

Introduction

Charter schools are publicly-funded schools, which have more autonomy than traditional local public schools and operate under a contract – known as a charter – with a state, school district, or other authorizing entity. The entities that authorize charter schools differ widely by state, as do the organizations allowed to operate charter schools. The charter under which a charter school operates determines all aspects of the school's operation, such as the number of students it will serve, measures of student success, and what types of special programming the school may offer, among other details. Charter schools often deliver innovative curricula or programmatic themes, and may receive exemptions from certain state or local requirements. The particular requirements from which a charter school may be exempt also vary by state.¹

Some charter schools operate independently, often referred to as “stand-alone” charters, while other charter schools are operated by organizations that manage multiple charter schools, known as charter management organizations (CMOs). CMOs may operate a network of schools across multiple states, but each school is subject to the laws and regulations of the state and/or school district in which it is located. CMOs are able to provide operational support to the schools in their networks, such as the central management of facilities, human resources, or development, while stand-alone charter schools must manage all operations at the school-level.²

History of Charter Schools in the United States

Charter schools were the vision of Roy Budde, a professor of education at the University of Massachusetts at Amherst,³ who proposed local school districts grant charters to individual schools, which would then operate autonomously, as long as they complied with their district charter agreement.⁴ Early supporters of charter schools included Albert Shanker, who was president of the United Federation of Teachers from 1964 to 1985.⁵ In a 1988 address, Shanker argued a new kind of public school, where teachers would experiment with innovative teaching methods free from bureaucratic constraints, could promote social mobility and social cohesion among diverse student populations.⁶ Across states, charter schools developed idiosyncratically, and Shanker came to disagree with the laws that ultimately created charter schools, as they tended to allow charter schools to operate outside of collective bargaining agreements between teachers unions and school districts.⁷

In 1991, Minnesota was the first state to create charter schools.⁸ Known at the time as “outcome-based schools,” these early charter schools were intended to increase learning outcomes, encourage the use of innovative teaching methods and outcome measurements, and inform practices at traditional public schools.⁹ Outcome-based

¹ Originally published on December 10, 2019, this report has been updated with statutory changes pertaining ONLY to Connecticut charter schools. Other sections have not been updated since the original publication.

schools were teacher-run, local district-authorized, and were exempt from all requirements that traditional public schools were required to adhere, except those relating to health and safety. Through a board of directors, outcome-based schools were authorized to contract directly with licensed teachers, outside of the district's collective bargaining contract, but teachers at the school were allowed to form separate, school-based bargaining units.¹⁰

In 1994, the federal government began funding charter schools through competitive grants and provided additional funds to promote them in the 11 states that had enacted charter school laws at the time.¹¹ From 2009-17, the U.S. Department of Education provided incentive grants to states through the Race to the Top program, with the stated goal of encouraging school reform and innovation, including the development of charter schools.^{12,B} As of 2018, 44 states plus the District of Columbia, Puerto Rico, and Guam have active charter school authorization laws.¹³ During the 2016-17 school year, there were 7,137 charter schools operating in the United States.¹⁴

^B Race to the Top was part of the American Recovery and Reinvestment Act of 2009. Pub. L. No. 111-5, §§ 14005-06, 123 Stat. 115, 283. The development of charter schools was an expectation of the grant funding. U.S. Department of Education. (2016, September 26). Programs: Race to the Top Fund State Scopes of Work and Budgets. Retrieved from <https://www2.ed.gov/programs/racetothetop/state-scope-of-work/index.html>.

Connecticut^c

Choice Landscape in Connecticut

Connecticut first adopted charter school legislation in 1996, making it one of the earliest states to authorize charter schools, but the state has not seen the same rate of charter school growth and expansion as other states.^{15,16} In 2016-17, Connecticut had only 24 charter schools, serving 9,573 students, or 1.8 percent of statewide school enrollment.¹⁷ New Haven, Bridgeport, and Stamford host the largest numbers of charter schools.¹⁸ The bulk of Connecticut's choice programs are magnet schools, rather than charter schools. In 2017-18, there were 124 magnet schools in Connecticut, serving 54,395 students,¹⁹ or approximately 10 percent of statewide public school enrollment.²⁰

Magnet schools are schools of choice, which, in most states are operated by local boards of education and are not exempt from state regulations that govern traditional public schools.²¹ Magnet schools pre-date charter schools as a choice school type, and their creation was rooted in the movement to find voluntary means of desegregating schools in the 1960s and 1970s.²² Magnet schools are designed to attract nonresident students to attend school across neighborhood or district attendance zones or boundaries.²³ Some states, including Connecticut, also have intradistrict magnet schools, which allow students to attend schools in their local district, but outside of their assigned neighborhood attendance zone.²⁴

To a great extent, the large number of magnet school programs in Connecticut is attributable to the Connecticut Supreme Court case, *Sheff v. O'Neill*. The *Sheff* case began in the late 1980s and is still under court supervision 30 years later.²⁵ In 1996, the Connecticut Supreme Court ruled Hartford's public schools were racially and ethnically segregated and, thus, were depriving children of their right to equal educational opportunities under the state's constitution.²⁶ The legislature's response to the Connecticut Supreme Court ruling was to encourage voluntary desegregation through the construction of magnet schools, which was proscribed in a settlement between the plaintiffs and the State. Magnet schools were defined in the *Sheff* settlement agreement as one way of addressing the Hartford region's racially segregated school districts, where urban districts had high concentrations of minority students and suburban districts had predominately white students.²⁷ Subsequent stipulation agreements between the State and the *Sheff* plaintiffs resulted in the formation of additional magnet schools in the Hartford area to address racial isolation among Hartford students.²⁸ Of the 91 interdistrict magnet schools in Connecticut, 40 are in the Hartford region and support the State's desegregation obligations under *Sheff*.²⁹

In addition to magnet schools and charter schools, Connecticut also maintains an interdistrict, open enrollment program called Open Choice; the Connecticut Technical Education and Career System (CTECS),³⁰ which operates 17 high schools in the state; and 19 regional vocational-agricultural centers, which are operated by local boards of education.³¹

^c This section is accurate as of December 17, 2021 and reflects all Connecticut statutory changes prior to this date.

Charter School Governance in Connecticut^D

Charter schools in Connecticut are public, nonsectarian schools established under a charter, and are organized as nonprofit entities under Connecticut state law. The “charter” is a contract between the governing council of the charter school and the Connecticut State Board of Education (SBOE), and sets forth the roles, powers, responsibilities, and performance expectations of each party to the contract. Charter schools represent one type of Connecticut’s public choice schools, which include magnet schools, agricultural science centers, and technical high schools.³²

By law, all charter schools in Connecticut are managed by nonprofit entities. Any 501(c)(3) not-for-profit organization, public or independent institution of higher education, local or regional board of education or two or more boards of education cooperatively, or Regional Educational Service Center (RESA) can apply to the SBOE for an initial certificate of approval to open a local or state charter school. Nonpublic schools and parents or groups of parents providing home instruction are prohibited from applying to open a charter school.³³

Charter School Authorization in Connecticut^E

Connecticut law allows for two types of charter schools: state charter schools and local charter schools. Connecticut currently has 23 state charter schools and one local charter school, located in 10 school districts across the state. State charter schools are authorized by the SBOE and local charter schools are authorized by the local board of education for the district in which the charter school is located and the SBOE.³⁴

The SBOE is required to review applications for charter schools annually.^{F,35} As of July 1, 2015, if the SBOE supports an initial certificate of approval for a state or local charter school, the application must then be deemed effective by the General Assembly’s Education and Appropriations Committees, and the appropriations for funding the charter school must be authorized before the school can open.³⁶ Previously, charter schools were deemed authorized simply by the approval of the SBOE.^{G,37}

^D The majority of this section is reprinted from: School and State Finance Project. (2021). *Introduction to Charter Schools in Connecticut*. Hamden, CT: Author. Retrieved from <https://ctschoolfinance.org/resource-assets/Introduction-to-Charter-Schools-in-Connecticut.pdf>.

^E Ibid.

^F Although the SBOE is required to review applications annually, the State has only reviewed applications for new charters in four years since 2008 (2008, 2013, 2014, and 2018).

^G Currently, there are two state charter schools that have been granted an initial certificate of approval from the SBOE (Danbury Prospect Charter School and Norwalk Charter School for Excellence) and are awaiting action from the Connecticut General Assembly and the governor. The state budget for fiscal years 2022 and 2023 does not include an appropriation for the two charter schools approved by the SBOE.

Connecticut State Board of Education. (2018, October 3). *State Board of Education Meeting* [Meeting minutes]. Retrieved from [https://portal.ct.gov/-/media/SDE/Board/Minutes2018/Minutes_SBE_100318.pdf](https://portal.ct.gov/-/media/SDE/Board/Minutes2018/Minutes_SBE_100318.pdf?la=en)

Conn. Acts 21-2 (June Special Session).

Charter schools must use a lottery system to determine student enrollment, with some exceptions, although siblings may receive preference in the lottery process.^{38,H} State charter schools are limited to enrolling no more than 250 students (or 300 students for kindergarten through eighth grade schools) or 25 percent of enrollment in the school district where the school is located, whichever is less.³⁹ However, if the SBOE determines a state charter school has demonstrated a record of achievement, it can waive these enrollment restrictions.⁴⁰

When reviewing applications, the SBOE is required to give preference to state and local charter school applications whose primary purpose is to serve students in one or more of the following populations:

1. Students with a history of low academic performance;
2. Students eligible to receive free or reduced price lunch (under federal definitions);
3. Students with a history of behavioral and social difficulties;
4. Students identified as requiring special education;
5. Students who are English Learners; or
6. Students of a single gender⁴¹

Additionally, the SBOE must give preference to charter school applications with a primary purpose to either improve academic performance of underperforming schools, serve students in Priority School Districts, or serve students who reside in a district with 75 percent or more racial or ethnic minorities. The SBOE must also give preference to charter school applications that demonstrate highly credible and specific strategies to attract, enroll, and retain students from these groups. For state charter school applicants, preference is also given to schools that will be located in a worksite or institution of higher education. Lastly, the SBOE must consider the effect of a potential charter school on the reduction of racial, ethnic, and economic isolation in the proposed region of the school, the potential overconcentration of charter schools in a single school district or contiguous school districts, the State's efforts to close achievement gaps, and comments made during a public hearing on the application of the charter school.⁴²

Applications for opening a charter school must include a description of the school's mission, purpose, any specialized focus, and the community's interest in the school. An application must also include a description of the school governance and procedures for the establishment of a governing council that includes teachers, parents and guardians of students enrolled in the school, and the chair of the local board of education (or appropriate designee). The governing council is responsible for the oversight of charter school operations.

The application must also discuss the financial plan for operations, the educational program, teaching methodology, and services offered to students. It must also state the number and qualifications of its teachers and administrators, the ages and grades of students at the school, and total estimated enrollment. Applications must also include

^H The exceptions are for schools designed to serve students with a history of behavioral and social difficulties, students requiring special education, students who are English Learners, or students of a single gender. A charter school's governing council may apply for a waiver from the lottery process.

student admission criteria as well as procedures that ensure effective public information, open access on a space available basis (including mid-year enrollment), promote a diverse student body, and do not discriminate based on disability, athletic performance, or English language proficiency.

In addition, applications should include:

1. A means to assess student performance;
2. Procedures for teacher evaluation and staff professional development;
3. The provision of school facilities, pupil transportation, and student health and welfare services;
4. Procedures to encourage involvement by parents and guardians of enrolled students in student learning, school activities, and school decision-making; and
5. Procedures to document efforts to increase the racial and ethnic diversity of staff.

The applying school must submit a 5-year plan to sustain the maintenance and operation of the school and a student recruitment and retention plan that describes how the school intends to attract, enroll, and retain students from the targeted student populations described earlier. The 5-year plan must also describe how the school plans to share student learning practices with the local or regional board of education where the charter school is to be located. If the school plans to use a CMO, there are additional specific statutory requirements related to the organization's abilities and oversight that must be described.⁴³

Potential state charter schools apply directly to the SBOE and file an application with the local or regional board of education in the school district in which the school is to be located. The State must review the application, hold a public hearing in the local school district, solicit and review comments from the local or regional board of education and from the local or regional boards of education for school districts contiguous to the district where the school is to be located, and vote on the application no later than 90 days after the application was received.

The SBOE can grant an initial certificate of approval for the state charter school, or it can condition the opening of the school on meeting certain conditions determined by the commissioner of the Connecticut State Department of Education (CSDE). The initial certificate of approval for a state charter school has to include academic and organizational performance goals developed by the SBOE that set forth the performance indicators, measures, and metrics that will be used by the SBOE to evaluate the charter school. A state charter school may only be approved for a period of up to five years, and the applicant has the option to delay the opening for up to one school year in order to fully prepare for operations.⁴⁴

Potential local charter schools submit their applications to the local or regional board of education for the school district where the local charter school is applying to be located.⁴⁵ The local or regional board of education reviews the application; holds a public hearing within the school district; surveys teachers, parents, and guardians in the school district to determine if there is sufficient interest in the establishment and operations of the local charter school; and votes on the application no later than 75 days

after the application is received. If the local or regional board of education approves the application (by majority vote), the board then forwards the application to the SBOE, which has to vote on the application no later than 60 days after the SBOE receives the application.

The SBOE either approves and grants an initial certificate, or rejects the application based on a majority vote. The SBOE may also place conditions on the initial certificate of approval based on whether the local charter school meets certain conditions determined by the commissioner of the CSDE. After the initial approval, the local charter school may receive a charter for a period of up to five years and has the option to delay the opening for up to one year in order to fully prepare for operations. Lastly, the initial certificate of approval for a local charter school has to include academic and organizational performance goals (as developed by the SBOE) that set forth the performance indicators, measures, and metrics that will be used by the SBOE to evaluate the local charter school.⁴⁶

Charter Amendments

A charter school's governing council must make a written request to the SBOE if it plans to make a material change that fundamentally alters a charter school's mission, organizational structure, or educational program, such as:

1. Altering the educational model in a fundamental way;
2. Opening an additional school building;
3. contracting for or discontinuing a contract with a charter management organization;
4. renaming the charter school;
5. changing the grade configurations of the charter school; or
6. increasing or decreasing the total student enrollment capacity of the charter school by 20 percent or more.⁴⁷

The CSDE reviews the charter school's request and solicits comments from the local or regional board of education of the town in which the charter school is located. If the CSDE recommends approval of the request, the SBOE is required to vote on the request within 60 days of the request.⁴⁸ If the request is for an increase in enrollment capacity, the charter school must submit the request by April 1 of the fiscal year prior to the fiscal year in which the increase would take effect.⁴⁹ For instance, if the request is intended to take effect in FY 2025 the request must be made by April 1, 2022.

When make its determination, the CSDE must consider:

1. the financial feasibility of the increased enrollment;
2. the charter school's performance, stewardship, governance, and management, student population and legal compliance; and
3. any other factors the CSDE deems relevant.⁵⁰

Charter School Accountability in Connecticut^I

To renew a state or local charter school, the SBOE may commission an independent appraisal of its performance, including its progress toward meeting goals in its charter, and use the results in determining whether or not to renew the charter. The SBOE can deny an application for renewal if the school has not sufficiently demonstrated student progress (determined by the commissioner of the CSDE); the governing council has not been sufficiently responsible for the operation of the school or has misused or misspent funds; the school has not been in compliance with the terms of its charter and applicable laws and regulations; the school has not had sufficient efforts in attracting, enrolling, and retaining students from targeted populations; or the governing council of the charter school has not provided evidence of substantive communication with the local or regional board of education of the town in which the charter school is located to share student learning practices and experiences.^J If the SBOE renews the charter, the SBOE must develop and include academic and organizational performance goals and evaluation criteria.⁵¹

A charter school can be placed on probation by the commissioner of the CSDE at any time if the school has failed to adequately demonstrate student progress; comply with the terms of its charter or with applicable laws and regulations; achieve measurable progress in reducing racial, ethnic, and economic isolation; or maintain its nonsectarian status. Additionally, a charter school can be placed on probation if the governing council has demonstrated an inability to provide effective leadership to oversee the operation of the charter school or has not ensured public funds are expended prudently or in a manner required by law. If a charter school is placed on probation, the commissioner decides the length of the probationary period (up to one year) and provides written notice of the probation (within five days) to the charter school, and the parent(s) or guardian(s) of students attending the school, explaining the reasons.⁵² In the case of probationary action, the charter school must file a corrective action plan with the CSDE no later than 35 days from the date the charter school was placed on probation. The commissioner has the ability to also impose any additional probation requirements she deems necessary to protect the educational or financial interests of the State and can extend the probationary period for up to one additional year.⁵³

The SBOE has the authority to revoke a charter under certain circumstances. For instance, if a charter school has failed to meet the terms of probation. This can include failing to file or implement a corrective action plan, demonstrate satisfactory student progress, comply with the terms of its charter or applicable laws and regulations, or manage its public funds in a prudent or legal manner. In the event an emergency exists in which the commissioner of the CSDE finds there is imminent harm to the students attending a charter school, the SBOE may immediately revoke the charter of the school, provided

^I The majority of this section is reprinted from:

School and State Finance Project. (2021). *Introduction to Charter Schools in Connecticut*. Hamden, CT: Author. Retrieved from <https://ctschoolfinance.org/resource-assets/Introduction-to-Charter-Schools-in-Connecticut.pdf>.

^J The populations are students with a history of low academic performance, students who are eligible to receive free or reduced priced lunches, students with a history of behavioral and social difficulties, students identified as requiring special education services, or students who are English Learners.

the notice concerning the reasons for the revocation is sent to the governing council no later than 10 days after the date of revocation and the governing council is provided an opportunity to make a presentation to the SBOE no later than 20 days from the date of such notice.⁵⁴

Comparison to Other States

The following sections detail charter school governance and accountability models in the states of California, Louisiana, Massachusetts, Michigan, New York, and Rhode Island. Please note these sections are accurate as of December 10, 2019 and have not been updated to reflect statutory changes in the respective states.

California

Choice Landscape in California

In 1992, California became the second state in the U.S. to authorize charter schools.^{55,56} Since then, the state-authorizing legislation has gone through multiple revisions. In the 2016-17 school year, there were 1,248 charter schools in California, serving 12.1 percent of total public school students.⁵⁷ The Bay Area, Los Angeles County, and San Diego County account for more than 60 percent of all charter schools in the state.⁵⁸

In addition to charter schools, California also maintains an open enrollment program, known as District of Choice, and magnet schools, as well as a number of alternative programs for students with academic or behavioral challenges. In the 2017-18 school year, there were 529 magnet schools in California.⁵⁹

Charter School Governance in California

Charter schools in California must meet three basic state requirements: they must be nonsectarian, tuition-free, and admit any California resident student. Charter schools must admit any student who would like to attend. If demand exceeds the number of seats in the school, the school must conduct a lottery. Certain preferences, such as staff and sibling preferences, are allowed to be included in lottery protocols.⁶⁰ In 2018, the state passed legislation that eliminated for-profit corporations or organizations from managing charter schools.⁶¹

Charter School Authorization in California

California allows three types of charter school authorizers: local school districts, the county office of education (COE), and the California State Board of Education (SBE). 86 percent of charter schools in the state are authorized by local school districts. This results in a large number of independent authorizers. Currently, there are 330 charter school authorizers in California. More than half of authorizers oversee only one charter school, while the Los Angeles Unified School District and San Diego Unified School District oversee approximately 25 percent of all charter schools in California.⁶²

Groups seeking to initiate a charter school must submit a charter petition, signed by teachers and parents or guardians of students, sufficient to equal at least half the estimated enrollment of the proposed school.⁶³ Signatories must be informed that their signature on the petition implies they are meaningfully interested in having their child attend, or that a teacher is meaningfully interested in teaching at, the proposed school. Charter schools that intend to operate within the boundaries of a single school district

deliver petitions to the local school district where the charter will be located.^{64, K} Charter school petitions that are denied can be appealed to either the COE or the SBE. If a charter school intends to serve students from multiple districts within a single county, petitions may be made directly to the COE. For charter schools that intend to serve students from multiple counties, petitions may be made directly to the SBE. Charters may be granted by authorizers for up to five years before renewal is required.⁶⁵

The governing board of the school district must hold a public hearing within 30 days of receiving a charter school petition regarding the provisions of the charter. The governing board must consider the level of support for the charter by teachers and employees of the school district and parents. Following the review and public hearing, the governing board has 60 days to grant or deny the petition, unless an extension is agreed upon by the petitioners and the board.⁶⁶

Charter authorizers must require charter school petitioners to provide information about operations, facilities, administrative services, budgets, startup costs, cash flow statements, and financial projections for the first three years of operations. Authorizers are required to give preference to charter petitions that demonstrate the capability to provide comprehensive learning experiences to students with low academic performance.⁶⁷

Statute requires that charter authorizers consider that “charter schools are and should become an integral part of the California educational system and that the establishment of charters should be encouraged.” The governing board must grant the charter if it is “satisfied that granting the charter is consistent with sound educational practice,” and is not allowed to reject the petition unless it makes written factual findings.⁶⁸

Authorizers may reject a petition for one of five reasons:

1. Insufficient signatures;
2. The petition does not meet the basic requirements discussed in the governance section above;
3. The proposed program of education is deemed unsound;
4. The authorizer determines that the petitioners are unlikely to successfully implement the proposed program;⁶⁹ or
5. The petition does not include a reasonably comprehensive description of the educational program, which must include:
 - Annual goals for students;
 - The manner in which the school will inform parents about the transferability of courses to public high schools;
 - Measurable student outcomes;

^K The largest school district in California, Los Angeles Unified School District, served 607,723 students in 2018-19, which exemplifies why most charter schools in California are authorized by, and serve students in, local school districts. By comparison, the largest school district in Connecticut, New Haven Public Schools, served 21,264 students in the same year.

California Department of Education. (2019, September 25). Largest & Smallest Public School Districts – CalEdFacts. Retrieved from <https://www.cde.ca.gov/ds/sd/cb/ceflargesmallldist.asp>.

Connecticut State Department of Education. (n.d.). EdSight: Public School Enrollment. Available from <http://edsight.ct.gov/SASPortal/main.do>.

- Methods by which progress will be made toward outcomes;
- The governance structure of the school and qualifications of persons to be employed by the school;
- Procedures for health and safety;
- Background checks of staff;
- A school safety plan;
- Means by which the school plans to achieve racial and ethnic balance that reflects the surrounding jurisdiction;
- Admissions policies;
- Description of adherence to generally accepted accounting principles and financial audits;
- Suspension and expulsion policy;
- Retirement system participation for teachers and staff;
- Description of public school alternatives in the district;
- Rights of employees to return to the district after employment at the charter school;
- Dispute resolution process between the authorizer and the charter school; and
- Procedures that will be used if the charter school closes.⁷⁰

Upon approval of the petition by the local governing board, the petitioners must provide written notice of the approval to the county superintendent, the California Department of Education (CDE), and the SBE.⁷¹ If a petition is denied, the petitioners may appeal to the COE, which must review the petition using the same measures as are required of the local governing board. If the COE also denies the petition, the petitioner may again appeal to the SBE. If a school receives its charter from the COE or the SBE, it is still subject to the same requirements concerning geographic location in its original petition. If the COE or SBE fail to act on the petition in 120 days, the petition is subject to judicial review.⁷²

A charter school that has already received a charter may seek to add additional locations by requesting a material revision to the charter from the authorizer, which must consider the revision at a public meeting.⁷³ Charter authorizers are required to make reasonable efforts to meet demand for seats, to accommodate the growth of a charter school, and are disallowed from taking any action to impede the school from expanding enrollment to meet demand.⁷⁴

Additionally, a school district may convert all of its schools to charter schools under the following conditions:

1. 50 percent of the district's teachers sign a charter petition
2. The charter petition conforms to all of the requirements discussed in this section
3. The petition is approved by the state superintendent of public instruction and the SBE.⁷⁵

Charter School Accountability in California

Charter school authorizers are responsible for ongoing oversight of the charter school they authorized, including monitoring the school's finances and whether to renew the charter. Authorizers must provide a staff contact, visit each charter school annually,

ensure charter school compliance, and provide timely notification to the CDE if the charter is revoked or the charter ceases operations.⁷⁶ The SBE may, by mutual agreement, designate oversight responsibilities to any local education agency in the county where the charter school is located.⁷⁷

Charter schools must meet statewide standards and participate in state academic assessments to measure student progress. Charter schools are required to regularly consult with parents and guardians of students and teachers regarding the school's educational programs. Charter schools are disallowed from discouraging students from enrolling or attending a charter school because of poor academic performance; special education status; English Learner status; delinquency or parent neglect; homelessness; low-income status; being a foster youth; or nationality, race, ethnicity, or sexual orientation.⁷⁸ Teachers in charter schools must hold a teacher certificate, permit, or other document equivalent to what a teacher in a traditional public school must hold. These documents are subject to periodic inspection by the authorizer. Charter schools must submit an annual, independent financial audit to their authorizers, the state controller, the county superintendent, and the CDE.⁷⁹

Charter school authorizations may not exceed five years in duration. When a charter school has been in operation for four years, it must submit a renewal application, which is subject to the same standards and criteria of its initial petition. The charter authorizer must consider, as the most important factor in renewing the charter, the following measures of academic growth for all student groups in the prior year, or two of the last three years:

1. Attainment of Academic Performance Index (API) growth target;
2. Must be ranked in deciles 4 to 10, inclusive, on the API for a demographically comparable school; and
3. Academic performance is at least equal to the academic performance of the public schools that the charter students would otherwise have attended and the district in which the charter school is located, considering the composition of the student population at the charter school. This determination may be made by the authorizer based on:
 - Documented, clear, and convincing data;
 - Pupil achievement data from assessments, including but not limited to state standardized assessments;
 - Information submitted by the charter school.⁸⁰

The charter authorizer must submit supporting documentation for determinations regarding academic achievement to the state superintendent of public instruction, who must review the materials and make recommendations to the authorizer.⁸¹

Charters may be revoked by their authorizer if the authorizer shows substantial evidence that the school did the following:

1. Materially violated any of the conditions, standards, or procedures set forth in the charter;
2. Failed to meet or pursue student outcomes identified in the charter;

3. Failed to meet generally accepted accounting principles or engaged in fiscal mismanagement; or
4. Violated any provision of law.

Charter authorizers must consider increases in student academic achievement for all groups of students as the most important factor when determining whether to revoke a charter. Before a revocation is made, the authorizer must notify the charter school of a violation(s) and give the school a reasonable opportunity to remedy the violation — unless the violation represents a “severe and imminent threat to the health or safety of the pupils.”⁸² Before revoking a charter for failure to remedy a violation, the authorizer must provide written notice of intent to revoke the charter, and facts in support of the revocation, to the charter school. Within 30 days of said notice, the authorizer must hold a public hearing on whether evidence exists to revoke the charter. No later than 30 days following the hearing, the authorizer must issue a final decision to revoke or decline to revoke the charter. An extension of 30 days may be allowed, upon mutual agreement between the school and authorizer. The authorizer must make written factual findings, supported by substantial evidence, to revoke a charter.

If a school district is the authorizer which revokes the charter, the school has 30 days to appeal the revocation to the COE. The COE may reverse the revocation decision if it determines the findings are not supported by substantial evidence. If a revocation is reversed by the COE, the school district may appeal the decision to the SBE. If the COE does not issue a decision within 90 days of the appeal, the school may appeal the decision to the SBE, which may reverse the revocation if it determines the findings are not supported by substantial evidence. If the COE is the authorizer and revokes a charter, the school has 30 days to appeal the decision to the SBE. During appeal proceedings, the charter school will continue to be funded. Final revocation decisions must be reported to the authorizer, the COE, and the CDE.⁸³ In fiscal year 2019, 13 charter schools in California were closed through nonrenewal or revocation.⁸⁴

Louisiana

School Choice Landscape in Louisiana

Louisiana maintains charter schools and a variety of scholarship programs, otherwise known as vouchers, which allow certain students to attend private schools with public subsidies, as well as vouchers specifically for special education students to attend private special education programs.⁸⁵ Louisiana does not operate magnet schools.⁸⁶ During the 2017-18 school year, there were 146 charter schools in Louisiana, which are categorized into six types, more than half of which are in the New Orleans Public Schools (NOPS). In 2016-17, there were 3,212 charter schools in Louisiana, serving 79,022 students, or 11 percent of statewide public school enrollment.⁸⁷

In 2019, NOPS became the first all-charter school district in the country with 38 CMOs operating 78 charter schools in the district. The schools are under the oversight of the Orleans Parish School Board (OPSB) and a district superintendent.⁸⁸ However, the story of how charter schools proliferated in the city is one marked by the tragedy of Hurricane Katrina in 2005. The story of New Orleans' recovery is controversial. Education reform advocates tout it as an innovative success story in the face of catastrophe,⁸⁹ while others argue the new market-based system has been rife with financial mismanagement,⁹⁰ racial inequities, and the silencing of community voices.⁹¹ These disagreements will not be deliberated in this policy briefing. However, the unique situation that has resulted from policy decisions made post-Katrina merit a brief discussion, because they radically changed the landscape of charter schools in Louisiana.

After the devastation of Hurricane Katrina, the New Orleans schools ceased operations; 65,000 students were displaced⁹² and 8,500 teachers and district employees were terminated by the district.⁹³ The State of Louisiana intervened, moving 88 percent of schools to a newly-formed Recovery School District (RSD), and hired the Boston Consulting Group, a management consulting firm, for help in rebuilding the school system.⁹⁴ The RSD oversaw all "failing" schools and the OPSB oversaw the remaining 22 percent of high-performing schools. By 2014, 92 percent of schools in both the RSD and the OPSB were charter schools.⁹⁵ In 2018, the OPSB was again granted oversight of all New Orleans schools after 15 years of state intervention.⁹⁶ By 2019, all schools in the re-formed NOPS were charter schools.⁹⁷

The New Orleans school district reforms were intended to increase student choice and inter-school competition, under the hypothesis that in a market-based system, only high-performing schools would be successful. After the termination of the teaching force, collective bargaining agreements were dissolved, and as of 2015, only two charter schools in New Orleans had unionized teaching forces. In addition to the sweeping changes to the system, the district experienced an influx of new funding from the state, the federal government, and philanthropic entities. Per-pupil spending increased from approximately \$10,000 in 2005 to over \$17,000 in 2008, not including the \$1.8 billion the city received from the Federal Emergency Management Agency to rebuild and refurbish school facilities.⁹⁸

All of these factors have contributed to a unique charter school environment in Louisiana. Although the RSD no longer supervises New Orleans schools, it has shifted its focus to East Baton Rouge Parish and Caddo Parish,⁹⁹ where it has launched a similar strategy to its actions in New Orleans, with the launch of the Baton Rouge Achievement Zone (BRAZ) that oversees 25 charter schools.¹⁰⁰

Charter School Governance in Louisiana

Charter schools in Louisiana must be governed by nonprofit corporations.¹⁰¹ ^L The following groups or entities may form a nonprofit for the purposes of operating a charter school, provided the group includes three or more people with valid Louisiana teaching certificates:

1. A group of three or more teachers;
2. A group of 10 or more citizens;
3. A public service organization;
4. A business or corporate entity registered to do business in Louisiana;
5. A Louisiana college or university that is licensed by the Louisiana Board of Regents;
6. The faculty or staff of any city or parish public school or school board; and
7. The Louisiana Department of Education (LADOE), with the approval of the State Board of Elementary and Secondary Education (LABESE).¹⁰²

Charter school boards are subject to statutory requirements regarding governance and conflicts of interest. Board members of nonprofit corporations governing charters in Louisiana are not allowed to receive compensation for their service, outside of expense reimbursement. Board members who serve as an officer, director, or employee of any national or state bank must file a disclosure with the Louisiana Board of Ethics. No more than 20 percent of any charter school board may be members of the same immediate family.¹⁰³

Charter school boards in New Orleans Parish (as defined in statute by population) have certain special statutory requirements. They must include a parent, guardian, or grandparent of a current student, or an alumnus of the school. Charter school boards must publish a policy that proscribes how the family representative will be elected or appointed to the board. Charter school boards in New Orleans Parish must also be representative of the racial and gender demographics of the community in which they are located, based on the most recent federal census, and at least 60 percent of the members of said school boards must be residents of the Parish.¹⁰⁴

Charter School Authorization in Louisiana

There are six types of charter schools in Louisiana, categorized by the entity which oversees their authorization:¹⁰⁵

1. **Type 1** charter schools that are new schools which are authorized by local school boards, and only students who would otherwise be eligible to attend school in the district governed by the local board are allowed to attend the charter school.¹⁰⁶

^L There are certain exceptions for Type 4 charters, where the local school board is the charter operator. La. Stat. Ann. § 17: 3991

2. **Type 2** charter schools are new schools or preexisting public schools that have been converted into charter schools, which are authorized by the LABESE. Type 2 conversion charters must be pre-approved by the professional faculty and staff, and the parents and guardians of the students, of the preexisting school. Any Louisiana student is eligible to attend Type 2 charters.¹⁰⁷ The local board of education, and any other interested group, may provide written information regarding the proposal, and may present it at a public LABESE meeting, before the application is approved or denied.¹⁰⁸ If the local school system in which the charter applicant intends to locate the school has received a letter grade of a “D” or “F,” a Type 2 application may be made to the LABESE. Also, if a Type 1 or Type 3 application has been denied by the local school board, an application may be made to the LABESE for a Type 2 charter school.¹⁰⁹
3. **Type 3** charter schools are preexisting public schools that have been converted to charter schools and are authorized by the local school board. Type 3 conversion charters must be pre-approved by the professional faculty and staff, and the parents and guardians of the students, of the preexisting school. Students who would otherwise be eligible to attend school in the district governed by the local board of education, or students who are from the same attendance zone as the preexisting school, are the only students allowed to attend the charter school.¹¹⁰
4. **Type 3B** charter schools are former Type 5 charter schools that have been transferred from the RSD back to a local school system.¹¹¹
5. **Type 4** charter schools are preexisting public schools converted to charter schools, or new schools that have been authorized by the LABESE. Type 4 charter conversions do not necessarily require the approval of the teachers and parents of the preexisting school but may if the LABESE requires it. Students who would otherwise be eligible to attend school in the district governed by the local board of education, or students who are from the same attendance zone as the preexisting school, are the only students allowed to attend the charter school — unless an agreement is reached with another city, parish, or local school board to allow students to attend the charter.¹¹²
6. **Type 5** charter schools are preexisting schools that have been transferred to the RSD, after having been determined as failing, and are authorized by the LABESE. Per statute, Type 5 charter school proposals must be in compliance with the Principles and Standards for Quality Charter School Authorizing, as promulgated by the National Association of Charter School Authorizers. Students who would have been eligible to attend schools in the jurisdiction of the school prior to its transfer to the RSD, and students who were eligible to participate in a school choice program of the prior system, are eligible to attend Type 5 charters. LABESE members are disallowed from serving on the governing board of Type 5 charters, and no member of the governing board may be, or have been in the past year, an elected official. Type 5 charters may only be transferred back to the school system of origin if they are determined to no longer be failing, at which point they

become Type 3B charters.¹¹³ Type 5 charter applications may only be made to the LABESE on the recommendation of the RSD.¹¹⁴

Approval by the LABESE requires an affirmative vote of at least six members.¹¹⁵ The LABESE has the following obligations as a chartering authority, which primarily apply to the Types 2, 4, and 5 charters it authorizes but some of which also apply to other authorizers:¹¹⁶

1. To administer loans for the costs associated with establishing and operating charter schools.
2. To authorize any proposed charter that complies with statutory and regulatory requirements, is financially well-structured, and has an educationally-sound proposal to meet the statutory purposes of charter schools.
3. To adopt rules governing the authorization of charters.
4. To review each charter school proposal in a timely manner, determine if the proposal meets the requirements of number (2) above, whether it provides a master plan for improving behavior and discipline, whether it provides a plan for the collection of student performance data, and whether it offers potential to improve student outcomes. The LABESE's application review process must comply with the Principles and Standards for Quality Charter School Authorizing and must provide an independent evaluation of the charter proposal by a third-party reviewer with educational, organizational, legal, and financial expertise. The LABESE must send the findings of the third-party reviewer to the charter applicant at least five days before the meeting where the LABESE will take action on the application.
5. Determine the policy and provide direction to the LADOE for providing oversight to charter schools under the authorization of the LABESE.
6. Provide technical assistance to any school system with fewer than 5,000 students to assist in determining the financial impact of charter schools within the system, on request.
7. Approve common charter applications, as developed by the LADOE for use by all charter authorizers.
8. Actively recruit charter groups that offer programs of study that address regional workforce needs such as career and technical education, industry-based certifications, and vocational course work.¹¹⁷
9. The LABESE is required to review and take action on every Type 2 and Type 4 charter application it receives.¹¹⁸
10. The LABESE is responsible for creating a process by which qualified CMOs may be granted multiple charter agreements through a single application. Charter groups that meet these criteria are allowed to apply for, and be granted, multiple charters through a single application. After the first school meets specified performance targets, the CMO is allowed to open a subsequent, approved school.¹¹⁹

Approval by local school boards require a simple majority of the board membership voting in the affirmative.¹²⁰ Local school boards must comply with the same requirements as the LABESE when authorizing charters, except for the following requirements, which just apply to local school boards:¹²¹

1. School boards have at least 90 days to review charter applications.

2. School boards must determine whether the charter applications comply with the law and rules.
3. School boards must use the common application developed by the LADOE, and approved by the LABESE, but may request additional information from applicants, as needed.
4. School boards must adhere to timelines for applications, review, and notification of approvals or denials, as set by the LABESE. Notifications of denials must include a written explanation of the reasons for a denial.
5. School boards who have been declared to be in an academic crisis, as defined in statute, may not consider or act upon charter applications for Type 1 schools. Charter school applicants that would like to locate in these districts must apply to be Type 2 charter schools.
6. The local school board must post to its website the guidelines and timelines for submitting a charter proposal, the process by which applications will be reviewed, and all associated forms.
7. If a charter applicant believes a local school board has not complied with statutory and regulatory requirements, it may apply to the LABESE as a Type 2 charter. If the LABESE determines the school board failed to comply, it will notify the school board of its finding, and proceed with Type 2 authorization procedures.
8. Local school boards must make any vacant school facilities available to charter schools for lease or purchase up to fair market value. In Type 2 charter conversions, the preexisting school facility must be made available to the charter school. In return for the use of the facility, the charter organization must pay a proportional share of the local board's bonded debt on that property, if the building is associated with costs to the district.
 - The OPSB, specifically, must also make other types of vacant property available to charter organizations. If the charter organization determines a property purchased from the OPSB is no longer to be used for educational purposes, it must offer first right of refusal to the OPSB for the amount of the purchase price, plus the fair market value of any improvements made by the charter organization from private funds.¹²²

Any charter school that is qualified for automatic renewal, or if it has received a letter grade of "A" or "B," is eligible to open and operate two additional schools that serve the same grade levels, and have the same attendance zones without submitting a formal application to the authorizer. Instead the charter organization must notify its authorizer of its intent to open one or two additional schools at least 120 days before it intends to begin operations. The authorizer must then enter into a charter with the charter organization 90 days before the school begins enrolling students and notify the LABESE.¹²³

All charter authorizers must notify the state legislators for the district in which a proposed charter is to be located on submission of a charter application to the authorizer.¹²⁴ Charter schools may begin operations eight months after they receive approval, unless otherwise agreed in the charter. Charter schools must begin operations within 24 months of approval, unless the school is engaged in desegregation compliance issues, in which case it has 12 additional months to begin operations.¹²⁵

Charter School Accountability in Louisiana

All charter schools must be operated by a person with at least five years of significant experience operating or working for a charter operator, private or public school, public or private post-secondary institution, or for-profit or nonprofit entity that provides academic instruction to students.¹²⁶ All charters must include provisions for the concerns discussed in this section.¹²⁷

Charter schools that opened prior to 2011 are required to enroll the same percentage of students with disabilities and low-income students as the local school districts where their students would otherwise be enrolled. Any charter school that formed after the 2011-12 school year must have student bodies that enroll at least 85 percent of the average of the local school district(s) from which the charter school enrolls its students, students who are classified as low-income or students with disabilities.^M The LABESE oversees compliance with these requirements, and must create regulations to administer these statutory requirements.¹²⁸

Charter schools in Louisiana are allowed to create admissions requirements that are “consistent with the school’s role, scope, and mission,” pursuant to LABESE regulations. Charter schools established prior to 2012 are allowed to continue to maintain academically selective application processes. Local school boards are only allowed to assign students to charter schools if more than 50 percent of the schools in the district are charter schools, and the district maintains a universal application and single enrollment processes adopted by the local school board. In these cases, the enrollment policies may assign students with consideration to preferences of parents or guardians, the school’s admissions policies, the charter contract, and the local board’s policies.^{129, N}

Louisiana statute requires that all charters must include the following: a description of the attendance zones from which students will be eligible to attend, a description of any neighborhood enrollment preferences; a financial and accounting plan sufficient to permit a governmental audit; a description of how the proposed charter fulfills the statutory purposes of charter schools; a description of the program of education and how that program will specifically meet the needs of low-income students; the specific academic results to be achieved, the timelines by which the results will be achieved, and

^M This requirement does not apply to charter schools who enroll primarily students who are children of military servicemembers. Students who have French passports are not counted in these percentages.

La. Stat. Ann. § 17: 3991

^N This allowance has been controversial, as a number of high-performing charter schools in New Orleans have selective admissions criteria and have been criticized as being created to intentionally exclude students the schools may perceive as less desirable. In NOPS, of the seven schools that have an “A” rating for both student achievement and student growth, five maintain their own application processes, outside of the universal lottery system, known as OneApp. Only one additional school declines to use the OneApp system, and it maintains a “B” rating for student performance and an “A” rating for student growth.

Dreilinger, D. (2016, May 26). How 3 top New Orleans public schools keep students out. *The New Orleans Advocate*. Retrieved from https://www.nola.com/news/education/article_114d7731-da01-531f-a67c-099100e12ba1.html.

New Orleans Public Schools. (2019). *New Orleans Public School Guide, 2019-2020 School Year*. New Orleans, LA: Author. Retrieved from <https://enrollnola.org/wp-content/uploads/2019/07/ENSG-2019-COMPLETE-Crops-Bleeds.pdf>.

how results will be assessed and measured; the organizational, governance, and operational structure of the school.

The following must be proscribed in the charter: required qualifications of all administrators and board members; policies, programs, and practices that will ensure parental involvement; personnel policies; assurances of teacher evaluation; research-based discipline procedures; information regarding facilities; management and accounting practices; insurance coverage; methods and procedures for monitoring the school by the authorizer, including the right of staff of the authorizer to visit and inspect the school; a requirement that curriculum will cause students to acquire discrete and technical skills; a requirement that charter schools regularly assess the academic progress of students, including participation in statewide assessments; a requirement that students will have mastery of grade-appropriate skills before being promoted to the next grade; provisions for the security of the school; and a plan for collecting student data.¹³⁰ Charter schools are also subject to a variety of statutory requirements regarding enrollment practices, transportation services, cost of attendance (charter schools must not charge tuition), staff background checks, equal opportunity compliance, etc.¹³¹

Charters are granted for an initial period of four years and may be extended for a maximum initial period of five years, contingent on results in year three. The charter may then be renewed for a period of three to 10 years after a review by the authorizer. The authorizer must notify the charter organization in writing of any decisions made regarding the renewal or nonrenewal of its charter in writing by January 31 of the year the charter would expire. This notification must include an explanation of the reasons if the charter is not renewed.¹³²

Per statute, authorizers may not renew charters if the school does not show academic improvement over the term of the charter, using standardized test scores. Charter schools must be provided the criteria and procedures for renewal of charters by the authorizer. Each charter school approval may be subject to “resolatory or suspensive conditions” the authority requires, provided mutual agreement by the charter organization. If the authorizer attempts to amend a school’s charter in a manner by which the charter organization disagrees, the charter school may apply to the LABESE to convert to a Type 2 charter.¹³³

If the charter has met its performance benchmarks for the three preceding years, and has demonstrated growth in student achievement and has no significant audit findings, its charter is automatically renewed. Type 2 charters with automatic renewals must be funded by the State.¹³⁴

School charters may be amended before renewal, subject to a majority vote of the authorizer and the charter organization’s governing board, as long as the amendment will better permit the school to meet its objectives. Amendments cannot extend the duration of the original charter.¹³⁵

School charters may be revoked by an affirmative vote of the majority of members of the authorizing board, if the school or its employees or directors engage in one or more of the following violations:

1. Committed a material violation of the conditions, standards, or procedures outlined in the charter;
2. Failed to meet or pursue the academic results outlined in the charter, within the agreed upon timeframes;
3. Failed to meet generally accepted accounting standards; or
4. Violated any law applicable to a charter school, its officers, or employees.¹³⁶

Massachusetts

School Choice Landscape in Massachusetts

Massachusetts has several school choice options for K-12 students. Students may attend a public school in another school district, known as inter-district choice, and may attend public charter schools.¹³⁷ In some cities and towns (such as Cambridge), the entire school district is operated through an intra-district choice program, in which students are not assigned to a school based on their neighborhood, but on policies developed by the town or city's school committee. In addition, Massachusetts offers vocational technical education schools, online schools (known as Commonwealth Virtual Schools), and a program called Metco, which is an open enrollment program that allows Boston students to attend school in the suburbs. Similar to Open Choice in Connecticut, Metco was established in 1966 to assist in desegregation efforts, but unlike Connecticut, Massachusetts does not operate magnet schools.¹³⁸

Massachusetts operates two types of charter schools: Commonwealth Charters, which are authorized by the Massachusetts Board of Elementary and Secondary Education (BESE); and Horace Mann Charter Schools, which are approved by the local school committee and, in some cases, the local collective bargaining unit in the district in which the charter school is located.¹³⁹ However, all final charters are granted by the BESE.¹⁴⁰ For the 2016-17 school year, there were 78 charter schools in Massachusetts serving 45,596 students, or 4.5 percent of the Commonwealth's total public school enrollment.¹⁴¹ As of the 2019-20 school year, Massachusetts operated 74 Commonwealth charter schools and seven Horace Mann Charter schools, two of which are Type I and five that are Type III, the differences of which are discussed in the authorization section below.¹⁴²

Charter School Governance in Massachusetts

Charter school boards of trustees hold the charter for the schools they govern and oversee. Boards of trustees have full fiduciary responsibility of charter schools but are disallowed from day-to-day management of the school. Boards of trustees are responsible for opening procedures (described in the accountability section below), submitting an annual report and independent audit to the Massachusetts Department of Elementary and Secondary Education (DESE).

Charter schools in Massachusetts may not be private or parochial. Board members of private or parochial schools that are closing may not open a charter school for the purpose of funding or reestablishing the school. These applicants must prove to the DESE that the charter school is distinct from the previous private or parochial school in curriculum, governance, student body, and staff.¹⁴³

Charter School Authorization in Massachusetts

All charter school applications are submitted to the DESE for review. Any applicant for a Commonwealth charter school must also send a copy of their application to the superintendent(s) of schools for the district(s) from which the charter school intends to draw students.¹⁴⁴ Commonwealth charter schools are reviewed by both the DESE and the BESE. The DESE has developed criteria for determining academic program success for both Commonwealth and Horace Mann charters.^{145,146}

There are three authorization processes for Horace Mann charters:

1. **Type I** Horace Mann applications are submitted to create a new school and must have the approval of the local collective bargaining unit and school committee of the district where the school will be located.
2. **Type II** Horace Mann applications are submitted to convert an existing public school and must have the approval of the local school committee, but do not require the approval of the local collective bargaining unit.
3. **Type III** Horace Mann applications are submitted to create a new school with the approval of the school committee, but without the approval of the local collective bargaining unit.¹⁴⁷

All Horace Mann applications must include the following components:

1. The type of Horace Mann application the applicant is seeking;
2. The proposed opening date for the charter school;
3. The elements of the local collective bargaining agreement that apply to school employees;^o and
4. The memorandum of understanding between the local district and the charter school organization, under which the charter school proposes to operate¹⁴⁸

Proposed memoranda of understanding must include:

1. The instructional and non-instructional services the local district will provide to the charter school;
2. The facilities provided by the district;
3. Any waivers applicable to collective bargaining agreements; and
4. Financial information, including: the basis for calculating tuition, arrangements between the charter and the district regarding cost of services, the date of the charter's first budget allocation from the district, the schedule for school district funds to be transferred to the charter school, and the procedures for resolving disputes.¹⁴⁹

The DESE reviews application materials on an advisory basis and conducts interviews with final applicants to assess their qualifications. The DESE requires charter school applications to demonstrate the capacity of the applicant to: further the statutory purpose of charter schools; conform to laws and regulations, including those related to English Learners and special education students; meet its enrollment projections; implement its recruitment and retention plan; involve parents and guardians; develop a program of education that enhances options for students; collaborate and disseminate innovative practices to schools in the local district; develop a management structure that will allow the school to perform its mission, including information about proposed board members; develop bylaws that govern the board of trustees; develop a management structure that would allow the board to oversee a network of charter schools, if applicable; assure students will meet the same performance standards and assessment requirements of traditional

^o Horace Mann charter schools are exempt from specific provisions of collective bargaining agreements, but their employees are still members of the local collective bargaining unit, accrue seniority in the district, and receive at least the same salary and benefits established by the local collective bargaining agreement. 603 Mass. Code Regs. 1.04

schools; develop an accountability plan establishing the charter's 5-year performance objectives; administer its educational programs, school operations, and finances; establish a process to provide public information to interested parties; develop an enrollment policy consistent with laws and regulations; develop a recruitment and retention plan; ensure thoroughness and accuracy of the application; provide adequate school building facilities; develop a board of trustees with the capacity to effectively govern the school(s); and build a network of charter schools, if applicable.¹⁵⁰

For charter schools that intend to serve the lowest-performing school districts in Massachusetts, applications are only considered from "Proven Providers." Charter applicants from these districts must also submit an application to be designated a Proven Provider by submitting evidence to demonstrate significant management or leadership of a school or similar program that is an academic success, a viable organization, and is relevant to the proposed charter school.¹⁵¹

The BESE and DESE must hold a public hearing for final applications in the school district where the charter school is proposed to be located. At least one member of the BESE must attend each public hearing and report back to the board regarding the comments of the public.¹⁵²

The BESE grants charters to the charter school's board of trustees in the month of February. Charters are effective for a period of five years. A charter school must begin operations within 19 months of receiving its charter. If no students are attending school within 19 months, the charter is considered void. State law limits the total number of charters granted. The charter school law also limits the total amount a sending district may be required to spend on charter school tuition, as a percentage of the district's net school spending. For most districts, this cap is nine percent, but for the 10 lowest-performing districts in the state the cap is 18 percent. This means that in a given year, certain districts are subject to charter school caps while others are not.¹⁵³ However, the BESE may grant charters revoked or returned to new applicants, above the statutory cap.¹⁵⁴

Charter School Accountability in Massachusetts

Upon receiving a charter, the school must complete what are known as "opening procedures." In other states, many of these procedures would be part of the authorizing process. Opening procedures are defined in the draft accountability plan submitted by the charter school to the DESE, and include the following:

1. Terms of the proposed contract in such cases where the board of trustees intends to procure all educational services from another organization;
2. Policies and procedures including bylaws, enrollment policies, and a recruitment and retention plan;
3. Criteria and procedures governing suspension and expulsion;
4. Criminal background checks of employees;
5. Building inspection;
6. Fire code compliance;
7. Documentation the school is compliant with all other federal and state health and safety laws and regulations;

8. Proof of insurance; and
9. Tax Identification number and banking information.

The DESE makes available reports including the application, annual reports, site visits, inspections, renewal reports, and annual financial audits upon request.¹⁵⁵

Charter schools in Massachusetts are subject to ongoing review and reporting requirements. They must submit annual reports to the DESE and the local school committee, which must also be made available to any parent or guardian of a current or prospective student.¹⁵⁶ Annual reports must be issued by August 1 of each year, and must include the following information:

1. Complete financial statements and financial projections of income and expenses;
2. A capital plan;
3. A report on the school's recruitment and retention plan;
4. An updated recruitment and retention plan that conforms to current DESE guidelines, which are subject to change;
5. Discussion of the progress made toward its student achievement goals;
6. Evidence the charter school is developing or has distributed replicable best educational practices; and
7. Any additional information the BESE may require.¹⁵⁷

The DESE may perform site visits of the charter school on an annual or as-needed basis, and written reports of these visits become a part of the school's record. Charter schools are subject to annual independent financial audits, and school districts are required to assist Horace Mann charters in completing these. In addition, charter schools must submit an end-of-year financial report, as defined in non-regulatory DESE guidance, based on the information in the audited financial reports. Charter schools must complete annual enrollment and waitlist reports and provide written documentation of compliance with health and safety laws and regulations. If a charter school becomes subject to any governmental audit or investigation not carried out by the DESE, it must notify the DESE in writing of the investigation within two business days.¹⁵⁸

In addition, charter schools must notify the DESE of any material change in circumstance, including: changes to leadership or administration, delays in implementing amendments to a charter, changes in location of school facilities, or significant decreases in enrollment.¹⁵⁹

Charter schools must submit renewal applications to the BESE under charter renewal application guidelines set by the DESE. Horace Mann charter renewal applications must be submitted with certification of a majority vote of both the local collective bargaining unit and the local school committee. The DESE publishes extensive guidelines that charter schools must follow in their renewal application, which are not codified in regulation or statute.¹⁶⁰ Generally, charter schools must present evidence of faithful adherence to the terms of the school's charter, including the following:

1. Recruitment and retention plan;
2. Dissemination of best practices to traditional schools;
3. Success of the school's academic program; and

4. Viability of the school as an organization.¹⁶¹

The final authority to renew a charter lies with the BESE. Charters are renewed for a period of five years. If a school is found to be out of compliance during the renewal process, the commissioner of the DESE may recommend to the BESE that the school be placed on probation.¹⁶²

The BESE or the commissioner of the DESE may require charter schools to comply with certain conditions if the school: is found to be in violation of the law, fails to make progress in the areas of student achievement or recruitment and retention, fails to remain financially viable, or fails to comply with the terms of its charter. Separately, the BESE may place a charter school on formal probation if the “imposition of a condition alone would be insufficient to remediate the problem.” Per statute, the placement of a charter school on probation signals concern about the school’s overall viability. Probationary status permits the BESE to immediately suspend the school’s charter if the school fails to comply with the conditions of its probation.¹⁶³

The BESE may suspend or revoke a charter of a school in the following situations:

1. Lack of evidence of academic achievement;
2. Failure to comply with the terms of a charter or any other law or regulation;
3. Misrepresentation of the school in a charter application for approval or renewal;
4. Financial unviability;
5. Misappropriation or mismanagement of funds;
6. Fraud or gross mismanagement of the school by its board or administrators;
7. Criminal convictions of board members or administrators; or
8. Failure to comply with BESE conditions imposed in relation to the authorization or renewal of a charter school.¹⁶⁴

The BESE must notify the charter school in writing prior to a revocation of its charter at least 60 days before the revocation goes into effect. The charter school then has the ability to request a hearing and must submit this request in writing within 15 days of receipt of the notification of revocation. Hearings are performed in accordance with the Massachusetts Standard Adjudicatory Rules of Practice and Procedure. The BESE may withhold payments to any school during the suspension, nonrenewal, or revocation process. The DESE proscribes closing procedures, which, while not codified in regulation or statute, must be adhered to by the school.¹⁶⁵

If a Commonwealth charter is revoked, the title of all property owned by the school is transferred to the Commonwealth of Massachusetts, and any funds related to the sale of this property are transferred to the state’s General Fund, after all debts are paid. If a Horace Mann charter is revoked, the title to all property is returned to the school district where the charter school is located.¹⁶⁶

Michigan

School Choice Landscape in Michigan

Michigan operates a number of school choice programs, including magnet schools, charter schools, and a variety of interdistrict and intradistrict enrollment programs. On a statewide basis, each local school board has the option to enroll non-resident students, without the permission of the sending district.^P Local school districts may also operate cooperative education programs with other districts, wherein both school districts agree to the enrollment of students between district boundaries.¹⁶⁷ In Connecticut, regional high schools would be analogous to Michigan's cooperative education programs. In 2015-16, there were 370 charter schools and 386 magnet schools in Michigan.¹⁶⁸

Charter schools in Michigan are known as public school academies (PSAs)¹⁶⁹ Michigan passed legislation allowing PSAs in 1993,¹⁷⁰ and in 1994 the first PSA in Michigan opened. By 2016-17, the number of PSAs grew to serve 147,061 students, or 10 percent of Michigan's total public school enrollment.¹⁷¹

Charter School Governance in Michigan

Michigan is the only state profiled in this policy briefing that allows for-profit CMOs to operate charter schools. Although each PSA is incorporated as a governmental entity, and therefore is technically a nonprofit organization,¹⁷² PSAs may be operated, in-full or in-part, by for-profit CMOs and other for-profit providers of education services. PSA school boards are responsible for supervising and holding accountable CMOs and education service providers. In 2017, approximately 80 percent of PSA boards held contracts with CMOs and education service providers, but it is unclear how many of these were for-profit providers.¹⁷³ In 2013-14, the *Detroit Free Press* found 61 percent of PSAs in Michigan were operated by for-profit CMOs, and an additional 17 percent engaged for-profit education service providers for selected services, including back office supports.¹⁷⁴ PSAs are exempt from all state taxation.¹⁷⁵

PSA school boards are also responsible for creating policies, fiscal management, and the operational and academic performance of the school(s) they oversee. However, according to the Michigan Department of Education (MDE) "there are no current statutes that specify requirements for contracts between PSAs and the management companies they hire," although the MDE suggests the best practice would require contracts with CMOs contain "specific performance targets, aligned to the goals (and other provisions) in the charter contract."¹⁷⁶

PSA board members are considered public officials, must swear a constitutional oath of office, and are subject to a selection and appointment process that is determined by the local authorizer.¹⁷⁷ The MDE acknowledges concerns have been raised regarding

^P Michigan's intradistrict choice programs have been criticized as acting as mechanisms for wealthier parents, who have the means to transport their children longer distances, to elect to leave lower-performing school districts, while lower-income residents of the same district remain behind.

Strauss, V. (2019). A different kind of school-choice mess in DeVos's home state of Michigan. *The Washington Post*. Retrieved from <https://www.washingtonpost.com/education/2019/07/03/different-kind-school-choice-mess-devoss-home-state-michigan/>.

PSA board independence from CMOs, as Michigan statutes allow for the developers of new charters (which include CMOs) to name initial board members via charter application. The MDE states it is up to the authorizer to ensure board members are “qualified, independent voices on behalf of the charter schools they serve.”¹⁷⁸ The MDE refers local authorizers to their professional association, the Michigan Council of Charter School Authorizers (MCCSA), for standards for the selection and appointment of PSA board members.¹⁷⁹

Under state statute, PSA authorizers must adopt a resolution establishing the method of selection, length of term, and number of members of each PSA board, and each board member must be a citizen of the United States.¹⁸⁰ In 2011, Michigan amended its statutes regarding PSA board nepotism, and PSA boards are now prohibited from allowing close family members, persons with ownership interest in the school, or the officers or employees of CMOs or education service providers from serving on PSA boards. The MDE notes the MCCSA recommends annual conflict of interest disclosures by PSA board members, but this is not required by the State.¹⁸¹ PSA board members have governmental immunity, and are immune from personal and professional civil liability for acts of omission if they reasonably believed they were acting within their authority.¹⁸²

Michigan also allows for the operation of online charter schools, known as “Schools of Excellence.” Existing PSAs may convert to Schools of Excellence, provided they meet certain academic performance indicators.¹⁸³ Enrollment at Schools of Excellence is limited to two percent of Michigan’s public school enrollment, and the State limits the number of online schools to 15.¹⁸⁴

Charter schools in Michigan are disallowed from charging tuition and discriminating against any student on the basis of intellectual or athletic ability, measures of academic achievement, or disability status. PSAs are disallowed from enrolling students who are not residents of the State of Michigan, unless they are foreign exchange students. PSAs may give enrollment preferences to siblings of current students, transfers from other districts, and the children of staff members of the school.¹⁸⁵ If the district in which the PSA is located is operating under a desegregation order, the PSA is also subject to that order.¹⁸⁶

Charter School Authorization in Michigan

Charter schools in Michigan may be authorized by local school boards, intermediate (regional) school boards, community colleges, state public universities, or a partnership between two or more of these entities.¹⁸⁷ There are 537 local districts, 56 intermediate school districts,¹⁸⁸ 33 community colleges,¹⁸⁹ and 15 public universities¹⁹⁰ in Michigan, which means 641 entities are able to authorize PSAs in the state. However, PSAs are currently authorized by 43 different entities.¹⁹¹ While most states allow local school districts to authorize charter schools, Michigan is relatively unique in its lack of standardization in processes for authorization and accountability between authorizers.

School boards may only approve PSAs within the boundaries of the district they govern.¹⁹² Community colleges may not authorize PSAs in “first class” school districts, which are districts that enroll over 100,000 students. In effect, this designation only applies to the Detroit Public Schools Community District (DPSCD).¹⁹³ Community colleges may only

authorize PSAs that will operate within the boundaries of the community college district.¹⁹⁴ State universities have no restrictions on the number or location of PSAs they may authorize.¹⁹⁵

An authorizer that issues charters for PSAs in community school districts (this nomenclature also currently refers only to the DPSCD¹⁹⁶) must certify to the MDE that it has been accredited as an authorizing body by a nationally recognized accreditor. PSAs in community school districts must not be located in the same location as a public school that has been designated as low-achieving by the MDE or that of a PSA that has had its charter revoked. PSAs in community school districts may not bear a significant resemblance in governance or curriculum as a public school that previously operated in the same location as the proposed PSA.¹⁹⁷

Authorizers are responsible for the oversight, or may contract with another authorizer to oversee each PSA it has under contract, and is responsible for ensuring the PSA's compliance with state and federal laws. If the state superintendent of public instruction finds an authorizer is not properly overseeing PSAs it has authorized, the superintendent has the power to suspend the authorizer's authority to issue new charters.¹⁹⁸

Charter school authorizers in Michigan are allowed to charge fees to PSAs for expenses related to overseeing the PSA contract, up to three percent of the total state aid received by the PSA. Authorizers may also provide and charge for additional services to the PSA, but may not require the PSA to use these services.¹⁹⁹

Any person or entity may apply to an authorizing body to open a PSA. Applications must include the following information:

1. A list of the proposed members of the PSA board of directors;
2. The proposed articles of incorporation;
3. The proposed bylaws of the PSA;
4. Documentation meeting the requirements of the authorizer, which must include at minimum:
 - The governance structure of the PSA;
 - The educational goals of the PSA and the curricula offered, which must include a demonstrated improvement of academic performance for all student groups;
 - Admissions policies and criteria;
 - School calendar and school day schedule; and
 - Age or grade range of students;
5. Descriptions of staff responsibilities and of the PSA's governance structure;
6. Identification of the school district in which the PSA will be located (not required for PSAs authorized by universities);
7. An agreement that the PSA will comply with state laws governing charter schools and state and federal law applicable to public entities; and
8. A description and address of the physical plant, which may include different grade levels at different sites.

Under state statute, when considering whether to grant a charter to an applicant, authorizers must consider the following criteria:

1. The resources available for the proposed school;
2. The student population to be served;
3. The educational goals proposed in the application;
4. The applicant's "track record, if any, in organizing public school academies or other public schools;"
5. The graduation rate of the school district in which the PSA is proposed to be located;
6. The population of the county where the PSA will be located;
7. The number of schools in proximity to the proposed location that are designated as low-performing; and
8. The number of students on waitlists for existing PSAs in the area.²⁰⁰

Authorizers may grant priority to PSA applications that are intended to replace a PSA whose charter has been revoked due to low performance, and that will agree to eventually serve high school students.^{201, 202}

If the application for a PSA charter is denied, the applicant may petition the board to place the question of issuing the charter on the ballot for voters to determine. Such a petition must contain the full charter application and must be signed by at least five percent of voters in the district. If the petition meets these requirements, the authorizer must submit the ballot question for public vote at its next regular election, provided that election is 60 days after it received the petition. If the vote is affirmative, the authorizer must issue the charter.²⁰³

Once a charter is granted by an authorizer, it must be submitted to the state superintendent within 10 days.²⁰⁴

Charter School Accountability in Michigan

Each authorizer is responsible for ensuring the PSA complies with all aspects of its charter. Authorizers also develop and implement the process by which PSAs are held accountable for meeting student performance targets, as defined in the charter, and for implementing corrective action for PSAs that fail to meet their targets.²⁰⁵ All charter contracts must include the following information:

1. The educational goals of the PSA and the methods by which it will be held accountable, which must include demonstrated academic improvement for all student groups. "To the extent possible" academic performance must be assessed using the state performance assessment;
2. A description of the methods that will be used to monitor the PSA's compliance with applicable laws;
3. All matters set forth in the charter application;
4. Procedures and grounds for the revocation of the charter;
5. A description of the address of the school building(s);
6. Requirements and procedures for the performance of annual financial audits, which must be performed by a certified public accountant using generally accepted governmental auditing principles;

7. The term of the charter and a description of the process and standards for renewal, which must include increases in academic achievement for all student groups as measured by objective criteria;
8. Certification that the PSA will comply with all applicable laws;
9. A requirement that the PSA board will maintain the following records, and make them publicly available:
 - A copy of the charter under which the PSA is operating;
 - A current list of PSA board members, their addresses, and terms of office;
 - Policies approved by the PSA board;
 - Agendas and minutes of meetings of the PSA board;
 - A copy of the school's approved budget;
 - Copies of bills paid for amounts over \$10,000;
 - Quarterly financial reports submitted to the authorizer;
 - A current list of teachers and school administrators and their individual salaries;
 - Copies of teachers' and administrators' teaching certificates and evidence of compliance with criminal background checks;
 - Curriculum documents and materials;
 - Proof of insurance;
 - Copies of facility leases or deeds; and
 - All health and safety reports and certificates;
10. A requirement that the authorizing body has the power to review and approve or disapprove of any contract between the PSA and an education service provider or CMO before the agreement is executed;
11. A requirement that the PSA board will demonstrate the following items to the satisfaction of the authorizer:
 - a. The school has made a reasonable effort to advertise its enrollment openings; and
 - b. The enrollment period is at least two weeks long, and that times include evenings and weekends; and
12. A requirement that the PSA board will prohibit any employee from filling, and being compensated for, more than one full-time position.²⁰⁶

In addition, charter schools must comply with a variety of state laws regarding the operation of public entities including those related to open meetings, freedom of information, and equal opportunity. PSAs are also subject to laws regarding public education, including those related to participation in statewide assessments of student achievement, state level student growth models, state accountability and accreditation systems, and other comparative data collections that are required of public schools.²⁰⁷ With few exceptions, PSAs must employ certified teachers, except for those that are authorized by colleges and universities, which may hire the faculty of those institutions to teach at the PSA.²⁰⁸

Charters may be revoked by authorizers under the following circumstances:

1. The PSA fails to demonstrate improved academic achievement for all student groups or fails to meet the educational goals defined in its charter;
2. The PSA fails to comply with all applicable law;

3. The PSA fails to meet generally accepted public sector accounting principles or fails to demonstrate sound fiscal stewardship; or
4. The PSA fails to comply with other grounds for revocation that are included in its charter.

If a PSA has been determined by the MDE to be among the lowest-performing schools in the state for three years — and has been operating for at least four years — not including students with disabilities, the MDE will notify the authorizer of that PSA. If the authorizer receives this notification from the MDE, it must amend the PSA's charter to eliminate the PSA's authority to operate the existing age and grade levels at the site under question. If the PSA operates at only one site, its charter must be revoked by the authorizer. However, if the MDE determines the closure of the PSA will result in an “unreasonable hardship” to students because of the lack of other public school options available, it may rescind the notice and require the PSA to implement a school improvement plan. Otherwise, the power to revoke or not renew charters is entirely within the discretion of the authorizer.²⁰⁹

Authorizers may take corrective measures before the revocation of a charter including the reconstitution of the PSA in a final attempt to improve student performance, cancelling a contract with a CMO, or appointing a new PSA board. If an authorizer revokes the charter of a PSA, it must work with another public or charter school to ensure a smooth transition of the affected students. If a charter is revoked, the authorizer has 10 days to notify the state superintendent of public instruction.²¹⁰

PSA boards may enter into management agreements with CMOs or other education service providers. Beginning in 2011, these contracts are subject to the approval of the authorizer, and the CMO/provider must provide the same information to the PSA board that a school district is required to disclose regarding its budget and finances. Within 30 days of the receipt of this financial information, the PSA board must make it publicly available on the PSA's website.²¹¹

New York

School Choice Landscape in New York

The State of New York operates charter schools, magnet schools, and open enrollment programs. Like Connecticut and Massachusetts, the state instituted a plan to eliminate racial segregation after *Brown v. Board of Education* with a directive issued by the state education commissioner in 1963.²¹² The plan was focused on the largest school districts, including Buffalo, New York, Rochester, Syracuse, and Yonkers, and resulted in the creation of magnet schools as mechanisms for voluntary desegregation.²¹³ In 2016-17, New York had 121 interdistrict magnet schools which served 78,830 students,²¹⁴ or approximately 2.9 percent of the state's total public school enrollment.²¹⁵

The State of New York first passed charter school authorization legislation in 1998, which initially limited the number of charters in the state to 50. The legislation was amended several times, and by 2015, the cap was increased to 460 charter schools, with maximum of 50 new schools allowed to be created in New York City.²¹⁶ In 2019, there were 341 charter schools approved to operate in the State of New York,²¹⁷ with 290 currently enrolling students,²¹⁸ 235 of which are located in New York City.²¹⁹ In 2016-17, charter schools served 128,784 students, or 4.8 percent of the state's total public school enrollment.²²⁰

Charter School Governance in New York

All charter schools in New York are nonprofit organizations. Teachers, parents, school administrators, community residents, or any combination of these, may submit an application to establish a charter school in New York. These applications may be filed in conjunction with a college, university, educational institution, nonprofit organization, or for-profit business or corporation. However, for-profit entities are disallowed from applying independently for a charter, and from operating or managing charter schools. If an application includes a for-profit entity, the charter must specify the extent of the corporation's involvement in the school.²²¹ Pre-existing private schools are disallowed from converting to charter schools.²²²

Educational corporations organized to operate charter schools have all corporate powers necessary to manage a charter school and all powers granted to nonprofit corporations. One education corporation may operate multiple charters, but each school requires a separate application. A charter school may operate a single school at more than one site. Under statute, New York charter schools are independent and autonomous public schools and their political subdivision is coterminous with the boundaries of the school district in which the charter school is located. Charter schools are disallowed from levying taxes or acquiring property via eminent domain.²²³

The board of trustees of the charter school has final authority for policy and operational decisions of the school, and may delegate decision-making to employees and officers. Charter school authorizers are exempt from civil liability for acts or omissions of the charter school, and local school districts and authorizers are not liable for debts incurred by the charter school.²²⁴

Charter School Authorization in New York

New York state statute defines the objectives of charter schools as to 1) improve student learning and achievement; 2) to increase learning opportunities for all students, with an emphasis on students who are at-risk of academic failure; 3) to encourage the use of different and innovative teaching methods; 4) to create new professional opportunities for teachers, administrators, and school staff; 5) to provide parents and students with expanded choices in the types of educational opportunities that are available in the public school system; and 6) provide schools with a method to change from rule-based to performance-based accountability systems by holding charter schools accountable for meeting measurable student achievement results.²²⁵

All new charters in New York are granted by the New York State Board of Regents (NYSBR). However, the board of trustees of the State University of New York (SUNY) authorizes charter schools statewide. Local school boards and the chancellor of the New York City Department of Education are granted the authority to authorize conversions from existing public schools to charter schools, as long as the majority of parents or guardians in the existing school vote to convert to a charter school.²²⁶

The NYSBR and the SUNY board of trustees issue annual requests for proposals for charter applications in areas where there is a lack of educational alternatives, and where access to charter schools would provide the greatest benefit to students. Charter school applications are scored via a rubric created by the NYSBOR and the SUNY board of trustees, which may include how the charter will address the following categories:

1. Increase student achievement and decrease achievement gaps;
2. Increase high school graduation rates and focus on serving students at risk of dropping out or with low academic performance;
3. Achievement of middle school students, and their successful transition to high school;
4. Utilization of high-quality academic assessments;
5. Increase the acquisition and adoption of local instructional improvement systems;
6. Partner with low-performing public schools to share best practices;
7. Demonstrate the management and leadership competence necessary to overcome initial start-up challenges; or
8. Demonstrate the support of the school district in which the school will be located.²²⁷

Under state statute, charter school applications must include the following information:

1. A mission statement for the school and a description of how its educational program conforms to the statutory purpose of charter schools;
2. A description of student performance goals and the methods by which students will be evaluated as having met the stated goals. The goals must meet or exceed state performance standards adopted by the NYSBR.
3. The proposed governance structure of the school, including:
 - A list of proposed trustees;
 - A description of trustees' qualifications;
 - The terms of trustees;
 - The method by which trustees will be elected to the charter board;

- A procedure for conducting and publicizing monthly board meetings; and
 - The process by which parents and staff will be encouraged to participate in school governance;
4. Admissions policies and procedures, which must be consistent with statutory enrollment requirements;
 5. A proposed budget and fiscal plan for the school, including evidence that sufficient start-up funds are available;
 6. Requirements and procedures for annual independent fiscal and programmatic audits, which must be comparable in scope to those required of traditional public schools;
 7. Hiring and personnel policies, including the qualifications to be used in the selection of teachers, administrators, and staff;
 8. Discipline, suspension, and expulsion rules and procedures, which must be consistent with the requirements of due process, and with federal requirements related to the placement of students with disabilities;
 9. The number of students to be served by the school, and the student-to-teacher ratio;
 10. Information regarding school facilities, including the location and plan for student transportation
 - If the location is unknown at the time of application, a certificate of occupancy must be obtained and submitted to the authorizer before operations may commence at the school;
 11. Identification and background information regarding all charter applicants and proposed trustees;
 12. The school calendar and school day schedule, which must provide as much instruction as is required of traditional public schools;
 13. Proof of insurance, as required by the regulations of the commissioner of the New York State Department of Education (NYSED) and the superintendent of financial services;
 14. The term of the proposed charter, which may not exceed five years;
 15. Evidence of adequate community support for the charter school sufficient to meet its enrollment targets;
 16. An assessment of anticipated fiscal and programmatic impact of the charter school on other schools in the area;
 17. A description of the health and food services that will be provided to students;
 18. Methods and strategies for serving students with disabilities;
 19. Procedures to be followed if the charter school was to close, including provisions for the transfer of students and the dispossession of the charter school's assets to the local school district;
 20. Requirements for the granting of diplomas;
 21. A code of ethics for the school, which governs the activities of the board of trustees, officers, and employees, and includes standards regarding the disclosure of conflicts of interest regarding matters brought before the board;
 22. A description of any residential facilities to be provided by the charter school; and
 23. Any other information required by the authorizer.²²⁸

A charter school in good standing may apply to be overseen by an alternate authorizer at any point during the duration of its charter. If approved, all standards and requirements established in the original charter remain in effect.²²⁹

Authorizers must act on each charter school application received before July 1 of a given year by January 1 of the following year and, if approved, the charter is executed on or before the following February 1. Charter school applications may only be approved by the authorizer if the following items are found to be true:

1. The charter school application meets all statutory and regulatory requirements;
2. The applicant demonstrates the ability to operate a school in a “educationally and fiscally sound manner”;
3. The charter school is likely to improve student learning and achievement, and furthers the statutory purpose of charter schools; and
4. If the school is to be located in a district with more than five percent charter school enrollment, granting the application would have significant educational benefit or the district in which the school is located consents to the charter being located there.²³⁰

Authorizers are encouraged to give preference to charter school applicants that will best serve students identified by applicants as at-risk of academic failure. Authorizers are not required to approve any charter application, even if it meets all statutory requirements, and may require applicants to modify or supplement charter applications as a condition of approval.²³¹ All charter applicants must submit fingerprints to the authorizer, and these are submitted to the Federal Bureau of Investigation for state and federal criminal background checks.²³²

Upon initial approval, the applicant and authorizer enter into a charter contract, which must include the same information statutorily required to be submitted in the charter school application. In addition, the charter must include the specific commitments of the authorizer to oversee and supervise the charter school.²³³ Charter contracts reviewed by authorizers other than the NYSBR must be submitted by the authorizer to the NYSBR within five days of execution. Upon receipt, the NYSBR will review all documents, and will approve and issue the charter as proposed by the authorizer or will return the proposed charter for reconsideration with written recommendations. If the NYSBR fails to act on a charter submission from an authorizer in 90 days, the charter is deemed to have been granted. If the NYSBR returns a proposed charter to the authorizer, the authorizer will reconsider the charter and resubmit it to the NYSBR with revisions, provided the applicant agrees to the modifications. The NYSBR has 30 days to act on resubmissions.²³⁴ Charter schools formed on or after March 15 of a given year may not commence operation until July 2 of the following year.²³⁵

Denials of charters by authorizers must include the reasons for the denial and be made in writing. Denials are final, and applicants are specifically denied the right to appeal to courts or administrative bodies.²³⁶

Charter School Accountability in New York

Charter school authorizers, in concert with the NYSBR, are responsible for charter school oversight and accountability. The NYSBR and other authorizers are allowed to visit and inspect all charter schools under their oversight.²³⁷

A charter school may be renewed by its authorizer for a period of five years. Renewal applications are due to the authorizer at least six months prior to the expiration of the charter and must include the following information:²³⁸

1. A report regarding the progress the charter school has made in achieving its stated educational objectives, as delineated in its charter;
2. A detailed financial statement that discloses the cost of administration, instruction, and other categories that allow for comparison between charter schools and public and private schools, in a format proscribed by the NYSBR;
3. Copies of the required, annual programmatic and fiscal audits and certified financial statements;
4. Parent and student satisfaction metrics; and
5. The means by which the charter school will meet or exceed its enrollment and retention targets for students with disabilities, low-income students, and English Learners, which are set by the authorizer and must reflect the demographics of the communities the charter school serves.²³⁹

Charter schools may be revoked by the authorizer or the NYSBR on the following grounds:

1. Student achievement falls below the level that would allow the commissioner of the NYSED to revoke the registration of a traditional public school, and student achievement on these measures has not improved over the preceding three years;
2. Serious violations of the law;
3. Material and substantial violation of the charter, including fiscal mismanagement;
4. The charter demonstrates a "practice and pattern of egregious and intentional violations" of civil service law regarding discrimination against employee rights; or
5. Repeated failure to comply with enrolment requirements regarding low-income students, students with disabilities, or English Learners, and the school cannot demonstrate it has made extensive efforts to recruit and retain such students.²⁴⁰

Any person or group may bring a complaint to the charter board of trustees regarding the above violations. If the complainant is not satisfied with the remedy provided by the board, the complaint may be presented to the authorizer, with additional appeals allowed to the NYSBR. Authorizers must provide the charter school with notice of intent to revoke its charter at least 30 days prior to the date of revocation, and this notice must include a written statement of the reasons for revocation. The authorizer may also choose to place the charter school on a remedial action plan instead of revoking the charter. The failure of the charter school to comply with the remedial action plan will result in the revocation of the charter.²⁴¹

Rhode Island

School Choice Landscape in Rhode Island

Rhode Island operates two types of public school choice programs: interdistrict and intradistrict open enrollment and charter schools. In addition, Rhode Island offers tax credits to businesses that donate to scholarship programs that allow low-income students to attend private schools.²⁴²

Rhode Island has three types of charter schools: district, independent, and mayoral. In 1995, the Rhode Island General Assembly first passed legislation that allowed the formation of district charter schools. District charter schools may be established by local school districts, public school personnel, or existing public schools.²⁴³ In 1998, the state expanded its charter school authorization law, creating independent charter schools, which are established by Rhode Island-based colleges and universities and nonprofit organizations.²⁴⁴ A third type of charter school, called a mayoral academy, was introduced in 2008 legislation. Mayoral academies are created by mayors or elected town administrators, with the mayor serving as the charter board chairperson.²⁴⁵ There are currently 35 charter schools in operation in Rhode Island,²⁴⁶ which is the maximum number allowed by state law.²⁴⁷ In 2016-17, Rhode Island charter schools served 8,317 students, or 9.5 of the state's public school enrollment.²⁴⁸ In 2019, there were 20 independent charter schools, 12 mayoral academies, and three district charter schools in Rhode Island.²⁴⁹

The purpose of charter schools in Rhode Island is defined in statute. Charter schools are intended to provide increased accountability for student achievement in exchange for increased autonomy, and are to be “vanguards, laboratories, and an expression of the on-going and vital state interest in the improvement of education.”²⁵⁰ Charter schools are expected to be vehicles for research and development of curriculum, pedagogy, administration, facilities, governance, parental involvement, social development, working conditions, teacher and administrator responsibilities, student performance, and fiscal accountability.²⁵¹

Charter School Governance in Rhode Island

All charter schools in Rhode Island must be managed by nonprofit entities, and are considered by statute to be public schools, whose students have the same rights under federal and state law as students at traditional public schools.²⁵² Charter schools have the same immunity as local public school districts and may indemnify employees.²⁵³ Private and parochial schools are disallowed from holding charters, and all charter schools in the state must be nonsectarian and nonreligious.²⁵⁴ Charter schools are disallowed from charging tuition or fees.²⁵⁵

Statutory requirements regarding charter schools are relatively slim in Rhode Island, and the commissioner of the Rhode Island Department of Education (RIDE) is empowered to promulgate regulations governing the creation and operation of charter schools, their approval, and their revocation.²⁵⁶

Charter School Authorization in Rhode Island

Under statute, all charter schools are intended to achieve, and charter applications must include evidence of the following:²⁵⁷

1. Improving student learning through rigorous academic standards;
2. Increasing learning opportunities for students, especially those who are identified as at-risk or educationally disadvantaged;
3. Encouraging innovative teaching methods;
4. Creating opportunities for teachers such as responsibility for the learning program at the charter school;
5. Providing parents and students with expanded school choices;
6. Being held accountable for meeting measurable academic results, and implement performance-based accountability systems; and
7. Encouraging parental and community involvement.²⁵⁸

Each charter school type has a separate statutory authorization process.

1. **District charter school** applications may be submitted by existing public schools, groups of public school personnel, public school districts, or a group of school districts. School professionals employed by local or regional school committees are allowed a 2-year leave of absence to create a charter school, and are able to return to work, without interruption in seniority, at the end of this time.²⁵⁹

District charter applications are submitted to the RIDE commissioner and the school committee of the district where the charter school will be located. In addition to the items listed above, district charter school applications must provide for the following:

- At least 180 days of instruction;
- Performance criteria used to measure student learning;
- An agreement to provide yearly progress reports to parents, the community, the local school committee, and the commissioner of the RIDE;
- A plan for the governance, administration, and operation of the charter school, including the method by which the governing board will be selected;
- The extent to which parents, educators, and community members will be involved in school governance;
- The method by which the governing board will be accountable to the commissioner of the RIDE;
- Identification of the school facility, its location, and the terms under which it will be provided;
- Description of the support services provided by the local school district and other third-party providers;
- Health and safety procedures;
- Enrollment procedures, admissions criteria, and plans for the recruitment of a diverse student body;
- Discipline procedures;
- Explanation of the relationship between the proposed district charter school and its employees and their qualifications;

- Identification of the statutes and/or regulations from which the charter seeks to be exempt and an explanation of why;
- The provisions of the district's collective bargaining agreement from which the charter school will be exempt;
- A financial plan including a proposed budget, and provisions for an annual financial and operational audit, and the manner by which funds will be disbursed from the school district to the district charter school; and
- Proposed bylaws.²⁶⁰

If the district charter school is a conversion from an existing public school, the application must include documentation of affirmative votes from two-thirds of the teachers, and a majority of the parents, at the existing public school.²⁶¹ The commissioner of the RIDE or the school committee may require additional information from applicants after the submission of the district charter application.²⁶²

After receiving a complete application, the RIDE commissioner must provide a public comment period of 60 days and hold two public hearings in the district where the charter is proposed to be located. A copy of the district charter application must be provided to the collective bargaining agent for the local school district, and that agent must be allowed the opportunity to register recommendations or objections to the local school committee. Objections are to be considered by the commissioner of the RIDE and the local school committee before the application is recommended for approval to the board of regents. If the application is recommended to be approved, the board of regents may grant a charter for up to five years.²⁶³

2. **Independent charter school** applications may be made by nonprofit organizations that have been in existence for at least two years and that exist for reasons other than to operate a school for Rhode Island colleges or universities.²⁶⁴ Applications for independent charters are submitted to the RIDE commissioner and must include all of the items that district charter schools must submit in charter applications, except for the following differences:
 - Independent charter applications must provide written support from the city council(s) of their sending district(s);
 - Nonprofit applicants must submit the nonprofit's financial records in addition to a financial plan for the operation of the proposed school to the auditor general, who provides an initial determination to the Council on Elementary and Secondary Education (CESE), the RIDE commissioner, and legislative leadership as to whether the nonprofit is financially responsible. Final approval may not be granted by the CESE without the auditor general's determination.²⁶⁵
3. **Mayoral academy** applications may be submitted by the mayor of any town in the state, acting through a nonprofit organization created for the purpose of operating the academy. Mayoral academies enroll students from both urban and suburban communities and have a board of directors comprised of

representatives from each sending town.²⁶⁶ Applications for mayoral academies and expansions of existing mayoral charters are submitted to the RIDE commissioner. Mayoral academy applications must include all of the provisions required of district charters, except for the following differences:

- Mayoral academies may apply to the RIDE commissioner to be exempt from certain collective bargaining requirements that the district and independent charter schools are subject.
- Mayoral academies must provide procedures by which teachers and parents can legally challenge decisions of the charter's governing board if they do not comply with the academy's charter.
- Mayoral academies must provide written support from the town or city council(s) of its sending district(s).²⁶⁷

Charters may be issued or continued for a period of up to five years by the CESE. Applications must include a resolution or ordinance granted by the town or city council of the sending school district that demonstrates local support for the proposed charter school. Network charter schools, which enroll students from multiple sending districts, may remove districts from their application if they fail to obtain written support from those districts.²⁶⁸ Charter school authorizations are contingent on state approval and appropriation.²⁶⁹ Priority may be granted by authorizers to charter school applications that are designed to increase educational opportunity for at-risk students.²⁷⁰

Charter school applications are submitted to the RIDE commissioner by December 1 of the school year prior to the school year the charter school is proposed to be established. Charter school applicants must also submit a copy of the proposed charter to their local school committee.²⁷¹

RIDE regulations require charter applications also include:

1. Evidence of need and community support for the proposed charter school;
2. Plans for identifying and serving English Learners, students with disabilities, students with academic deficiencies, and gifted and talented students;
3. A detailed start-up plan that identifies tasks, timelines, and the people responsible; and
4. Explanations of any partnerships or other relationships central to the mission of the proposed school.²⁷²

If the charter applicant intends to contract with a CMO or education service provider, under RIDE regulation, the application must also include:

1. Evidence of the provider's success in serving similar student populations, including demonstrated academic achievement and successful management in previous settings;
2. A term sheet that delineates:
 - The duration of the contract and roles and responsibilities of the governing board, school staff, and the provider;
 - Scope of services to be provided;
 - Measures for evaluating the performance of the provider;
 - Compensation structure;

- Methods for overseeing and enforcing the contract;
 - Conditions for contract termination and renewal; and
 - Disclosures.
3. A description of any potential conflicts of interest between the school governing board and the provider.²⁷³

Charter School Accountability in Rhode Island

The RIDE has developed a comprehensive charter school performance review framework to evaluate charter schools, and to inform the CESE's renewal decisions, which contains 44 pages of specific regulation.²⁷⁴ The RIDE commissioner is responsible for ongoing oversight through periodic visits and reviews of its reports. Student academic performance, financial sustainability, organizational quality, and legal and regulatory compliance are part of the review.²⁷⁵ The governing board of the charter school must submit annual reports on its progress toward meeting academic and organizational performance goals of the charter.²⁷⁶

Charter schools are required under state statute to adhere to financial record keeping, reporting, and auditing as required by the RIDE.²⁷⁷ Individuals or groups may issue a complaint to the charter school's board of trustees regarding any statutory violation by the school. If the board does not adequately address the complaint, appeals may be made to the commissioner of the RIDE.²⁷⁸

Charters may be revoked at any time if the school is found to have done any of the following:

1. Materially violated the provisions of its charter;
2. Failed to meet its educational objectives, as delineated in its charter;
3. Failed to comply with fiscal accountability procedures;
4. Violated laws from which it was not exempted by the CESE; or
5. If it does not reach a designation of "high-performing" within three years, meaning it has demonstrated substantial progress toward improving student achievement and has the management required to establish a thriving, financially-sound charter school.²⁷⁹

The RIDE must hold a public hearing after revoking or not renewing a charter regarding the issues that caused the charter to be revoked.²⁸⁰

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