

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

## **An Act To Amend the Laws Governing the Approval Process for and the Operation of Virtual Public Charter Schools in the State**

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

**Sec. 1. 20-A MRSA §2401, sub-§§1-A and 8-A** are enacted to read:

**1-A. Assessment center.** "Assessment center" means a private for-profit, nonprofit or public facility that provides administration of multiple standardized examinations.

**8-A. Proctored environment.** "Proctored environment" means a student assessment location that ensures the integrity of students' work by having the work supervised by a certified teacher or an instructor from a postsecondary educational institution. "Proctored environment" includes:

A. An assessment center;

B. A postsecondary educational institution, such as a community college or university, in this State;  
or

C. An elementary or secondary school.

**Sec. 2. 20-A MRSA §2405, sub-§8, ¶D,** as enacted by PL 2011, c. 414, §5, is amended to read:

D. The commission is the sole authorizer in this State for virtual public charter schools, except that a local school board may authorize a public charter school within its jurisdiction that integrates online and on-site instruction. A virtual public charter school must be approved by the Legislature before it may operate.

**Sec. 3. 20-A MRSA §2416** is enacted to read:

### **§ 2416. Virtual public charter schools**

**1. Accreditation.** The following provisions govern accreditation of a virtual public charter school.

A. A virtual public charter school must be accredited by an organization approved by the department based on a demonstration that the organization's accreditation process is rigorous and aligned with state policy. An organization that is approved by the department to accredit virtual public charter schools shall report annually to the department on any changes to its accreditation process. The department shall annually reapprove or remove the approval of the organization after due consideration of any concerns or complaints arising during the year.

B. The department may prohibit the use of a particular accreditation organization for a specific virtual public charter school upon a showing of:

- (1) A conflict of interest;
- (2) Previous, persistent quality concerns; or
- (3) Other good cause.

**2. Approval of virtual public charter schools.** The commission shall evaluate an application for a virtual public charter school. The criteria for evaluation of an application must be determined by the department. The criteria must include, but are not limited to, the following.

A. The applicant must:

- (1) Be a nonprofit entity that is incorporated and has an administrative office in this State;
- (2) If contracting with other entities, contract with those entities for no more than 30% of the school budget;
- (3) Be nonsectarian in its programs, admissions, employment practices and operations;
- (4) Contract only with other entities that are also nonsectarian in their programs, admissions, employment practices and operations;
- (5) Comply with all state and federal antidiscrimination laws, rules and regulations;
- (6) Provide accommodations and services as required by the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq. to meet the needs of students with special needs;
- (7) Provide accommodations and services as required by the federal Equal Educational Opportunities Act of 1974, 20 United States Code, Sections 1701 to 1758 to meet the needs of students who are English learners;
- (8) Provide its services without charging tuition, student registration fees or other fees;

(9) Demonstrate that all members of the instructional staff are educators certified to teach in this State; and

(10) Ensure that no instructional or grading functions are outsourced to persons or companies outside the United States.

**B. The applicant must provide for review and public inspection:**

(1) Its mission, vision and goals;

(2) Its organizational structure and governance, including its governing board and school policies and procedures;

(3) A detailed curriculum plan, including a description of how the content of courses meets state requirements;

(4) A technology utilization and training plan for students and faculty;

(5) A plan for providing access to and training on library and digital media for all students and staff;

(6) A detailed assessment plan, including:

(a) Management of student records;

(b) Data analysis and reporting; and

(c) How the school will meet the requirements in subsection 8;

(7) Its student admissions policies;

(8) Its policies for the verification of student attendance;

(9) Its human resources management policies;

(10) Its marketing plan;

(11) Its communication plan for parents, including how the school will provide for language accessibility for nonnative speakers; and

(12) A detailed financial plan for each year of probationary operation as set forth in subsection 3. Based on estimated enrollment trends, the financial plan must specify projected revenues and expenses. The plan also must specify all financial controls that will safeguard the received public funds.

**3. Approved and probationary status.** The following provisions govern approved and probationary status of virtual public charter schools.

A. A virtual public charter school approved to operate in this State must be classified as either a probationary or approved provider. A new provider, including a provider that has been previously approved in the State, must be classified as probationary. The probationary period lasts for 3 years. Upon approval by the commission in the 3rd year, the provider must be considered an approved provider. The approved provider must be issued a 2-year, renewable contract. The approved provider is subject to biennial reviews by the commission and biennial independent financial audits as specified in subsection 6. An approved provider shall continue to submit the annual performance report as provided in subsection 4 and the annual operations report as provided in subsection 5.

B. If the commission determines in consideration of the reports provided for in this section and any other relevant information that an approved provider under paragraph A does not meet the performance or operations goals, the provider must be placed back into probationary status and again complete a 3-year probationary period. If, at the end of this probationary period, the provider has met the performance and operations goals as determined by the commission, the provider must be returned to approved provider status. If, at the end of this 3-year probationary period, the provider has not met the performance or operations goals as determined by the commission, the provider may not provide services to students in this State and the charter or contract with the nonprofit entity must be terminated and that nonprofit entity may not submit an application for a virtual public charter school for 3 years.

C. Nothing in this subsection may be interpreted to limit the ability of the commission or the Legislature to terminate the charter or contract of a provider at any time for a showing of just cause.

**4. Annual performance report.** The following provisions govern the annual performance report for a virtual public charter school.

A. The governing board of a virtual public charter school shall annually submit to the commission and the joint standing committee of the Legislature having jurisdiction over education matters a complete and detailed performance report setting forth:

(1) The student achievement levels and growth that the school demonstrates on all academic standards, as measured by the system of learning results established in chapter 222;

(2) Average student daily attendance, as measured by participation in the instructional program;

(3) Graduation rates, as applicable;

(4) Enrollment of students with special needs and students who are English language learners;

(5) Academic activities and programs designed to serve diverse students;

(6) The academic and disciplinary policies in effect for the previous year, including a copy of the student handbook;

(7) All student disciplinary incidents and punishments, aggregated by each student, and the response of the school to each, including all incidents of cheating or plagiarism, as described in subsection 8;

(8) The use of specific learning management and delivery tools;

(9) The teacher evaluation plan in effect;

(10) The name and certification status of each member of the instructional staff, including the member's state of residence; and

(11) The name and state of residence of each noncertified person employed by the virtual public charter school, including any persons involved in the assessment of student work.

B. A virtual public charter school shall comply with all reporting and data submission requirements required of other public schools.

C. With the exception of the disciplinary data in paragraph A, subparagraph 7, the annual performance report is a public record and must be made available to the public.

**5. Annual operations report.** The governing board of a virtual public charter school shall annually submit to the commission and the joint standing committee of the Legislature having jurisdiction over education matters a complete and detailed operations report, which is a public record and must be made available to the public, setting forth:

A. The accomplishments of the virtual public charter school;

B. Efforts made to improve the programs and the delivery of instruction, including new technologies examined or implemented;

C. The marketing and operational plan for the virtual public charter school, including recommendations regarding methods for improving the delivery of education through the Internet and other distance learning technologies;

D. The financial assets and liabilities of the virtual public charter school at the end of the fiscal year;

E. The sufficiency of the funding received;

F. The purpose, monetary amount and quality assurance mechanisms for all contracts with any outside entities totaling over \$10,000; and

G. Any other information considered by the governing board of the virtual public charter school to be relevant to the successful operation of the virtual public charter school.

**6. Independent financial audit.** A virtual public charter school shall submit an independent financial audit to the commission and the joint standing committee of the Legislature having jurisdiction over education matters.

A. An audit under this subsection must:

(1) Be conducted and submitted annually for the first 3 years of operation of the virtual public charter school within the State;

(2) Be conducted and submitted every 2 years thereafter, beginning with the 5th year of operation of the virtual public charter school within the State; and

(3) Be conducted by an independent certified public accountant in accordance with the rules adopted by the Office of the State Auditor. The audit may not be administered by any audit provider who has a conflict of interest.

B. An audit under this subsection must include, but is not limited to:

(1) A detailed account of all instruction-related revenue and expenses;

(2) A detailed account of all instruction-related contracts with outside entities;

(3) A detailed account of all noninstruction-related revenue and expenses;

(4) A detailed account of all noninstruction-related contracts with outside entities;

(5) Detailed information on all courses provided in the period under review, including:

(a) The names of teachers of record and any other instructional personnel;

(b) The number of students enrolled;

(c) The average daily attendance of each course, as measured by student participation in the instructional program;

(d) How the school is measuring and keeping accurate records of average daily attendance; and

(e) The state funding reimbursement generated by each course;

(6) The assets and liabilities of the virtual public charter school at the end of the fiscal year;

(7) A detailed account of all donations, grants and other income received by the virtual public charter school and its parent company during the fiscal year; and

(8) Any other information on the financial health and welfare of the virtual public charter school commonly reported in accordance with the rules adopted by the Office of the State Auditor.

C. The commission shall use the audits under this subsection from all virtual public charter schools in determining the annual funding reimbursement rate for virtual public charter schools.

D. An audit under this subsection is a public record and must be made available to the public.

**7. Teachers and staff.** The following provisions govern teachers and staff of virtual public charter schools.

A. A virtual public charter school teacher responsible for student instruction must:

(1) Be a certified teacher in this State;

(2) Hold a valid teaching certificate in each content area being taught; and

(3) Possess documentation of completion of a state-approved program providing knowledge and skills in online instruction.

B. A virtual public charter school shall:

(1) Conduct a national criminal history record check on all employees;

(2) Provide all instructional staff with a contract detailing their salaries, benefits and other conditions of employment and responsibilities, including responsibilities regarding online instruction and digital tools;

(3) Maintain a confidential personnel record on each employee;

(4) Provide annual professional development to all employees, including professional development on the use of virtual education technology;

(5) Provide an experienced mentor teacher who has online instruction expertise for the first year of instruction of all new instructional staff hired by the virtual public charter school; and

(6) Comply with all other state public teacher and public employment laws.

C. A teacher in a virtual public charter school must be:

(1) Subject to evaluation as provided in chapter 508;

(2) Subject to termination as provided in section 13202;

(3) Provided terms and conditions of employment comparable to other public school teachers, including, but not limited to, tenure and due process protections, leaves of absence, sabbaticals, remuneration and collective bargaining, to the extent such employment terms and conditions are not inconsistent with other state law; and

(4) Provided employee benefits, including health coverage and participation in the Maine Public Employees Retirement System as provided in Title 5, Part 20.

**8. Integrity of student learning and assessment.** A student in a virtual public charter school must be held to the same standards prohibiting cheating and plagiarism as a student in a traditional classroom environment. A virtual public charter school shall ensure:

A. That the compulsory attendance requirements in section 5001-A are met by each student;

B. That, for every credit-bearing course, a student takes at least one examination or completes at least one assignment in a proctored environment;

C. That a student participating in the statewide assessment program established in section 6202 takes the assessment with that student's peers at a school in the school administrative unit in which the student resides. A virtual public charter school shall notify a school administrative unit regarding the number of participating students within that unit's attendance boundaries and the level at which the students are to be assessed no later than October 1st. A school administrative unit shall ensure that a student at a virtual public charter school is permitted to take the assessment with that student's peers;

D. That, for every credit-bearing course, a student is provided multiple opportunities for synchronous learning with that student's teacher in which that student is required to participate and share that student's knowledge;

E. That each student is provided with a policy prohibiting cheating and plagiarism for each course;

F. That each student is provided instruction on avoiding cheating and plagiarism prior to enrolling in a course in each academic year; and

G. That each instance of identified cheating or plagiarism is disciplined in accordance with appropriate due process procedures and reported to the commission in accordance with subsection 4.

**9. Rules.** The department shall amend its rules governing public charter schools to establish standards for virtual public charter schools pursuant to this section. Rules adopted pursuant to this subsection are major substantive rules as described in Title 5, chapter 375, subchapter 2-A. The rules must include, but are not limited to, the establishment of standards in the following areas:

A. Concerning students:

(1) Internet security;

(2) Student academic performance and improvement;

(3) Monitoring and assessment of student academic performance and improvement;

(4) Course completion measurements;

(5) Attendance tracking procedures;

(6) Student discipline procedures, including policies regarding expulsion and suspension;

(7) Data analysis, management and reporting;

(8) Guidance counseling;

(9) Participation guidelines for extracurricular activities;

(10) Engagement of parents and communities in online programs;

(11) Provisions for students with special needs, including gifted and talented students and English language learners; and

(12) Training in how to use both the hardware and software associated with the online program;

B. Concerning teachers:

(1) The required amount of teacher participation in the instructional program for each course;

(2) The qualifications of mentor teachers, as described in subsection 7, paragraph B, subparagraph (5);

(3) The required elements of a program in online instruction necessary to become a teacher, as described in subsection 7, paragraph A, subparagraph (3);

(4) The required amount of professional development in technology-based instructional design required yearly;

(5) The elements of an alternative certification program for previously certified teachers in other states, territories of the United States or the District of Columbia; and

(6) The required qualifications of noncertified personnel involved in any assessment of student work;

C. Concerning programs:

(1) An online program's governance, vision and organization;

(2) Standards-based curricula and data-driven instructional practices;

(3) Technology capacity and support;

(4) Sound financial and accounting practices and resources;

(5) Program evaluation and improvement;

(6) Details of the annual review process;

(7) Approved private or public proctor options;

(8) Appeal procedures for probationary status and contract termination determinations; and

(9) Professional development support mechanisms; and

D. Concerning funding the cost of virtual public charter schools:

(1) No later than August 1st of each year the department shall develop a method for funding based on the cost per unit of instruction provided in each subject area to each student. These unit costs may include the following components:

(a) Teacher costs, based on the average cost per student to employ a teacher in this State, including the cost of professional development;

(b) Administrative costs;

(c) Costs of facilities; and

(d) Capital costs.

## **SUMMARY**

This bill makes the following changes to the laws governing virtual public charter schools.

1. It provides that a virtual public charter school must be approved by the Legislature before it may operate.

2. It requires a virtual public charter school to be accredited by an organization approved by the Department of Education based on a demonstration that the organization's accreditation process is rigorous and aligned with state policy.

3. It requires the Maine Charter School Commission to evaluate applications for a virtual public charter school based on certain criteria.

4. It requires the governing board of a virtual public charter school to submit annually a performance report, operations report and independent financial audit to the Maine Charter School Commission and the joint standing committee of the Legislature having jurisdiction over education matters.

5. It sets standards for teachers in virtual public charter schools.

6. It sets standards to maintain the integrity of student learning and assessment in virtual public charter schools.

7. It requires the Department of Education to adopt major substantive rules governing virtual public charter schools. These rules must include a method for funding virtual public charter schools based on the cost per unit of instruction provided in each subject area to each student. These unit costs may include teacher costs, based on the average cost per student to employ a teacher in this State; administrative costs; costs of facilities; and capital costs.