

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## An Act To Create a Public Charter School Program in Maine

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 5 MRSA §12004-G, sub-§10-D** is enacted to read:

3  
4 **10-D.**

5 **Sec. 2. 20-A MRSA §1, sub-§26, ¶F**, as enacted by PL 2007, c. 668, §1, is amended to  
6 read:

7  
8 F. A municipal or quasi-municipal district responsible for operating public schools that has not  
9 reorganized as a regional school unit pursuant to chapter 103A; ~~and~~

10 **Sec. 3. 20-A MRSA §1, sub-§26, ¶G**, as amended by PL 2009, c. 580, §2, is further  
11 amended to read:

12  
13 G. A municipal school unit, school administrative district, community school district, regional  
14 school unit or any other quasi-municipal district responsible for operating public schools that  
15 forms a part of an alternative organizational structure approved by the commissioner; and

16 **Sec. 4. 20-A MRSA §1, sub-§26, ¶H** is enacted to read:

17  
18 H. A charter school authorized by an entity other than a school administrative unit, under chapter  
19 112.

20 ~~**Sec. 5. 20-A MRSA §202, sub-§16**, as enacted by PL 1981, c. 693, §§5 and 8, is amended~~  
21 ~~to read:~~

22  
23 ~~**16. Other entities.** Other entities authorized by the Legislature; and~~

24 ~~**Sec. 6. 20-A MRSA §202, sub-§17**, as enacted by PL 1981, c. 693, §§5 and 8, is amended~~  
25 ~~to read:~~

26  
27 ~~**17. Other bureaus.** Any other bureau the commissioner establishes; and~~

28 ~~**Sec. 7. 20-A MRSA §202, sub-§18** is enacted to read:~~

29  
30 ~~**18. Charter schools.** Charter schools.~~

31 **Sec. 8. 20-A MRSA c. 112** is enacted to read:

### CHAPTER 112

## CHARTER SCHOOLS

### § 2401. Definitions

34  
35 As used in this chapter, unless the context otherwise indicates, the following terms have the

1 following meanings.

2  
3 **1. Applicant.** "Applicant" means a person or group that develops and submits an application  
4 for a public charter school to an authorizer.

5  
6 **2. Application.** "Application" means a proposal from an applicant to an authorizer to enter  
7 into a charter contract whereby the proposed school obtains public charter school status.

8  
9 **3. At-risk pupil.** "At-risk pupil" means a pupil who has an economic or academic  
10 disadvantage that requires special services and assistance to enable the student to succeed in  
11 educational programs. "At-risk pupil" includes, but is not limited to, pupils who are members of  
12 economically disadvantaged families, pupils who are identified as having special educational needs,  
13 pupils who are limited in English proficiency, pupils who are at risk of dropping out of high school and  
14 pupils who do not meet minimum standards of academic proficiency.

15  
16 **4. Authorizer.** "Authorizer" means an entity empowered under this chapter to review  
17 applications, decide whether to approve or reject applications, enter into charter contracts with  
18 applicants, oversee and monitor public charter schools and decide whether to renew, not renew or  
19 revoke charter contracts.

20  
21 **5. Charter contract.** "Charter contract" means a performance-based contract for a fixed  
22 term between a public charter school and an authorizer that describes performance expectations,  
23 defines operational responsibilities and outlines the autonomy and accountability for each party to the  
24 contract.

25  
26 **6. Conversion public charter school.** "Conversion public charter school" means a  
27 public charter school that existed as a noncharter public school before becoming a public charter  
28 school.

29  
30 **7. Education service provider.** "Education service provider" means an education  
31 management organization, charter management organization, school design provider or any other  
32 partner entity with whom a public charter school intends to contract for education design,  
33 implementation or comprehensive management.

34  
35 **8. Governing board.** "Governing board" means the independent board of a public charter  
36 school that is party to the charter contract with the authorizer and whose members have been elected or  
37 selected pursuant to the school's application.

38  
39 **9. Local school board Agency (LEA).** A "Local school board education agency (LEA)"  
40 means a school board exercising management and control of a local school district pursuant to the  
41 Constitution of Maine and the laws of the State. is the federal term for school districts within states; a  
42 state's department of education is called a "State education agency (SEA)" in federal terms. In Maine,  
43 School Administrative Units (SAUs) are LEAs for federal purposes. A public charter school is  
44 considered to be an LEA for certain federal programs.

45  
46  
47 **10. Local school district board.** "Local school district board" means a system of public

1 ~~schools established and maintained by a local school board within its limits~~ school board exercising  
2 management and control of a school administrative unit pursuant to the Constitution of Maine and the  
3 laws of the State.  
4

5 **11. Noncharter public school.** "Noncharter public school" means a public school that is  
6 under the direct management, governance and control of a local school board.  
7

8 ~~12. Parent.~~ "Parent" means a parent, guardian or legal guardian.  
9

10 **13. Public charter school.** "Public charter school" means a public school that:  
11

12 A. Has autonomy over key decisions, including, but not limited to, decisions concerning finance,  
13 personnel, scheduling, curriculum and instruction;  
14

15 B. Is governed by an independent board a board that is independent of a school administrative  
16 unit.  
17

18 C. Is established and operated under the terms of a charter contract between the governing board  
19 and its authorizer in accordance with this chapter;  
20

21 D. Is a school to which parents choose to send their children;  
22

23 E. Provides a program of education that:  
24

25 (1) Includes one or more of the following: preschool, prekindergarten and any grade or  
26 grades from kindergarten to grade 12;  
27

28 (2) May include a focus on students with special needs, such as at-risk pupils, English  
29 language learners or students involved with the juvenile justice system;  
30

31 (3) May include a specific academic approach or theme, such as:  
32

33 (a) Vocational and technical training;  
34

35 (b) Natural resources and the environment;  
36

37 (c) Farming, fishing and forestry;  
38

39 (d) Foreign language and culture;  
40

41 (e) Visual and performing arts;  
42

43 (f) Science, mathematics and technology; and  
44

1                    (g) Project-based learning, experiential learning or online instruction;

2  
3                    F. Operates in pursuit of a specific set of educational objectives as defined in its charter contract;  
4                    and

5  
6                    G. Operates under the oversight of the authorizer from which its charter contract is granted and in  
7                    accordance with its charter contract.

8  
9                    ~~**14. Pupil or student.** — "Pupil" or "student" means any child who is eligible for attendance in~~  
10 ~~public schools in the State.~~

11  
12                    **15. Start-up public charter school.**    "Start-up public charter school" means a public  
13 charter school that did not exist as a noncharter public school prior to becoming a public charter school.

14  
15                    **16. Virtual public charter school.**    "Virtual public charter school" means a public charter  
16 school that offers education services predominantly through an online program.

17                    **§ 2402. Public charter schools authorized**

18                    Charter schools may be established as public schools pursuant to this chapter to improve pupil  
19 learning by creating more high-quality schools with high standards for pupil performance; to close  
20 achievement gaps between high-performing and low-performing groups of public school students; to  
21 increase high-quality educational opportunities within the public education system; to provide  
22 alternative learning environments for students who are not thriving in traditional school settings; to  
23 create new professional opportunities for teachers and other school personnel; to encourage the use of  
24 different, high-quality models of teaching and other aspects of schooling; and to provide students,  
25 parents, community members and local entities with expanded opportunities for involvement in the  
26 public education system.

27                    **§ 2403. Role of the department; commissioner; rules**

28  
29                    **1. Information and technical assistance.**    The department shall disseminate information  
30 on how to form and operate a public charter school and on how to enroll in a public charter school once  
31 the school is created. The department may provide assistance and guidance to authorizers in developing  
32 effective authorization and oversight procedures.

33  
34                    **2. Applications for federal funds.**    The department may apply for assistance from the  
35 federal charter school grant program on behalf of potential and actual public charter schools in the  
36 State.

37  
38                    **3. Use of federal funds.**    If the department receives a grant from the federal charter school  
39 grant program on behalf of potential and actual charter schools, the grant must be used according to the  
40 applicable federal law and primarily for planning and startup grants to public charter school organizers  
41 and for such activities as:

42  
43                    ~~A. Establishing a charter school office in the department;~~

44  
45                    ~~B. A. Providing information and technical assistance to potential and actual public charter school~~

1 organizers and authorizers; and

2  
3 €. B. Allocating funds to support the work of potential and actual authorizers.

4  
5 **4. Rules.** The department may adopt routine technical rules pursuant to Title 5, chapter 375,  
6 subchapter 2A to implement this chapter.

7  
8 **5. Reports.** Four years after public charter schools have been in operation, the commissioner  
9 shall issue to the Governor, the Legislature and the public a report on the State's charter school  
10 program, drawing from the annual reports submitted by every authorizer pursuant to section 2407,  
11 subsection 4, as well as any additional relevant data compiled by the commissioner up to the school  
12 year ending in the preceding calendar year. The report must include an assessment of the charter school  
13 program's successes, challenges and areas for improvement in meeting the purposes of this chapter and  
14 any suggested changes in state law or policy necessary to strengthen the charter school program. The  
15 commissioner shall issue a similar report after 8 years of operation of public charter schools.

16 **§ 2404. Public charter school eligibility; enrollment**

17  
18 **1. Eligibility.** Any student residing in the State is eligible to apply to a public charter school.

19  
20 **2. Enrollment.** A public charter school shall enroll students in accordance with this  
21 subsection.

22  
23 A. Public charter school organizers shall include all segments of the populations served by the  
24 existing public schools in their area in their recruitment efforts.

25  
26 B. A public charter school shall enroll all students who wish to attend the school, unless the  
27 number of students exceeds the enrollment capacity of a program, class, grade level or building.

28  
29 C. Except as provided in paragraphs G and H, if capacity is insufficient to enroll all students who  
30 wish to attend the school, the public charter school shall select students through a random  
31 selection process. A list maintained to fill potential vacancies may be carried over to the  
32 succeeding year.

33  
34 D. A public charter school, unless authorized by a school administrative unit, may not enroll more  
35 than 10% of a school administrative unit's public school students per grade level in each of the  
36 first 2 years of the public charter school's operation.

37  
38 E. A public charter school may limit enrollment to pupils within a given age group or grade level  
39 and may be organized around a special emphasis, theme or concept as stated in the school's  
40 application for a charter contract pursuant to section 2410.

41  
42 F. Any noncharter public school converting partially or entirely to a public charter school shall  
43 adopt and maintain a policy that gives enrollment preference to pupils who reside within the  
44 former attendance area of that public school.

45  
46 G. A public charter school shall give enrollment preference to pupils enrolled in the public charter  
47 school the previous school year and to siblings of pupils already enrolled in the public charter

1 school.

2  
3 H. A public charter school may give enrollment preference to children of a public charter school's  
4 founders, governing board members and full-time employees, as long as they constitute no more  
5 than 10% of the school's total student population.

6  
7 I. A public charter school may enroll students from outside the State if space is available.

8  
9 **3. Discrimination prohibited.** A public charter school may not discriminate on the basis  
10 of race, ethnicity, national origin, religion, gender, *sexual orientation*, income level, disabling  
11 condition, proficiency in the English language or academic or athletic ability, except that nothing in this  
12 subsection may be construed to limit the formation of a public charter school that is dedicated to  
13 focusing education services on at-risk pupils, students with disabilities and students who pose such  
14 severe disciplinary problems that they warrant a specific education program.

15 **§ 2405. Prohibition**

16 A local school district may not require a student enrolled in the local school district to attend a  
17 public charter school.

18 **§ 2406. Public information**

19 A local school district An SAU shall provide or publicize to parents and the general public  
20 information about public charter schools authorized by the district that SAU as an enrollment option  
21 within the district SAU to the same extent and through the same means that the district SAU provides  
22 and publicizes information about noncharter public schools in the district SAU.

23 **§ 2407. Authorizers**

24  
25 **1. Eligible authorizers.** The following groups may become authorizers of public charter  
26 schools:

27  
28 A. A local school board with regard to creating a public charters school within the boundaries of  
29 a school administrative unit it governs;

30  
31 B. A collaborative among authorizing entities that forms to set up a regional public charter  
32 school;

33  
34 C. A college or university located in the State that offers a baccalaureate degree in education; and

35  
36 D. The State Charter School Commission established in subsection 9.

37  
38 **2. Powers and duties.** An authorizer may:

39  
40 A. Solicit, invite and evaluate applications from organizers of proposed public charter schools;

41  
42 B. Approve applications that meet identified educational needs;

43  
44 C. Deny applications that do not meet identified educational needs;

45

- 1 D. Create a framework to guide the development of charter contracts;
- 2
- 3 E. Negotiate and execute sound charter contracts with each approved public charter school;
- 4
- 5 F. Monitor the performance and compliance of public charter schools; and
- 6
- 7 G. Determine whether each charter contract merits renewal or revocation.
- 8

9 **3. Principles and professional standards.** An authorizer shall develop and maintain  
10 policies and practices consistent with nationally recognized principles and professional standards for  
11 authorizing public charter schools including standards relating to:  
12

- 13 A. Organizational capacity and infrastructure;
- 14
- 15 B. Soliciting and evaluating applications;
- 16
- 17 C. Performance contracting;
- 18
- 19 D. Ongoing public charter school oversight and evaluation; and
- 20
- 21 E. Charter renewal decision making.
- 22

23 **4. Reporting and evaluation.** An authorizer shall submit to the commissioner an annual  
24 report within 60 days of the end of each school fiscal year summarizing:  
25

- 26 A. The authorizer's strategic vision for chartering and progress toward achieving that vision;
- 27
- 28 B. The performance of all operating public charter schools overseen by the authorizer, according  
29 to the performance measures and expectations specified in the charter contracts;
- 30
- 31 C. The status of the authorizer's public charter school portfolio of approved charter applications,  
32 identifying all public charter schools within that portfolio as:  
33

34 (1) Approved, but not yet open;

35

36 (2) Operating;

37

38 (3) Renewed;

39

40 (4) Transferred;

41

42 (5) Terminated;

43

44 (6) Closed; or

45

46 (7) Never opened; and

47

48 D. The oversight and services provided by the authorizer to the public charter schools under the  
49 authorizer's purview.

1  
2 **5. Funding.** To cover costs for overseeing public charter schools in accordance with this  
3 chapter, an authorizer may:

4  
5 A. Expend its own resources, seek grant funds and establish partnerships to support its charter  
6 school office and activities; and

7  
8 B. Charge up to 3% of annual per-pupil allocations received by each public charter school it  
9 authorizes. These funds must be used to cover the costs for an authorizer to provide oversight  
10 services to oversee its public charter schools.

11  
12 **6. Conflicts of interest.** An employee, trustee, agent or representative of an authorizer may  
13 not simultaneously serve as an employee, trustee, agent, representative, vendor or contractor of a public  
14 charter school of that authorizer.

15  
16 **7. Exclusivity of authorizing functions and rights.** A governmental entity or other  
17 entity, other than an entity expressly granted chartering authority as set forth in this chapter, may not  
18 assume any authorizing function or duty in any form, unless expressly allowed by law.

19  
20 **8. Services purchased from authorizer.** With the exception of charges for oversight  
21 services as required by subsection 5, a public charter school may not be required to purchase services  
22 from its authorizer as a condition of charter approval or of executing a charter contract, nor may any  
23 such condition be implied.

24  
25 A. A public charter school may, at its discretion, choose to purchase services from its authorizer.  
26 In such event, the public charter school and authorizer shall execute an annual service contract,  
27 separate from the charter contract, stating the parties' mutual agreement concerning any services to  
28 be provided by the authorizer and any service fees to be charged to the public charter school. An  
29 authorizer may not charge more than market rates for services provided to a public charter school.

30  
31 B. Within 90 days after the end of each school fiscal year, an authorizer shall provide to each  
32 public charter school it oversees an itemized accounting of all the actual costs of services  
33 purchased by the public charter school from the authorizer.

34  
35 C. Any difference between the amount initially charged to the public charter school and the actual  
36 cost must be reconciled and paid to the owed party. If either party disputes the itemized  
37 accounting, any charges included in such accounting or charges to either party, the disputing party  
38 is entitled to request a 3rdparty review at its own expense.

39  
40 **9. State Charter School Commission.** The State Charter School Commission,  
41 established under Title 5, section 12004-G, subsection 10-D, is referred to in this chapter as "the  
42 commission."

43  
44 A. The commission consists of 7 members appointed by the state board for 3year terms.

45  
46 (1) Three members must be members of the state board, and those 3 members shall nominate  
47 the other 4 members who must be approved by a majority vote of the state board.  
48

1           (2) Members appointed to the commission must have diverse professional experience in  
2           education, social services, youth training, business startup and administration, accounting and  
3           finance, strategic planning and nonprofit governance.  
4

5           (3) A commission member may not serve more than a total of 3 consecutive terms, but may  
6           serve again after being off the commission for a term.  
7

8           (4) A commission member may not receive compensation, but may be reimbursed for travel  
9           expenses.

10  
11          B. The commission shall, subject to the requirements of all charter school authorizers under this  
12          chapter, develop, implement and refine procedures related to the process of authorizing the  
13          creation of public charter schools in this State.  
14

15          C. The commission shall, in keeping with its authorizing responsibilities:  
16

17               (1) Engage professional and administrative staff, separate from the department;  
18

19               (2) Convene stakeholder groups and engage experts; and  
20

21               (3) Seek and receive state, federal and private funds.  
22

23          D. The commission is the sole authorizer in this State for virtual public charter schools, except  
24          that a local school district may authorize a public charter school within its jurisdiction that  
25          integrates online and on-site instruction.

26          **§ 2408. Request for proposals**  
27

28               1. **Issuance.** To invite, solicit, encourage and guide the development of high-quality public  
29               charter school applications, an authorizer shall issue and broadly publicize requests for proposals. The  
30               content and dissemination of the request for proposals must be consistent with the purposes and  
31               requirements of this chapter.  
32

33               2. **Content.** An authorizer's request for proposals must contain information outlined in this  
34               subsection.  
35

36               A. A request for proposals must present the authorizer's strategic vision for and interests in  
37               chartering.  
38

39               B. Authorizers may give priority to proposals that expand opportunities for children who are not  
40               realizing their full potential, who may be disaffected or disengaged in their current education  
41               situations and who may be at risk of failure academically, socially, economically or personally.  
42               Authorizers may encourage proposals that include a specific academic approach or theme to  
43               address the diverse educational needs of communities in the State. A request for proposals must  
44               include a clear statement of any priority or preference the authorizer wishes to grant to particular  
45               types of applications. Notwithstanding an authorizer's statement of any priority or preference, an

1 authorizer shall consider each application submitted to it based on the merits of that particular  
2 application.

3  
4 C. A request for proposals must include or otherwise direct applicants to the performance  
5 framework that the authorizer has developed for public charter school oversight and evaluation in  
6 accordance with section 2411.

7  
8 D. A request for proposals must include the criteria and standards that will guide the authorizer's  
9 decision to approve or deny an application.

10  
11 E. A request for proposals must state clear, appropriately detailed questions as well as guidelines  
12 concerning the format and content essential for applicants to demonstrate the capacities necessary  
13 to establish and operate a successful public charter school.

14  
15 F. A request for proposals must require applications to provide or describe thoroughly, at a  
16 minimum, all of the following essential elements of the proposed public charter school plan:  
17

18 (1) The proposed public charter school's vision, including:

19  
20 (a) An executive summary;

21  
22 (b) The mission and vision of the proposed public charter school, including  
23 identification of the targeted student population and the community the school hopes to  
24 serve; and

25  
26 (c) Evidence of need and community support for the proposed public charter school,  
27 including information on discussions with the SAU where the charter school will be  
28 located concerning recruitment and operations of the charter school and possible  
29 collaboration with nearby SAUs;  
30

31 (2) The proposed public charter school's governance plan, including:

32  
33 (a) Background information on proposed board members and any assurances or  
34 certifications required by the authorizer;

35  
36 (b) Proposed governing bylaws;

37  
38 (c) An organization chart that clearly presents the school's organizational structure,  
39 including lines of authority and reporting between the governing board, staff and any  
40 related bodies such as advisory bodies or parent and teacher councils, and any external  
41 organizations that will play a role in managing the school;

42  
43 (d) A clear description of the roles and responsibilities for the governing board, the

1 school's leadership and management team and any other entities shown on the  
2 organization chart;

3  
4 (e) Identification of the proposed founding governing board members and, if identified,  
5 the proposed school leader or leaders; and

6  
7 (f) Background information on the school's leadership and management team, if  
8 identified;  
9

10 (3) The proposed public charter school's plan of organization, including:

11  
12 (a) The *general* location ~~of~~ and geographic area ~~of the school~~ to be served;

13  
14 (b) The grades to be served each year for the full term of the charter;

15  
16 (c) Minimum, planned and maximum enrollment per grade per year for the term of the  
17 charter;

18  
19 (d) The school's proposed calendar and sample daily schedule;

20  
21 (e) Plans and timelines for student recruitment and enrollment, including lottery  
22 procedures;

23  
24 (f) Explanations of any partnerships or contractual relationships central to the school's  
25 operations or mission;

26  
27 (g) The school's proposals for providing transportation, food service and other  
28 significant operational or ancillary services;

29  
30 (h) A facilities plan, including backup or contingency plans if appropriate;

31  
32 (i) A detailed school startup plan, identifying tasks, timelines and responsible  
33 individuals; and

34  
35 (j) A closure protocol, outlining orderly plans and timelines for transitioning students  
36 and student records to new schools and for appropriately disposing of school funds,  
37 property and assets in the event of school closure;  
38

39 (4) The proposed public charter school's finances, including:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39

(a) A description of the school's financial plan and policies, including financial controls and audit requirements;

(b) Start-up and 3year budgets with clearly stated assumptions;

(c) Start-up and first-year cash-flow projections with clearly stated assumptions;

(d) Evidence of anticipated fund-raising contributions, if claimed in the application; and

(e) A description of the insurance coverage the school proposes to obtain;

(5) The proposed public charter school's student policy, including:

(a) The school's plans for identifying and successfully serving students with the wide range of learning needs and styles typically found in schools of the sending area;

(b) The school's plans for compliance with applicable laws, rules and regulations; and

(c) The school's student discipline plans and policies, including those for special education students;

(6) The proposed public charter school's academic program, including:

(a) A description of the academic program aligned with the statewide system of learning results under section 6209;

(b) A description of the school's instructional design, including the type of learning environment, such as classroom-based or independent study, class size and structure, curriculum overview, teaching methods and research basis;

(c) The school's plan for using internal and external assessments to measure and report student progress on the measures and metrics of the performance framework developed by the authorizer in accordance with section 2411; and

(d) A description of cocurricular or extracurricular programs and how they will be funded and delivered; and

(7) The proposed public charter school's staff policy, including:

1  
2 (a) A staffing chart for the school's first year and a staffing plan for the term of the  
3 charter;

4  
5 (b) Plans for recruiting and developing school leadership and staff;

6  
7 (c) The school's leadership and teacher employment policies, including performance  
8 evaluation plans; and

9  
10 (d) Opportunities and expectations for parent involvement.

11  
12 G. With respect to the conversion of an existing public school to public charter school status, in  
13 addition to the other requirements of this subsection, the request for proposals must require  
14 applicants to demonstrate support for the proposed conversion public charter school by submitting  
15 2 petitions, one signed by a majority of teachers in the existing public school and the other signed  
16 by a majority of parents and guardians of students in the existing public school.  
17

18 If the school to be converted is the only public school option for students in the school  
19 administrative unit, the request for proposals must additionally require that the conversion be  
20 approved by voters in that school administrative unit.

21  
22 H. With respect to a proposed charter school that intends to contract with an education service  
23 provider for substantial education or management services, in addition to the other requirements of  
24 this subsection, the request for proposals must require applicants to:  
25

26 (1) Explain how and why the education service provider was selected;

27  
28 (2) Provide evidence of the education service provider's success in serving student  
29 populations similar to the targeted population, including demonstrated academic achievement  
30 as well as successful management of nonacademic school functions if applicable;  
31

32 (3) Provide information on the proposed duration of the service contract; roles and  
33 responsibilities; scope of services and resources to be provided by the education service  
34 provider; performance evaluation measures and timelines; compensation structure, including  
35 clear identification of all fees to be paid to the education service provider; methods of  
36 contract oversight and enforcement; investment disclosure; and conditions for renewal and  
37 termination of the contract;  
38

39 (4) Provide a draft of the proposed service contract including all of the terms in  
40 subparagraphs (1), (2) and (3);  
41

42 (5) Explain the relationship between the governing board and the education service provider,  
43 specifying how the governing board will monitor and evaluate the performance of the

1 education service provider, the internal controls that will guide the relationship and how the  
2 governing board will ensure fulfillment of performance expectations;  
3

4 (6) Provide a statement of assurance that the governing board is legally and operationally  
5 independent from the education service provider; and  
6

7 (7) Disclose and explain any existing or potential conflicts of interest between the governing  
8 board and the education service provider or any affiliated business entities.  
9

10 I. With respect to a public charter school proposal from an applicant that currently operates one or  
11 more schools in any other state or nation, in addition to the other requirements of this subsection,  
12 the request for proposals must require applicants to provide evidence of past performance and  
13 current capacity for growth.

## 14 **§ 2409. Charter applications**

15  
16 **1. Application.** An applicant for approval as a public charter school must submit an  
17 application as set out in this section. An applicant may submit an application only to an authorizer that  
18 has issued a request for proposals in accordance with section 2408. An applicant may submit a proposal  
19 for a particular public charter school to no more than one authorizer at a time. The purposes of the  
20 application are to present the proposed public charter school's academic and operational vision and  
21 plans, demonstrate the applicant's capacities to execute the proposed vision and plans and provide the  
22 authorizer a clear basis for assessing the applicant's plans and capacities.  
23

24 **2. Conversion of existing public schools.** A public school or public school program  
25 may apply to its local school board to become a conversion public charter school.  
26

27 **3. Start-up schools.** An application for a startup public charter school may be submitted by  
28 a nonprofit, nonreligious organization. If the organizers of a startup public charter school have been  
29 affiliated with a previous school or education program, they must form a separate nonprofit  
30 organization in this State to be eligible for state and federal grants.  
31

32 **4. Application review process.** In reviewing and evaluating applications, authorizers  
33 shall employ procedures, practices, criteria and standards consistent with nationally recognized  
34 principles and standards for authorizing high-quality public charter schools.  
35

36 A. The application review process must include, at a minimum, substantive participation by a  
37 team of reviewers who collectively possess appropriate academic expertise and operational  
38 experience with charter schools.  
39

40 B. The application review process must include a thorough evaluation of each application, an in-  
41 person interview with the applicant and a public hearing.  
42

43 C. In deciding whether to approve applications, authorizers shall:  
44

45 (1) Grant charters only to applicants that have demonstrated competence in each element of

1 the authorizer's published approval criteria and are likely to open and operate a successful  
2 public charter school;  
3

4 (2) Base decisions on documented evidence collected through the application review process;  
5 and  
6

7 (3) Follow charter-granting policies and practices that are transparent, based on merit and  
8 avoid conflicts of interest or any appearance of a conflict of interest.  
9

10 **5. Approval; denial.** No later than 90 days after the filing of an application, an authorizer  
11 shall decide to approve or deny the application. The authorizer shall make and announce all charter  
12 approval or denial decisions in a meeting of the authorizer's governing entity open to the public.  
13

14 A. An approval decision may include, if appropriate, reasonable conditions that the applicant  
15 must meet before a charter contract may be executed.  
16

17 B. If the authorizer denies an application, the authorizer shall clearly state, for public record, its  
18 reasons for denial. An applicant may subsequently reapply to that authorizer or apply to any other  
19 authorizer in the State.  
20

21 C. Within 10 days of taking action to approve or deny an application, the authorizer shall report to  
22 the commissioner the action it has taken. The authorizer shall provide a copy of the report to the  
23 applicant at the same time that the report is submitted to the commissioner.  
24

25 D. The commissioner shall register the charters approved by all chartering authorities in  
26 chronological order by date of approval.  
27

28 E. An approved application may not serve as a school's charter contract nor may it be  
29 incorporated by reference into the charter contract.  
30

31 F. A decision on an application must be conveyed in writing to the applicant. A decision may  
32 grant approval or conditional approval, request resubmission or reject the application and must  
33 include written reasons for the decisions.

## 34 **§ 2410. Charter contracts**

35  
36 **1. Charter contracts.** When an application is approved, a charter contract must be executed  
37 in accordance with this section.  
38

39 A. After approval of an application and no later than 60 days prior to the opening date of the  
40 public charter school, the authorizer and the governing board shall execute a charter contract that  
41 sets forth:  
42

43 (1) Performance provisions describing the academic and operational performance  
44 expectations and measures by which the public charter school will be judged; and  
45

46 (2) Administrative provisions articulating the administrative relationship between the

1 authorizer and the public charter school, including each party's rights and duties.

2  
3 B. The performance provisions set forth in a charter contract under paragraph A must include but  
4 need not be limited to applicable federal and state accountability requirements.

5  
6 C. The performance provisions set forth in a charter contract under paragraph A may be refined or  
7 amended by mutual agreement of the parties to the charter contract after the public charter school  
8 is operating and has collected baseline achievement data for its enrolled students.

9  
10 D. A charter contract must be signed by ~~the president~~ a designated representative of the  
11 authorizer's governing entity and the president of the authorizer and of the charter school's  
12 governing board.

13  
14 E. A public charter school may not commence operations without a charter contract executed in  
15 accordance with this section and approved in a meeting open to the public of the authorizer's  
16 governing entity.

17  
18 ~~**2. Requirements prior to opening.** — An authorizer may establish reasonable requirements~~  
19 ~~or conditions prior to the opening of a public charter school to monitor the startup progress of a newly~~  
20 ~~approved public charter school, ensure that it is prepared to open smoothly on the date agreed and~~  
21 ~~ensure that the school meets all building, health, safety, insurance and other legal requirements for~~  
22 ~~school opening.~~

23  
24 **3. Virtual public charter schools.** The charter contract of a virtual public charter school  
25 must require the governing board to:

26  
27 A. Provide each student enrolled in the virtual public charter school with online courses that meet  
28 or exceed state standards and all instructional materials required for the student's participation in  
29 the school;

30  
31 B. Ensure that the persons who operate the virtual public charter school on a day-to-day basis  
32 comply with and carry out all applicable requirements, statutes, regulations, rules and policies of  
33 the school;

34  
35 C. Ensure that a parent of each student verifies the number of hours of educational activities  
36 completed by the student each school year; and

37  
38 D. Adopt a plan by which the governing board provides:

39  
40 (1) Frequent, ongoing monitoring to ensure and verify that each student is participating in the  
41 virtual public charter school, including proctored assessments each semester in core subjects  
42 graded or evaluated by the teacher, and at least biweekly parent-teacher conferences in  
43 person or by telephone;

44  
45 (2) Regular instructional opportunities in real time that are directly related to the virtual  
46 public charter school's curricular objectives, including, but not limited to, meetings with  
47 teachers and educational field trips and outings;

1           (3) Verification of ongoing student attendance in the virtual public charter school;  
2

3           (4) Verification of ongoing student progress and performance in each course as documented  
4           by ongoing assessments and examples of student course work; and  
5

6           (5) Administration to all students in a proctored setting of all applicable assessments as  
7           required by the State.  
8

9           Nothing in this subsection prohibits a virtual public charter school from reimbursing families of  
10           enrolled students for costs associated with their Internet connection for use in the program.  
11

12           Only students enrolled in a virtual public charter school as full-time students may be reported in the  
13           virtual public charter school's average pupil count to the department for the purposes of receiving local,  
14           state and federal funds.

15           **§ 2411. Public charter school performance framework**

16  
17           **1. Performance framework.**    The performance provisions of a charter contract must be  
18           based on a performance framework developed by the authorizer that sets forth the academic and  
19           operational performance indicators that will guide the authorizer's evaluations of each public charter  
20           school.  
21

22           **2. Data elements.**    The performance framework developed under subsection 1 must include,  
23           at a minimum, indicators for:  
24

25           A. Student academic proficiency;

26           B. Student academic growth;

27           C. Achievement gaps in both proficiency and growth between major student subgroups;  
28

29           D. Attendance;

30           E. Recurrent enrollment from year to year;

31           F. With respect to high school, postsecondary readiness;

32           G. Financial performance and sustainability;

33           H. Governing board performance and stewardship; and

34           I. Parent and community engagement.  
35  
36

37           **3. Annual performance targets.**    Annual performance targets must be set by a public  
38           charter school in conjunction with its authorizer and must be designed to help each school meet  
39           applicable federal and state requirements and authorizer expectations.  
40  
41  
42

1        **4. Data disaggregation.**    The performance framework developed under subsection 1 must  
2 require the disaggregation of all student performance data by major student subgroups.  
3

4        **5. Reports for multiple campuses.**    With respect to a public charter school that contains  
5 multiple campuses operating under a single charter contract or overseen by a single governing board,  
6 the performance framework developed under subsection 1 must require the performance of each  
7 campus to be reported separately and must hold each campus independently accountable for its  
8 performance.

## 9    **§ 2412. Oversight**

10  
11        **1. Data collection; monitoring.**    For each public charter school it oversees, the authorizer  
12 is responsible for collecting, analyzing and reporting all data from state assessments in accordance with  
13 the performance framework developed under section 2411, subsection 1. An authorizer shall monitor  
14 the performance and legal compliance of the public charter schools it oversees, including collecting and  
15 analyzing all data to support ongoing evaluation according to the charter contract.  
16

17        **2. Notification of unsatisfactory performance or compliance.**    In the event that a  
18 public charter school's performance or legal compliance appears unsatisfactory, the authorizer shall  
19 promptly notify the public charter school of perceived problems and provide reasonable opportunity for  
20 the school to remedy the problems.

## 21    **§ 2413. Charter term and renewal**

22  
23        **1. Initial charter term.**    An initial charter must be granted for a term of 5 operating years.  
24 The charter term commences on the public charter school's first day of operation. An approved public  
25 charter school may delay its opening for one school year in order to plan and prepare for the school's  
26 opening. If the public charter school requires an opening delay of more than one school year, the public  
27 charter school must request an extension from its authorizer. The authorizer may grant or deny the  
28 extension depending on the particular public charter school's circumstances.  
29

30        **2. Charter renewal term.**    A charter may be renewed for successive terms of 5 years,  
31 although an authorizer may grant a renewal for a term not to exceed 15 years based on the performance,  
32 demonstrated capacities and particular circumstances of each public charter school. If a charter is  
33 renewed for more than 5 years, the authorizer shall still issue a charter school performance report every  
34 5 years as called for by subsection 3. An authorizer may grant renewal with specific conditions for  
35 necessary improvements to a public charter school.  
36

37        **3. Authorizer renewal responsibilities.**    No later than June 30th of a public charter  
38 school's 4th year of operation under each 5-year term of a charter contract, the authorizer shall issue a  
39 charter school performance report. If the charter of the public charter school is expiring, the authorizer  
40 shall offer charter renewal application guidance to the school.  
41

42        **A.**    The performance report required in this subsection must summarize the public charter school's  
43 performance record to date, based on the data required by this chapter and the charter contract, and  
44 must provide notice of any weaknesses or concerns perceived by the authorizer concerning the

1 school that may jeopardize its position in seeking renewal if not timely rectified. The school must  
2 be given the opportunity to respond to the performance report and submit any corrections or  
3 clarifications for the report.

4  
5 B. The renewal application guidance required by this subsection must include or refer explicitly  
6 to the criteria and standards that will guide the authorizer's renewal decisions, which must be  
7 based on the performance framework set forth in the charter contract and consistent with this  
8 chapter. The renewal application guidance must, at a minimum, require and provide an  
9 opportunity for the public charter school to:

10  
11 (1) Present additional evidence, beyond the data contained in the performance report,  
12 supporting its case for charter renewal;

13  
14 (2) Describe improvements undertaken or planned for the school; and

15  
16 (3) Detail the school's plans for the next charter term.

17  
18 **4. Renewal application.** No later than September 30th of a public charter school's 5th year  
19 of operation under a term of a charter contract or September 30th of a public charter school's final  
20 authorized year of operation under a term of a charter contract, the governing board of a public charter  
21 school seeking renewal shall submit a renewal application to the authorizer pursuant to any renewal  
22 application guidance offered by the authorizer under subsection 3.

23  
24 **5. Renewal decision.** An authorizer shall rule by resolution on a renewal application under  
25 this section no later than 45 days after the filing of the renewal application. In making charter renewal  
26 decisions, every authorizer shall:

27  
28 A. Ground its decisions in evidence of the public charter school's performance over the term of  
29 the charter in accordance with the performance framework set forth in the charter contract;

30  
31 B. Ensure that data used in making renewal decisions are available to the school and the public;  
32 and

33  
34 C. Provide a public report summarizing the evidence basis for each decision.

35  
36 **6. Charter revocation and nonrenewal.** A decision by an authorizer to revoke or not to  
37 renew the charter of a public charter school must be made in accordance with this subsection.

38  
39 A. A charter may be revoked at any time or not renewed if the authorizer determines that the  
40 public charter school failed to comply with the provisions of this chapter or:

41  
42 (1) Committed a material violation of any of the terms, conditions, standards or procedures  
43 required under this chapter or the charter contract;

44  
45 (2) Failed to meet or make sufficient progress toward the performance expectations set forth  
46 in the charter contract;

1           (3) Failed to meet generally accepted standards of fiscal management; or  
2

3           (4) Violated any provision of law from which the school was not exempted.  
4

5           B. If an authorizer revokes or does not renew a charter, the authorizer shall clearly state, in a  
6 resolution of its governing entity, the reasons for the revocation or nonrenewal.  
7

8           **7. Notification to commissioner.** Within 10 days of taking action to renew, not renew or  
9 revoke a charter under this section, the authorizer shall report to the commissioner the action taken and  
10 shall provide a copy of the report to the public charter school at the same time that the report is  
11 submitted to the commissioner. The report must include a copy of the governing entity of the  
12 authorizer's resolution setting forth the action taken and reasons for the decision.  
13

14           **8. School closure and dissolution.** ~~In the event of a~~ *If a* public charter school ~~closure~~  
15 closes for any reason:  
16

17           A. The authorizer shall oversee and work with the closing public charter school to ensure timely  
18 notification to parents and guardians, orderly transition of students and student records to new  
19 schools and proper disposition of school funds, property and assets in accordance with the  
20 requirements of this chapter; and  
21

22           B. The assets of the public charter school must be distributed first to satisfy outstanding payroll  
23 obligations for employees of the school and then to creditors of the school. Any remaining funds  
24 must be paid to the Treasurer of State to the credit of the General Fund. If the assets of the school  
25 are insufficient to pay all parties to whom the school owes compensation, the prioritization of the  
26 distribution of assets may be determined by decree of a court of law.  
27

28           **9. Charter transfers.** A charter contract and its oversight may not be transferred from one  
29 authorizer to another before the expiration of the charter contract term except by mutual agreement of  
30 all parties the charter school governing board and the two authorizing agencies involved.

## 31 **§ 2414. Operations**

32

33           **1. Legal status.** Notwithstanding any provision of law to the contrary, to the extent that any  
34 provision of this chapter is inconsistent with any other state or local law, rule or regulation, the  
35 provisions of this chapter govern and are controlling.  
36

37           A. A public charter school is subject to all federal laws and authorities, to local law not  
38 inconsistent with this chapter and to the charter contract.  
39

40           B. A charter contract may include one or more schools, to the extent approved by the authorizer  
41 and consistent with applicable law. Each public charter school that is part of a charter contract  
42 must be separate and distinct from any others.  
43

44           C. A single governing board may be issued one or more charter contracts. Each public charter  
45 school operating under its own contract is a discrete legal entity, separate and distinct from any  
46 others.  
47

1        **2. Local educational agency status.**        The following provisions govern the local  
2 educational agency status of public charter schools.  
3

4        A. In the case of a public charter school authorized by a local school district SAU:  
5

6                (1) The local school district SAU in which the public charter school is located remains the  
7 local educational agency and the public charter school is a school within that local  
8 educational agency;  
9

10               (2) The public charter school receives services, resources and support in the same manner as  
11 other local school district public schools, except that the public charter school is treated as a  
12 local educational agency for purposes of applying for competitive federal grants; and  
13

14               (3) The local school district retains responsibility for special education and serves students in  
15 public charter schools in a manner consistent with local educational agency obligations under  
16 applicable federal, state and local law.  
17

18        B. In the case of a public charter school authorized by a college, university or the commission:  
19

20               (1) The public charter school functions for all purposes as a local educational agency SAU  
21 independent of the local school district SAU in which the school is located. Local educational  
22 agency SAU status does not preclude a public charter school from developing links to local  
23 school districts for services, resources and programs, by mutual agreement or by formal  
24 contract;  
25

26               (2) To the extent permitted by federal, state or local laws, the public charter school is  
27 responsible for meeting the requirements of local educational agencies under applicable  
28 federal, state and local laws, including those relating to special education, receipt of funds  
29 and compliance with funding requirements; and  
30

31               (3) The funding and educational decision making process for special education students  
32 attending the public charter school is the responsibility of the local educational agency of  
33 residence, and all options available to the parents and the local educational agency through  
34 the student's original local school district SAU must be retained. To the extent permitted by  
35 federal, state or local laws, the public charter school has primary responsibility for special  
36 education at the school, including identification and provision of service, and is responsible  
37 for meeting the needs of enrolled students with disabilities. In instances when a student's  
38 individualized education program team, including representatives from the student's local  
39 school district SAU of residence, determines that a student's needs are so profound that they  
40 cannot be met in the public charter school and that the school cannot provide to the student a  
41 free, appropriate public education as defined in section 7001, subsection 2A, the  
42 individualized education program team must work with the student's local school district SAU  
43 of residence to find a placement in a more appropriate setting.  
44

45        **3. Powers of public charter schools.**        A public charter school has all the powers

1 necessary for carrying out the terms of its charter contract, including the powers to:  
2

3 A. Receive and disburse funds for school purposes;  
4

5 B. Contract or cooperate with noncharter public schools for service for students with special  
6 needs, English language learner students and other specialized populations, as well as for mutually  
7 agreed administrative services;  
8

9 C. Secure appropriate insurance and enter into contracts and leases, free from prevailing wage  
10 laws;  
11

12 D. Contract with an education service provider for the management and operation of the school,  
13 as long as the school's governing board retains oversight authority over the school;  
14

15 E. Incur debt in reasonable anticipation of the receipt of public or private funds, *provided that an*  
16 *authorizer is not responsible for any debt incurred by the public charter school;*  
17

18 F. Pledge, assign or encumber its assets to be used as collateral for loans or extensions of credit;  
19

20 G. Solicit and accept any gifts or grants for school purposes subject to applicable laws and the  
21 terms of its charter contract;  
22

23 H. Acquire real property for use as its facility or facilities from public or private sources; and  
24

25 I. Sue and be sued in its own name.  
26

27 **4. General requirements.** A public charter school is subject to the general requirements  
28 set out in this subsection.  
29

30 A. A public charter school may not discriminate against any person on the basis of race, creed,  
31 color, sex, disability or national origin or on any other basis that would be unlawful if done by a  
32 public school.  
33

34 B. A public charter school may not engage in any religious practices in its educational program,  
35 admissions or employment policies or operations.  
36

37 C. A public charter school may not charge tuition and may only charge such fees as may be  
38 imposed by other public schools in the State. A public charter school may charge tuition to an out-  
39 of-state student admitted to the school on a space-available basis.  
40

41 D. A public charter school must have a plan that describes how the school will meet the  
42 transportation needs of its students.  
43

44 E. The powers, obligations and responsibilities set forth in a charter contract may not be delegated  
45 or assigned by either party *except as provided in section 2413.9.*  
46

47 **5. Applicability of other laws, rules and regulations.** The applicability of other  
48 laws, rules and regulations to public charter schools is as set out in this subsection.  
49

50 A. Public charter schools are subject to the same civil rights and health and safety requirements  
51 applicable to other public schools in the State, except as otherwise specifically provided in this

1 chapter.  
2

3 B. Public charter schools are subject to the same student assessment and accountability  
4 requirements applicable to other public schools in the State, but nothing in this chapter precludes a  
5 public charter school from establishing additional student assessment measures that go beyond  
6 state requirements if the school's authorizer approves such measures.  
7

8 C. Governing boards are subject to and must comply with Title 1, chapter 13.  
9

10 D. Except as provided in this chapter and its charter contract, a public charter school is exempt  
11 from all statutes and rules applicable to a public school, a local school board or a local school  
12 district SAU, although it may elect to comply with one or more provisions of statutes or rules.  
13 School administrative units may not interpret this paragraph as reducing their obligation to provide  
14 education for their residents.  
15

16 E. A public charter school is exempt from the restrictions normally associated with any state-  
17 funded categorical education funding program.  
18

19 F. Employees and other charter school personnel are subject to criminal history record checks  
20 and fingerprinting requirements applicable to other public schools.  
21

22 **6. Teachers.** This subsection governs teacher employment in a public charter school.  
23

24 A. A public charter school must comply with applicable federal laws and regulations regarding  
25 the qualification of teachers and other instructional staff.  
26

27 B. All full-time teachers in a public charter school must either hold an appropriate teaching  
28 certificate or become certified within 3 years of the date they are hired, except for those with an  
29 advanced degree, professional certification or unique expertise or experience in the curricular area  
30 in which they teach.  
31

32 ~~C. Teachers in charter schools have the same rights and privileges as other public school teachers~~  
33 ~~except as otherwise provided in this chapter.~~  
34

35 ~~D. Teachers and other public charter school personnel, as well as governing board trustees, are~~  
36 ~~subject to criminal history record checks and fingerprinting requirements applicable to other~~  
37 ~~public schools.~~  
38

39 E. Teachers at a public charter school may choose to bargain collectively or form a professional  
40 group in accordance with this paragraph.  
41

42 (1) Teachers who are employees of the public charter school have the same rights as other  
43 teachers in public education to organize and bargain collectively. Bargaining units at the  
44 public charter school must be separate from other bargaining units, such as a district  
45 bargaining unit. Staff at noncharter public schools converting to public charter schools have a  
46 right to employment benefits as stated in applicable collective bargaining agreements or they  
47 may vote to be represented in alternative ways.  
48

1           (2) A teacher who is an employee of the public charter school may choose to be part of a  
2           professional group that operates the instructional program under an agreement with the public  
3           charter school, forming a partnership or producer cooperative that the teachers collectively  
4           own.  
5

6           (3) Teachers who are employees of the public charter school may not be required to be  
7           members of any existing collective bargaining agreement between a local school district and  
8           its employees. A public charter school may not interfere with civil service laws or other  
9           applicable rules protecting the rights of employees to organize and be free from  
10           discrimination.  
11

12           **7. External audit.** A public charter school shall adhere to generally accepted accounting  
13           principles and shall annually engage an external auditor to do an independent audit of the school's  
14           finances.

## 15           **§ 2415. Funding**

16  
17           **1. Enrollment count; report.** Students attending public charter schools must be included  
18           in all enrollment and attendance counts of students of the ~~local school districts~~ SAUs in which the  
19           students reside. The public charter school shall report all such data to the ~~local school districts~~ SAUs of  
20           residence in a timely manner. Each ~~local school district~~ SAU shall report such enrollment, attendance  
21           and other counts of students to the department.  
22

23           **2. Revenue provisions.** All state and local operating funds follow each student to the  
24           public charter school attended by the student, except that the school administrative unit of the student's  
25           residence may retain up to 1% of the per-pupil allocation described in this subsection to cover  
26           associated administrative costs.  
27

28           A. For each public charter school student, the school administrative unit in which the student  
29           resides must forward the per-pupil allocation to the public charter school attended by the student  
30           as follows.  
31

32           (1) The per-pupil allocation amounts must be based on the same per-pupil rates that are  
33           provided for subsidizable pupils who reside in the school administrative unit and who are  
34           educated at public expense for the current fiscal year. These amounts must reflect each  
35           student's status according to grade level, economic disadvantage, and limited English  
36           proficiency and special education needs, as provided in the resident essential programs and  
37           services allocation for the school administrative unit. The department shall adopt rules  
38           governing cost-sharing for students participating in gifted and talented and vocational,  
39           technical and career education programs. For transportation expenses, the average per-pupil  
40           expense in each school administrative unit of residence must be calculated and a per-pupil  
41           allocation of that amount must be forwarded to the public charter school attended on the same  
42           basis as the per-pupil allocations for operating funds. The department shall adopt rules  
43           governing how to calculate these per-pupil allocations including those for gifted and talented  
44           programs, vocational and career and technical education programs, targeted funds for

1 assessment, technology, and K-2 programs. Debt service and capital outlays may not be  
2 included in the calculation of these per-pupil allocations. ~~The department shall adopt rules~~  
3 ~~governing how to calculate these per-pupil allocations to the school administrative units of~~  
4 ~~residence and to the public charter schools.~~  
5

6 (2) For students attending public charter schools, the school administrative unit of residence  
7 shall forward the per-pupil allocations described in subparagraph (1) directly to the charter  
8 school attended. These per-pupil allocations must be forwarded to each charter school on a  
9 quarterly basis, as follows. For each fiscal year, allocations must be made in quarterly  
10 payments on September 1st, December 1st, March 1st and June 1st. The September payment  
11 must be based on the number of students enrolled or anticipated to be enrolled in the public  
12 charter school at the opening of school for that school year, which may not exceed the  
13 maximum enrollment approved in the charter contract for that year unless a waiver is  
14 obtained from the authorizer. In February of the school year, if the number of students is  
15 higher or lower than the number of students at the beginning of the school year, adjustments  
16 must be made in the June payment, with 50% of the annual per-pupil allocation added for  
17 additional students or subtracted if the total number of students is lower.

18  
19 B. The following provisions govern special education funding.  
20

21 (1) ~~The funding and educational decision making process for special education pupils~~  
22 ~~attending a public charter school is the responsibility of the local educational agency of~~  
23 ~~residence, and all current options available to the parents and the local educational agency~~  
24 ~~through the pupil's original local school district must be retained. For each enrolled special~~  
25 ~~education pupil, a public charter school shall receive the average additional allocation~~  
26 ~~calculated by the department for each school administrative unit for its students with special~~  
27 ~~needs. These allocations shall be paid to the charter school by the resident school~~  
28 ~~administrative unit on the same basis as the per-pupil allocations for operating funds.~~  
29

30 (2) ~~The local school district SAU of residence shall pay directly to the public charter school~~  
31 ~~any federal or state aid attributable to a student with a disability attending the public charter~~  
32 ~~school in proportion to the level of services for the student with a disability that the public~~  
33 ~~charter school provides directly or indirectly.~~  
34

35 C. Except as otherwise provided in this chapter, the State shall send applicable federal funds  
36 directly to public charter schools attended by eligible students.  
37

38 (1) Public charter schools with students eligible for funds under Title I of the federal  
39 Elementary and Secondary Education Act of 1965, 20 United States Code, Section 6301 et  
40 seq. must receive and use these funds in accordance with federal and state law. During the  
41 first year of operation, a public charter school must receive Title I funds on the basis of an  
42 estimated enrollment of eligible students, as agreed with its authorizer.  
43

44 (2) ~~A public charter school must be considered a local educational agency for purposes of~~  
45 ~~applying for competitive grants.~~

1  
2 D. A public charter school may receive gifts and grants from private sources in any manner that is  
3 available to a school administrative unit.

4  
5 E. A public charter school may not levy taxes or issue bonds secured by tax revenues.  
6

7 F. In the event of the failure of the local school district SAU to make payments required by this  
8 section, the Treasurer of State shall deduct from any state funds that become due to the local  
9 school district SAU an amount equal to the unpaid obligation. The Treasurer of State shall pay  
10 over the amount to the public charter school upon certification of the department. The department  
11 shall adopt rules to implement the provisions of this paragraph. Rules adopted pursuant to this  
12 paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2A.  
13

14 G. Any money received by a public charter school from any source and remaining in the school's  
15 accounts at the end of any budget year remains in the school's accounts for use by the school  
16 during subsequent budget years and may not revert to the authorizer or to the State.  
17

18 H. Nothing in this chapter may be construed to prohibit any person or organization from  
19 providing funding or other assistance for the establishment or operation of a public charter school.  
20 The governing board of a public charter school may accept gifts, donations or grants of any kind  
21 made to the school and expend or use such gifts, donations or grants in accordance with the  
22 conditions prescribed by the donor except that a gift, donation or grant may not be accepted if  
23 subject to a condition that is contrary to any provision of law or term of the charter contract.  
24

25 I. Public charter schools have the same access as other public schools to any risk pool for high-  
26 cost special education services and to any fund for fiscal emergencies.

27 **§ 2416. Facilities**

28  
29 **1. Facilities; property.** A public charter school may acquire facilities and property in  
30 accordance with this subsection.  
31

32 A. A public charter school has a right of first refusal to purchase or lease at or below fair market  
33 value a closed public school facility or property or unused portions of a public school facility or  
34 property located in a local school district SAU from which it draws its students if the local school  
35 district SAU decides to sell or lease the public school facility or property. The local school district  
36 SAU may not require purchase or lease payments that exceed the fair market value of the  
37 property.  
38

39 B. A public charter school may negotiate and contract with a local school district SAU, the  
40 governing body of a state college or university or public community college or any other public or  
41 for-profit or nonprofit private entity for the use of a school building.  
42

43 C. Library, community service, museum, performing arts, theater, cinema, church, community  
44 college, college and university facilities may provide space to public charter schools within their  
45 facilities under their preexisting zoning and land use designations.  
46

47 D. A public charter school may purchase or lease at or below fair market value part or all of any  
48 surplus or unused state-owned facility or property located in the State. The state agency in control

1 of the facility may not require purchase or lease payments that exceed the fair market value of the  
2 property.

3  
4 E. The same zoning rules that apply to other public schools apply to public charter schools.

5  
6 **2. Inspection; building code.** The municipality in which a facility of a public charter  
7 school is located is the agency that has jurisdiction for the purposes of inspection of the facility and  
8 issuance of a certificate of occupancy for the facility. If the facility is located in an unorganized area of  
9 the State, the county has jurisdiction for those purposes. A facility of a public charter school is subject  
10 to the same building codes, regulations and fees that apply to other public schools.

11  
12 **3. Taxes.** A facility, or portion thereof, used to house a public charter school is exempt from  
13 property taxes.

14 **§ 2417. Miscellaneous**

15  
16 **1. Transfer of credits.** If a student who was previously enrolled in a public charter school  
17 enrolls in another public school in this State, the school to which the student transfers must accept  
18 credits earned by the student in courses or instructional programs at the public charter school in a  
19 uniform and consistent manner and according to the same criteria that are used to accept academic  
20 credits from other public schools.

21  
22 **2. Access to extracurricular and interscholastic activities.** A public charter school  
23 is eligible for state-sponsored or local school district-sponsored interscholastic leagues, competitions,  
24 awards, scholarships and recognition programs for students, educators, administrators and schools to  
25 the same extent as noncharter public schools. A public charter school student is eligible to participate in  
26 extracurricular activities not offered by the student's public charter school at the public school within  
27 whose attendance boundaries the student's custodial parent or legal guardian resides or the public  
28 school from which the student withdrew for the purpose of attending a charter school. A charter school  
29 student is eligible for extracurricular activities at a public school subject to eligibility standards applied  
30 to full-time students of the public school. A local school district SAU or public school may not impose  
31 additional requirements on a public charter school student to participate in extracurricular activities that  
32 are not imposed on full-time students of the public school. *Public charter school students shall pay the*  
33 *same fees as other students to participate in extracurricular or co-curricular activities. For each public*  
34 *charter school student who participates in an extracurricular or co-curricular activity at a non-charter*  
35 *public school, the public charter school shall pay a reasonable share of the non-charter school's costs*  
36 *for the activity, as negotiated between the schools involved.*

37  
38 **3. Retirement.** A public charter school may establish a retirement plan or plans for  
39 employees.

40  
41 ~~A. Teachers enrolled in the Maine Public Employees Retirement System who take leave to teach~~  
42 ~~in a public charter school may continue their participation in the Maine Public Employees~~  
43 ~~Retirement System while on such leave.~~

44  
45 B. If a public charter school chooses to set up a plan with the Maine Public Employees  
46 Retirement System, the public charter school may establish a participating local district plan with

1           the Maine Public Employees Retirement System under Title 5, chapter 425.

2           **Sec. 9. Review of retirement laws.** The Maine Public Employees Retirement System shall  
3 review the laws governing participating local districts' retirement plans and shall submit, by December  
4 1, 2011, a report to the Joint Standing Committee on Appropriations and Financial Affairs that includes  
5 any proposed legislation necessary to fully implement this Act.

6           **Sec. 10. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title 20A, section  
7 2407, subsection 9, of the initial members of the State Charter School Commission, one member who is  
8 also a member of the State Board of Education serves a 3year term, one member who is a member of  
9 the state board serves a 2year term and one member who is a member of the state board serves a one-  
10 year term. Two members who are approved by the state board serve 3year terms, one serves a 2year  
11 term and one serves a one-year term.

12

13

## SUMMARY

14           This bill establishes a process to authorize the establishment of public charter schools in the State.

15