



January 23, 2012

To: Joint Committee on Education and Cultural Affairs

Re: **LD 1762, An Act to Amend and Clarify the Public Charter School Law**

From: Judith D. Jones, Chair, Maine Association for Public Charter Schools

Good Afternoon, Senator Langley, Representative Richardson and members of the Education Committee. It is an honor to be here to discuss the next steps in the development of public charter schools in Maine.

This is an exciting time for public charter schools in Maine. In the last two months, the Education Committee and State Board of Education have worked together to appoint the members of the new State Charter School Commission, and the Commission has met and begun its discussions. The Department has been working hard to inform the public and focus on implementation of the bill. Potential founders and potential authorizers in SAUs are paying close attention, working to understand the flexibility and accountability provisions of Maine's public charter school program.

Just last week, Maine's enabling legislation was awarded the highest ranking among states with charter school laws by the National Alliance for Public Charter Schools. This ranking reflects the serious work undertaken by this Committee and the Department last year, and means that Maine's public charter school movement is supported by carefully crafted legislation. Maine's legislation already reflects the major lessons learned over the past years in 40 other states. Nationally, other states are watching what happens as Maine implements its law, in hopes that a high quality charter school movement will emerge from its good legislation.

Three documents were published on the Department's website last week. One, LD 1762, has been drafted by the Department of Education to clarify certain parts of Maine's enabling legislation for public charter schools passed last June. The Department also drafted "Implementing Rules" for public charter schools in Maine, and published a report titled, "Implementing Maine's Public Charter School Law."

It can be confusing for the public to understand the differences between these documents, especially since both the "Amendments" to the bill contained in LD 1762 and the "Rules" will be vetted by this Committee and voted on by the Legislature. Efforts over the next few weeks should be focused on ensuring that the amendments and the rules are consistent with each other and also support the overall goals of public charter schools.

The overall goals public charter school legislation are to encourage ways for new options and innovations in public education to emerge in Maine. With the charter school model, flexibility in operations is granted in return for greater accountability for student outcomes. Too much regulation can stymie innovation; too little could lead to avoidable problems.

Finding a good balance is the task before you now. We expect that further refinements will be necessary as experience evolves over the next few years.

Our comments on LD 1762, as drafted, will refer to the Department's report. MACS agrees in principle with many of the proposed provisions. The major provisions that we would like to discuss include the following issues.

1. **Conflicts of Interest** - Sec. 10, C. (page 4), That governing boards of public charter schools will be subject to sections 1002 and 1004 of Title I, chapter 13, concerning conflicts of interest.

Several of these provisions do not seem appropriate for public charter school boards of trustees, and we look forward to working with you and the Department to clarify which provisions might be appropriate.

2. **Maine Special Education Laws** - Sec. 11, G. (page 4) That public charter schools would be subject to state laws regarding special education, in addition to the federal rules to which they are automatically subject.

We object to this provision, as it would seriously compromise charter schools ability to find flexible and appropriate ways to meet the needs of their special education students. This is an example of putting regulatory compliance ahead of the goal of providing flexibility in operations in order to encourage innovation.

3. **Supplemental Local Funds** - Sec. 12, 2. (page 4) Revenue provisions.

We agree that the per-pupil allocation amounts should be based on the EPS formulas for each SAU where a charter school student resides. In the case of supplemental local funds, we hope that local school boards will be willing to work closely with charter schools to ensure that each of the students in their town, whether attending a traditional school or a charter school, benefits equally from the tax dollars allotted for their education.

4. **Funding Disputes** - Sec. 12, 2, F (page 6) - Procedure if an SAU fails to send required per-pupil allocations to a charter school.

We note that detailed provisions for this eventuality have been drafted by the Department in the "rules" in Section 5, Notice of payments due; dispute resolution; adjustments."

We highlight the importance of ensuring that these provisions are consistent between the LD 1762 proposed amendments and the proposed rules.

5. **Geographic Enrollment Areas**. We do not see any reference to this issue in the proposed LD 1762. The Department's report suggests that authorizers be granted the authority to approve or modify proposals by founders concerning the geographic

boundaries within which the charter school could give preference in enrollment and/or within which they would be responsible for providing transportation.

We suggest that an SAU that chooses to authorize a charter school in its district be allowed to give preference to resident students; and likewise for a collaborative of SAUs.

We suggest that the State Charter School Commission have the power, as mentioned in the Department's Report, to approve or modify a charter school's proposal for enrollment and transportation areas, keeping in mind the goal of open access for students from the SAUs surrounding the location of the charter school.

**6. Applicability of state laws** - beyond those concerning health, safety, and civil rights and applicable federal laws. This is a major issue, but not addressed directly in LD 1762.

In its report, the Department lists on pages 15-17 several laws which it suggests are applicable to public charter schools, several that are clearly not applicable, and many more that might be applicable.

We look forward to working with the Department and this Committee to tease out the details of these laws and rules, to see which might be appropriate to apply to public charter schools.

The enabling legislation for charter schools in Maine, in keeping with the essence of the public charter school model, provides a general waiver from many of these state laws, in order to allow charter schools freedom to innovate in their operations, while being held more accountable for student achievement.

**7. Enrollment and Lottery Procedures**

While the provisions of LD 1762 do not address these issues directly, the proposed "Rules" do, and we would like to note that it is of great concern to potential founders and authorizers whether the Department's proposed deadline of April 1<sup>st</sup> each year for a lottery is adopted. Many believe such a once-a-year deadline is too rigid and will limit the ability of public charter schools to form efficiently in response to community needs.

**Summary**

Thank you for your interest in, your commitment to, and your hard work on behalf of the children in Maine. It is wonderful to watch, as you open up a new sector in Maine's public education system - one that will encourage new programs, new options for families and teachers, new energy, and higher achievement by public school students in Maine.