set forth in the charter.

(ii) A detailed financial statement that discloses the cost of administration, instruction and other spending categories for the charter school that will allow a comparison of such costs to other schools, both public and private. Such

statement shall be in a form prescribed by the state superintendent of public instruction.

(iii) Copies of each of the annual reports of the charter school required by subdivision (b) of 21-3-314 of this article, including the charter school report cards and the certified financial statements.

(iv) Indications of parent and student satisfaction.

Such renewal application shall be submitted to the charter entity no later than six months prior to the expiration of the charter; provided, however, that the charter entity may waive such deadline for good cause shown.

21-3-306. Issuance of charter.

(a) A charter entity that receives an application for approval of a charter school shall act on each request received prior to October first of a calendar year on or before January first of the succeeding calendar year, and a proposed charter between the applicant and the charter entity resulting from such application shall be executed on or before February first of such succeeding year. Nothing in this subdivision shall be construed to prevent a charter entity from receiving or acting upon an application at any time.

(b) An application for a charter school shall not be approved unless the charter entity finds that:

- (i) the charter school described in the application meets the requirements set out in this article and all other applicable laws, rules and regulations;
- (ii) the applicant can demonstrate the ability to operate the school in an educationally and fiscally sound manner; and
- (iii) granting the application is likely to improve student learning and achievement and materially further the purposes set out in section 21-3-301 of this article. In reviewing applications, the charter entity is encouraged to give preference to applications that demonstrate the capability to provide comprehensive learning experiences to students identified by the applicants as at risk of academic failure.

(c) A charter entity is not required to approve a charter and may require an applicant to modify or supplement an application as a condition of approval.

(d) Each individual applicant seeking to establish a charter school shall submit a full set of fingerprints to the charter entity for the purpose of obtaining a state and federal criminal records check. The division of criminal justice services is authorized to provide this information to the federal bureau of investigation and to perform a state and federal criminal records check on each applicant and report the results to the charter entity and the state superintendent of public instruction. The criminal records check shall be completed to the satisfaction of the charter entity prior to approval of the application. The department and the division of criminal justice services shall enter into any memoranda of agreement necessary to implement the requirements of this subdivision.

(e) Upon approval of an application by a charter entity, the applicant and charter entity shall enter into a proposed agreement allowing the applicants to organize and operate a charter school. Such written agreement, known as the charter, shall include

- (i) the information required by subdivision (b) of section 21-3-305 of this article, as modified or supplemented during the approval process,
- (ii) any other terms or conditions required by applicable laws, rules and regulations, and

any other terms or conditions, not inconsistent with law, agreed upon by the applicant and the charter entity. In addition, the charter shall include the specific commitments of the charter entity relating to its obligations to oversee and supervise the charter school. Within five days after entering into a proposed charter, the charter entity other than the state board of education shall submit to the state superintendent of public instruction a copy of the charter, the application and supporting documentation.

(f) The total number of charters issued by a charter entity other than a school district pursuant to this article shall not exceed one hundred. Fifty of such charters shall be issued on the recommendation of the charter entity described in paragraph (ii) of subdivision (c) of section 21-3-305 of this article, and fifty of such charters shall be issued on the recommendation of the other charter entities set forth in subdivision (c) of section 21-3-305 of this article. The failure of any body to issue the regulations authorized pursuant to this article shall not effect the authority of a charter entity to propose a charter to the state board of education or the state board of education's authority to grant such charter. A conversion of an existing public or private school to a charter school or the renewal or extension of a charter shall not be counted toward the numerical limits established by this subdivision.

21-3-307. Hearing by local board; prohibited actions by local board; criteria; compliance with state standards; state board review; contractual authority.

(a) Not later than thirty (30) days after receiving an application for any charter school as defined in 21-3-302, the district board shall hold a public hearing on the application, at which time the board shall consider the level of community and parental support for the application if an application for a new charter school, or the level of teacher and parental support if an application for a converted charter school. Following review of the application and the public hearing, if applicable, the district board shall either approve or deny the application within sixty (60) days of receipt. Approval under this article may be conditioned for purposes specified under subsection (c) of this section. In addition, the board may approve an application for the operation of a converted charter school only if it determines teacher and parental support for the conversion are established. Prior to approving an application for a charter school under this section, the board shall approve and adopt the content and terms of the contract as provided in 21-3-305.

(b) No district board of trustees or agent of the board shall require any employee of the school district to be employed in a charter school or any pupil enrolled in the school district to attend a charter school. No district board or its agent shall harass, threaten, discipline, discharge, retaliate or in any manner discriminate against any district employee involved directly or indirectly with an application to establish a charter school as authorized under this article.

(c) A charter entity shall not discriminate against a charter school in publicizing the district's educational options through advertising, direct mail, availability of mailing lists or other informational activities.

(d) Charter schools shall design its educational programs to meet or exceed the student performance standards imposed by [insert statute] and the uniform state student content and performance standards prescribed by the state board of education under [insert statute], including compliance with requirements under the statewide assessment system pursuant to [insert statute]). A charter school offering instruction in the high school grades may grant diplomas to the same extent as other public schools, and such other certificates and honors as are specifically authorized by their charter, and in testimony thereof give suitable certificates, honors and diplomas under its seal; and every certificate and diploma so granted shall entitle the conferee to all privileges and immunities which by usage or statute are allowed for similar diplomas of corresponding grade granted by any other public school.

(e) Those teachers employed on a full-time basis in the charter school system shall be subject to the same requirements with respect to certification by the [insert state]professional teaching standards board under [insert statute] and other qualifications as any other teachers authorized to teach in [insert state]public schools.

21-3-308. Appeal; standard of review; procedures.

(a) A charter applicant or any other person who wishes to appeal a decision of a district board concerning a charter school shall provide the state board and the district board with a notice of appeal within thirty (30) days after the local board's decision. If the appeal is of a denial, nonrenewal, or revocation of a charter, the person bringing the appeal shall limit the grounds of the appeal to the grounds for denial specified by the district board. The notice shall include a brief statement of the reasons the charter school applicant contends the district board's denial was in error.

(b) If the notice of appeal, or the motion to review by the state board, relates to a district board's decision to deny, refuse to renew, or revoke a charter or to a district board's unilateral imposition of conditions that are unacceptable to the charter school or the charter applicant, the appeal and review process shall be as follows:

(i) Within sixty (60) days after receipt of the notice of appeal or the making of a motion to review by the state board and after reasonable public notice, the state board, at a public hearing which shall be held in the school district in which the proposed charter school has applied for a charter, shall review the decision of the district board and make its findings. If the state board finds that the local board's decision was contrary to the best interests of the pupils, school district or community, the state board shall remand such decision to the district board with written instructions for reconsideration thereof. The instructions shall include specific recommendations concerning the matters requiring reconsideration;

(ii) Within thirty (30) days following the remand of a decision to the district board and after reasonable public notice, the district board, at a public hearing, shall reconsider its decision and make a final decision;

(iii) If the district board's final decision is still to deny, refuse to renew or revoke a charter or to unilaterally impose conditions unacceptable to the charter school or the charter applicant, a second notice of appeal may be filed with the state board within thirty (30) days following such final decision;

(iv) Within thirty (30) days following receipt of the second notice of appeal or the making of a motion for a second review by the state board and after reasonable public notice, the state board, at a public hearing, shall determine whether the final decision of the district board was contrary to the best interests of the pupils, school district or community. If such a finding is made, the state board shall remand the final decision to the local board with instructions to approve the charter application. The decision of the state board may require changes to the contract to be executed by the charter school and the school district.

21-3-309. Compliance with charter; participation in retirement system.

(a) A charter school approved pursuant to this article shall comply with the provisions set forth in its charter petition.

(b) Any charter school shall participate in the [insert state]retirement system to the extent as if it were a public school within the district.

21-3-310. Charter school organization; oversight.

(a) Organization and legal status.

(i) Upon the approval of a charter by a charter entity, the state board of education shall incorporate the charter school as an education corporation for a term not to exceed five years. Such certificate of incorporation shall not modify or limit any terms of the charter approved by the state board of education. Upon approval of an application to renew a charter, the state board of education shall extend the certificate of incorporation for a term not to exceed five years. Upon termination or nonrenewal of the charter of a charter school pursuant to section 21-3-313 of this article, the certificate of incorporation of the charter school shall be revoked by the state board of education, in compliance with the notice and hearing requirements of such section 21-3-313 of this article. It shall be the duty of the trustees of the charter school to obtain federal tax-exempt status no later than one year following approval of a charter school by the state board of education. For purposes of this article, "certificate of incorporation" shall mean the provisional charter issued by the state board of education to form the charter school as an educational corporation.

(ii) An education corporation organized to operate a charter school shall have all corporate powers necessary and desirable for carrying out a charter school program in accordance with the provisions of this article, other applicable laws and regulations and the terms of the charter, including all of the powers of an education corporation formed to operate an elementary or secondary school and those powers granted under the provisions of the not-for-profit corporation law that are made applicable to charter schools.

(iii) A charter school shall be deemed an independent and autonomous public school, except as otherwise provided in this article. The charter

entity and the state board of education shall be deemed to be the public agents authorized to supervise and oversee the charter school.

(iv) The powers granted to a charter school under this article constitute the performance of essential public purposes and governmental purposes of this state. A charter school shall be exempt to the same extent as other public schools from all taxation, fees, assessments or special ad valorem levies on its earnings and its property, including property leased by the charter school. Instruments of conveyance to or from a charter school and any bonds or notes issued by a charter school, together with the income therefrom, shall at all times be exempt from taxation.

(v) A charter school shall not have the power to levy taxes or to acquire property by eminent domain.

(vi) The board of trustees of the charter school shall have final authority for policy and operational decisions of the school. Nothing herein shall prohibit the board of trustees of a charter school from delegating decision-making authority to officers and employees of the school in accordance with the provisions of the charter.

(vii) Notwithstanding any provision of law to the contrary, no civil liability shall attach to any charter entity, the state board of education, or to any of their members or employees, individually or collectively, for any acts or omissions of the charter school. Neither the local school district, the charter entity nor the state shall be liable for the debts or financial obligations of a charter school or any person or corporate entity who operates a charter school.

(b) The charter entity shall oversee each school approved by such entity, and may visit, examine into and inspect any charter school, including the records of such school, under its oversight and report its findings to the state superintendent of education. Oversight by a charter entity and the state board of education shall be sufficient to ensure that the charter school is in compliance with all applicable laws, regulations and charter provisions.

(b)(1) For district-granted charter schools, each district board granting a charter pursuant to this article shall annually report to the state board on each charter school operating within the district, compliance with the provisions of the charter and shall assure the state board that students attending the charter school are receiving an education consistent with the educational opportunities available to all students within the school district.

21-3-311. Charter schools; employee options.

(a) During the first year that a teacher employed by a school district is employed by a charter school, the teacher shall be considered to be on a one (1) year leave of absence from the school district. The leave of absence shall commence on the first day of services for the charter school. Upon the request of the teacher, the one (1) year leave of absence shall be renewed for up to two (2) additional one (1) year periods upon the mutual agreement of the teacher and the school district. At the end of three (3) years, the relationship between the teacher and the school district shall be determined by the school district and the district shall provide notice to the teacher of the relationship.

(b) The employment status of school district employees employed by the charter school who seek to return to employment with noncharter schools in the school district shall be negotiated and included in the charter contract.

(c) An employee of a charter school shall be an employee of the governing board of the charter school and not an employee of a local school districts in which the charter is located, and may enter into a collective bargaining agreement that is separate from the school district's bargaining agreement.

21-3-312. Students counted among district ADM; determination of charter school funding.

(a) The school district shall also pay directly to the charter school any federal or state aid attributable to a student with a disability attending charter school in proportion to the level of services for such student with a disability that the charter school provides directly or indirectly.

(b) In the event of the failure of the school district to make payments required by this section, the state comptroller (or other state oversight department responsible for accounts payable/receivable) shall deduct from any state funds which become due to such school district an amount equal to the unpaid obligation. The comptroller shall pay over such sum to the charter school upon certification of the commissioner. The commissioner shall promulgate regulations to implement the provisions of this subdivision.

(c) Nothing in this article shall be construed to prohibit any person or organization from providing funding or other assistance to the establishment or operation of a charter school. The board of trustees of a charter school is authorized to accept gifts, donations or grants of any kind made to the charter school and to expend or use such gifts, donations or grants in accordance with the conditions prescribed by the donor; provided, however, that no gift, donation or grant may be accepted if subject to a condition that is contrary to any provision of law or term of the charter.

21-3-313. Causes for revocation or termination.

(a) The charter entity may terminate a charter upon any of the following grounds:

(i) When a charter school's outcome on student assessment measures adopted by the state board of education falls below the level that would allow the state superintendent of public instruction to revoke the registration of another public school, and student achievement on such measures has not shown improvement over the preceding three school years:

(ii) Serious violations of law;

(iii) Material and substantial violation of the charter, including fiscal mismanagement; or

(iv) When the charter entity makes a determination that the charter school demonstrates a practice and pattern of egregious and intentional violations of the civil service law involving interference with or discrimination against employee rights.

(b) Notice of intent to revoke a charter shall be provided to the board of trustees of a charter school at least thirty days prior to the effective date of the proposed revocation. Such notice shall include a statement of reasons for the proposed revocation. The charter school shall be allowed at least thirty days to correct the

problems associated with the proposed revocation. Prior to revocation of the charter, a charter school shall be provided an opportunity to be heard, consistent with the requirements of due process. Upon the termination of a charter, the charter school shall proceed with dissolution pursuant to the procedures of the charter and direction of the charter entity and the state board of education.

(c) In addition to the provisions of subdivision two of this section, the charter entity or the state board of education may place a charter school falling within the provisions of subdivision one of this section on probationary status to allow the implementation of a remedial action plan. The failure of a charter school to comply with the terms and conditions of a remedial action plan may result in summary revocation of the school's charter.

(d) Any individual or group may bring a complaint to the board of trustees of a charter school alleging a violation of the provisions of this article, the charter, or any other provision of law relating to the management or operation of the charter school. If, after presentation of the complaint to the board of trustees of a charter school, the individual or group determines that such board has not adequately addressed the complaint, they may present that complaint to the charter entity, which shall investigate and respond. If, after presentation of the complaint to the charter entity, the individual or group determines that the charter entity has not adequately addressed the complaint, they may present that complaint to the state board of education, which shall investigate and respond. The charter entity and the state board of education shall have the power and the duty to issue appropriate remedial orders to charter schools under their jurisdiction to effectuate the provisions of this section.

(e) The regulatory power of the state board of education and the state superintendent of public instruction shall not extend to charter schools except as otherwise specifically provided in this article.

21-3-314. Notice; review and assessment.

(a) The state board of education shall distribute information announcing the availability of the charter school process described in this article to each local school district and public postsecondary educational institution. At each significant stage of the chartering process, the charter entity shall provide appropriate notification to the school district in which the charter school is located and to public and nonpublic schools in the same geographic area as the proposed charter school.

(b) Each charter school shall submit to the charter entity and to the state superintendent of public instruction an annual report. Such report shall be issued no later than the first day of August of each year for the preceding school year. The annual report shall be in such form as shall be prescribed by the state superintendent of public instruction and shall include at least the following components:

(i) a charter school report card, which shall include measures of the comparative academic and fiscal performance of the school, as prescribed by the state superintendent of public instruction in regulations adopted for such purpose. Such measures shall include, but not be limited to, graduation rates, dropout rates, performance of students on standardized tests, college entry rates, total spending per pupil and administrative spending per pupil.

- (ii) discussion of the progress made towards achievement of the goals set forth in the charter.
- (iii) a certified financial statement setting forth, by appropriate categories, the revenues and expenditures for the preceding school year, including a copy of the most recent independent fiscal audit of the school.

(c) The state board of education shall report annually to the governor, the temporary president of the senate, and the speaker of the assembly the following information:

- (i) The number, distribution, and a brief description of new charter schools established during the preceding year;
- (ii) The current and projected programmatic and fiscal impact of charter schools on the delivery of services by the public school system;
- (iii) The academic progress of students attending charter schools, as measured against comparable public and nonpublic schools wherever practicable; and
- (iv) Any other information regarding charter schools that the state superintendent of public instruction deems necessary.