

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND ELEVEN

S.P. 496 - L.D. 1553

An Act To Create a Public Charter School Program in Maine

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

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

**10-D.**

<u>Education</u>	<u>State Charter School</u>	<u>Travel Expenses</u>	<u>20-A MRSA §2405,</u>
	<u>Commission</u>	<u>Only</u>	<u>sub-§8</u>

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

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

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

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

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

H. A public charter school authorized under chapter 112 by an entity other than a local school board.

**Sec. 5.** 20-A MRSA c. 112 is enacted to read:

**CHAPTER 112**

**PUBLIC CHARTER SCHOOLS**

## **§2401. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

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

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

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

**4. Conversion public charter school.** "Conversion public charter school" means a public charter school that existed as a noncharter public school before becoming a public charter school.

**5. Education service provider.** "Education service provider" means an education management organization, charter management organization, school design provider or any other partner entity with whom a public charter school intends to contract for a limited scope of education services and resources, including education design, implementation or management.

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

**7. Local school board.** "Local school board" means a school board exercising management and control of a school administrative unit other than a public charter school formed under this chapter.

**8. Noncharter public school.** "Noncharter public school" means a public school other than a school formed pursuant to this chapter.

**9. Public charter school.** "Public charter school" means a public school formed pursuant to this chapter that:

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

B. Is governed by a board that is independent of a school administrative unit;

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

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

E. Provides a program of education that:

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

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

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

(a) Vocational and technical training;

(b) Natural resources and the environment;

(c) Farming, fishing and forestry;

(d) Foreign language and culture;

(e) Visual and performing arts;

(f) Science, mathematics and technology; and

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

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

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

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

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

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

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

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

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

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

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

A. Providing information and technical assistance to potential and actual public charter school organizers and authorizers; and

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

**4. Principles and professional standards.** The department shall establish policies and practices consistent with nationally recognized principles and professional standards for authorizers of public charter schools, including standards relating to:

A. Organizational capacity and infrastructure;

B. Soliciting and evaluating applications;

C. Performance contracting;

D. Ongoing public charter school oversight and evaluation; and

E. Charter renewal decision making.

**5. Investigation and sanction of authorizers.** Consistent with the policies and practices established in subsection 4, the department may investigate and, as appropriate, institute sanctions in response to deficiencies in authorizer performance or legal compliance.

**6. Rules.** The department shall adopt major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A to implement this chapter.

**7. Reports.** Four years after public charter schools have been in operation, the commissioner shall issue to the Governor, the Legislature and the public a report on the State's public charter school program, drawing from the annual reports submitted by every authorizer pursuant to section 2405, subsection 4, as well as any additional relevant data compiled by the commissioner up to the school year ending in the preceding calendar year. The report must include an assessment of the public charter school program's successes, challenges and areas for improvement in meeting the purposes of this chapter and any suggested changes in state law or policy necessary to strengthen the

public charter school program. The commissioner shall issue a similar report after 8 years of operation of public charter schools.

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

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

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

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

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

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

D. For a school administrative unit with an enrollment of 500 or fewer students, a public charter school, unless authorized by a school administrative unit, may not enroll more than 5% of a school administrative unit's noncharter public school students per grade level in each of the first 3 years of the public charter school's operation.

E. For a school administrative unit with an enrollment of more than 500 students, a public charter school, unless authorized by a school administrative unit, may not enroll more than 10% of a school administrative unit's noncharter public school students per grade level in each of the first 3 years of the public charter school's operation.

F. A public charter school may limit enrollment to pupils within a given age group or grade level and may be organized around a special emphasis, theme or concept as stated in the school's application for a charter contract pursuant to section 2407.

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

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

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

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

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

### **§2405. Authorizers**

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

- A. A local school board with regard to creating a public charter school within the boundaries of the school administrative unit governed by that local school board;
- B. The commission under subsection 8; and
- C. A collaborative among authorizing entities that forms to set up a regional public charter school.

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

- A. Solicit, invite and evaluate applications from organizers of proposed public charter schools;
- B. Approve applications that meet identified educational needs;
- C. Deny applications that do not meet identified educational needs;
- D. Create a framework to guide the development of charter contracts;
- E. Negotiate and execute sound charter contracts with each approved public charter school;
- F. Monitor the performance and compliance of public charter schools; and
- G. Determine whether each charter contract merits renewal or revocation.

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

- A. Organizational capacity and infrastructure;
- B. Soliciting and evaluating applications;
- C. Performance contracting;
- D. Ongoing public charter school oversight and evaluation; and
- E. Charter renewal decision making.

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

A. The authorizer's strategic vision for chartering and progress toward achieving that vision;

B. The performance of all operating public charter schools overseen by the authorizer, according to the performance measures and expectations specified in the charter contracts;

C. The status of the authorizer's public charter school portfolio of approved charter applications, identifying all public charter schools within that portfolio as:

(1) Approved, but not yet open;

(2) Operating;

(3) Renewed;

(4) Transferred;

(5) Terminated;

(6) Closed; or

(7) Never opened; and

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

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

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

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

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

**7. Services purchased from authorizer.** A public charter school may not be required to purchase services from its authorizer as a condition of charter approval or of executing a charter contract, nor may any such condition be implied.

A. A public charter school may, at its discretion, choose to purchase services from its authorizer. In such event, the public charter school and authorizer shall execute an annual service contract, separate from the charter contract, stating the parties' mutual agreement concerning any services to be provided by the authorizer and any service fees to be charged to the public charter school.

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

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

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

(2) Members appointed to the commission must have diverse professional experience in education, social services, youth training, business startup and administration, accounting and finance, strategic planning and nonprofit governance. The following provisions apply to the appointment of the 4 other members nominated and appointed by state board members pursuant to subparagraph (1):

(a) In appointing members to the commission, the state board shall give proper consideration to candidates with experience in a noncharter public school in the State in one of the following positions: school board member, superintendent, teacher and special education director;

(b) The state board shall ensure that the joint standing committee of the Legislature having jurisdiction over education matters has an opportunity to meet and interview the candidate or candidates nominated for the commission;

(c) Within 10 days of meeting with the candidate or candidates, the joint standing committee of the Legislature having jurisdiction over education matters shall deliver to the state board its written appraisal of the strengths and weaknesses of the candidate or candidates; and

(d) The state board shall consider the appraisal of the joint standing committee of the Legislature having jurisdiction over education matters prior to appointing a candidate or candidates to the commission.

(3) A commission member may not serve more than 3 consecutive terms, but may serve again after not serving on the commission for at least one term.

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

B. The commission shall adopt rules to develop, implement and refine its procedures for authorizing public charter schools in this State. Rules adopted by the commission pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

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

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

(2) Convene stakeholder groups and engage experts; and

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



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.

**9. Transition period.** The public charter school program set out in this chapter must begin with a 10-year transition period, beginning on the effective date of this chapter. During the transition period, the commissioner shall register the charters approved by all authorizers in chronological order by date of approval under this chapter. During the transition period, only 10 public charter schools may be approved by authorizers other than local school boards. Once the cap is reached, the commissioner may not accept further registrations from authorizers other than local school boards and only local school boards may approve charters until the end of the transition period.

This subsection is repealed July 1, 2022.

#### **§2406. Request for proposals**

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

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

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

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

C. A request for proposals must include or otherwise direct applicants to the performance framework that the authorizer has developed for public charter school oversight and evaluation in accordance with section 2409.

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

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

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

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

(a) An executive summary;

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

(c) Evidence of need and community support for the proposed public charter school, including information on discussions with the school administrative unit where the public charter school will be located concerning recruitment and operations of the public charter school and possible collaboration with nearby school administrative units;

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

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

(b) Proposed governing bylaws;

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

(d) A clear description of the roles and responsibilities for the governing board, the school's leadership and management team and any other entities shown on the organization chart;

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

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

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

(a) The location or geographic area of the school;

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

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

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

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

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

- (g) The school's proposals for providing transportation, food service and other significant operational or ancillary services;
  - (h) A facilities plan, including backup or contingency plans if appropriate;
  - (i) A detailed school start-up plan, identifying tasks, timelines and responsible individuals; and
  - (j) A closure protocol, outlining orderly plans and timelines for transitioning students and student records to new schools and for appropriately disposing of school funds, property and assets in the event of school closure;
- (4) The proposed public charter school's finances, including:
  - (a) A description of the school's financial plan and policies, including financial controls and audit requirements;
  - (b) Start-up and 3-year budgets with clearly stated assumptions;
  - (c) Start-up and first-year cash-flow projections with clearly stated assumptions;
  - (d) Evidence of anticipated fund-raising contributions, if claimed in the application; and
  - (e) A description of the insurance coverage the school proposes to obtain;
- (5) The proposed public charter school's student policy, including:
  - (a) The school's plans for identifying and successfully serving students with the wide range of learning needs and styles typically found in noncharter public schools of the sending area;
  - (b) The school's plans for compliance with applicable laws, rules and regulations; and
  - (c) The school's student discipline plans and policies, including those for special education students;
- (6) The proposed public charter school's academic program, including:
  - (a) A description of the academic program aligned with the statewide system of learning results under section 6209;
  - (b) A description of the school's instructional design, including the type of learning environment, such as classroom-based or independent study, class size and structure, curriculum overview, teaching methods and research basis;
  - (c) The school's plan for using internal and external assessments to measure and report student progress on the measures and metrics of the performance framework developed by the authorizer in accordance with section 2409; and
  - (d) A description of cocurricular or extracurricular programs and how they will be funded and delivered; and
- (7) The proposed public charter school's staff policy, including:

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

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

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

(d) Opportunities and expectations for parent involvement.

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

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

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

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

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

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

(4) Provide a draft of the proposed service contract;

(5) Explain the relationship between the governing board, the school's leadership and management team and the education service provider, specifying how the governing board and the school's leadership and management team will monitor and evaluate the performance of the education service provider, the internal controls that will guide the relationship and how the governing board and the school's leadership and management team will ensure fulfillment of performance expectations;

(6) Provide a statement of assurance that the governing board and the school's leadership and management team is legally and operationally independent from the education service provider; and

(7) Disclose and explain any existing or potential conflicts of interest between the governing board, the school's leadership and management team and the education service provider or any affiliated business entities.

Nothing in this paragraph prohibits a virtual public charter school from entering into a contract with an education service provider for education design, implementation or comprehensive management of the virtual public charter school program.

#### **§2407. Charter applications**

**1. Application.** An applicant for approval as a public charter school must submit an application as set out in this section. An applicant may submit an application only to an authorizer that has issued a request for proposals in accordance with section 2406. An applicant may submit a proposal for a particular public charter school to no more than one authorizer at a time. The purposes of the application are to present the proposed public charter school's academic and operational vision and plans, demonstrate the applicant's capacities to execute the proposed vision and plans and provide the authorizer a clear basis for assessing the applicant's plans and capacities.

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

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

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

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

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

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

**(1)** Grant charters only to applicants that have demonstrated competence in each element of the authorizer's published approval criteria and are likely to open and operate a successful public charter school;

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

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

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

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

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

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

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

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

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

#### **§2408. Charter contracts**

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

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

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

(2) Administrative provisions articulating the administrative relationship between the authorizer and the public charter school, including each party's rights and duties.

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

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

D. A charter contract must be signed by a designated representative of the authorizer and of the public charter school's governing board.

E. A public charter school may not commence operations without a charter contract executed in accordance with this section and approved in a meeting open to the public.

**2. Virtual public charter schools.** The charter contract of a virtual public charter school must require the governing board to:

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

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

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

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

(1) Frequent, ongoing monitoring to ensure and verify that each student is participating in the virtual public charter school, including synchronous contact between teachers and students and between teachers and parents to ensure and verify student participation and learning;

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

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

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

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

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

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

**§2409. Public charter school performance framework**

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

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

- A. Student academic proficiency;
- B. Student academic growth;
- C. Achievement gaps in both proficiency and growth between major student subgroups;
- D. Attendance;
- E. Recurrent enrollment from year to year;
- F. With respect to high school, postsecondary readiness;
- G. Financial performance and sustainability;
- H. Governing board performance and stewardship; and
- I. Parent and community engagement.

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

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

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

#### **§2410. Oversight**

**1. Data collection; monitoring.** For each public charter school it oversees, the authorizer is responsible for collecting, analyzing and reporting all data from state assessments in accordance with the performance framework developed under section 2409, subsection 1. An authorizer shall monitor the performance and legal compliance of the public charter schools it oversees, including collecting and analyzing all data to support ongoing evaluation according to the charter contract.

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

#### **§2411. Charter term and renewal**

**1. Initial charter term.** The term for an initial charter may not commence before July 1, 2012. An initial charter must be granted for a term of 5 operating years. The



charter term commences on the public charter school's first day of operation. An approved public charter school may delay its opening for one school year in order to plan and prepare for the school's opening. If the public charter school requires an opening delay of more than one school year, the public charter school must request an extension from its authorizer. The authorizer may grant or deny the extension depending on the particular public charter school's circumstances.

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

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

A. The performance report required in this subsection must summarize the public charter school's performance record to date, based on the data required by this chapter and the charter contract, and must provide notice of any weaknesses or concerns perceived by the authorizer concerning the school that may jeopardize its position in seeking renewal if not timely rectified. The school must be given the opportunity to respond to the performance report and submit any corrections or clarifications for the report.

B. The renewal application guidance required by this subsection must include or refer explicitly to the criteria and standards that will guide the authorizer's renewal decisions, which must be based on the performance framework under section 2409 set forth in the charter contract and consistent with this chapter. The renewal application guidance must, at a minimum, require and provide an opportunity for the public charter school to:

- (1) Present additional evidence, beyond the data contained in the performance report, supporting its case for charter renewal;
- (2) Describe improvements undertaken or planned for the school; and
- (3) Detail the school's plans for the next charter term.

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

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

- A. Ground its decisions in evidence of the public charter school's performance over the term of the charter in accordance with the performance framework under section 2409 set forth in the charter contract;
- B. Ensure that data used in making renewal decisions are available to the public charter school and the public; and
- C. Provide a public report summarizing the evidence basis for each decision.

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

- A. A charter may be revoked at any time or not renewed if the authorizer determines that the public charter school failed to comply with the provisions of this chapter or:
  - (1) Committed a material violation of any of the terms, conditions, standards or procedures required under this chapter or the charter contract;
  - (2) Failed to meet or make sufficient progress toward the performance expectations set forth in the charter contract;
  - (3) Failed to meet generally accepted standards of fiscal management; or
  - (4) Violated any provision of law from which the school was not exempted.

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

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

**8. School closure and dissolution.** If a public charter school closes for any reason:

- A. The authorizer shall oversee and work with the closing public charter school to ensure timely notification to parents, orderly transition of students and student records to new schools and proper disposition of school funds, property and assets in accordance with the requirements of this chapter; and
- B. The assets of the public charter school must be distributed first to satisfy outstanding payroll obligations for employees of the public charter school and then to creditors of the public charter school. Any remaining funds must be paid to the Treasurer of State to the credit of the General Fund. If the assets of the public charter school are insufficient to pay all parties to whom the public charter school owes

compensation, the prioritization of the distribution of assets may be determined by decree of a court of law.

**9. Charter transfers.** A charter contract and its oversight may not be transferred from one authorizer to another before the expiration of the charter contract term except by mutual agreement of all parties.

## **§2412. Operations**

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

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

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

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

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

A. In the case of a public charter school authorized by a local school board:

(1) The school administrative unit in which the public charter school is located remains the local educational agency and the public charter school is a school within that local educational agency;

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

(3) The school administrative unit retains responsibility for special education and serves students in public charter schools in a manner consistent with local educational agency obligations under applicable federal, state and local law and the charter contract.

B. In the case of a public charter school authorized by the commission:

(1) The public charter school functions for all purposes as a local educational agency and is a school administrative unit independent of the school administrative unit in which the school is located. School administrative unit status does not preclude a public charter school from developing links to local school districts for services, resources and programs, by mutual agreement or by formal contract;

(2) To the extent permitted by federal, state or local laws, the public charter school is responsible for meeting the requirements of local educational agencies

under applicable federal, state and local laws, including those relating to special education, receipt of funds and compliance with funding requirements; and

(3) To the extent permitted by federal, state or local laws, the public charter school has primary responsibility for special education at the school, including identification and provision of service, and is responsible for meeting the needs of enrolled students with disabilities.

**3. Powers of public charter schools.** A public charter school has all the powers necessary for carrying out the terms of its charter contract, including the powers to:

A. Receive and disburse funds for school purposes;

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

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

D. Contract with an education service provider for a limited scope of education services and resources related to the management and operation of the public charter school, as long as the public charter school's governing board retains authority over the oversight and management of the public charter school;

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

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

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

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

I. Sue and be sued in its own name.

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

A. A public charter school may not discriminate against any person on the basis of race, color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin or on any other basis that would be unlawful if done by a noncharter public school.

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

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

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

E. The powers, obligations and responsibilities set forth in a charter contract may not be delegated or assigned by either party, except as provided in section 2411, subsection 9.

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

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

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

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

D. Except as provided in this chapter and its charter contract, a public charter school is exempt from all statutes and rules applicable to a noncharter public school, a local school board or a school administrative unit. School administrative units may not interpret this paragraph as reducing their obligation to provide education for their residents.

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

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

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

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

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

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

(1) Teachers who are employees of the public charter school have the same rights as other teachers in public education to organize and bargain collectively. Bargaining units at the public charter school must be separate from other bargaining units, such as a district bargaining unit. Staff at noncharter public schools converting to public charter schools have a right to employment benefits

as stated in applicable collective bargaining agreements or they may vote to be represented in alternative ways.

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

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

**7. External audit.** A public charter school shall adhere to generally accepted accounting principles and shall annually engage an external auditor to do an independent audit of the school's finances. The public charter school shall submit the audit to its authorizer and to the department.

### **§2413. Funding**

**1. Enrollment count.** Students enrolled in and attending public charter schools must be reported to the department, for attendance and funding purposes, as provided in department rules.

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

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

(1) The per-pupil allocation amount is the EPS per-pupil rate for the school administrative unit in which the student resides, as calculated pursuant to section 15676, based on the student's grade level and adjusted as appropriate for economic disadvantage and limited English proficiency pursuant to section 15675, subsections 1 and 2. For transportation expenses, the average per-pupil expense in each school administrative unit of residence must be calculated and a per-pupil allocation of that amount must be forwarded to the public charter school attended on the same basis as the per-pupil allocations for operating funds. Debt service and capital outlays may not be included in the calculation of these per-pupil allocations. The department shall adopt rules governing how to calculate these per-pupil allocations, including those for gifted and talented programs, vocational, technical and career education programs, and targeted funds for assessment technology and kindergarten to grade 2 programs.

(2) For students attending public charter schools, the school administrative unit of residence shall forward the per-pupil allocations described in subparagraph (1) directly to the public charter school attended. These per-pupil allocations must

be forwarded to each public charter school on a quarterly basis, as follows. For each fiscal year, allocations must be made in quarterly payments on September 1st, December 1st, March 1st and June 1st. The September payment must be based on the number of students enrolled or anticipated to be enrolled in the public charter school at the opening of school for that school year, which may not exceed the maximum enrollment approved in the charter contract for that year unless a waiver is obtained from the authorizer. In February of the school year, if the number of students is higher or lower than the number of students at the beginning of the school year, adjustments must be made in the June payment, with 50% of the annual per-pupil allocation added for additional students or subtracted if the total number of students is lower.

B. The following provisions govern special education funding.

(1) For each enrolled special education pupil, a public charter school must receive the average additional allocation calculated by the department for each school administrative unit for its special education students. These allocations must be paid on the same basis as the per-pupil allocations for operating funds.

(2) The school administrative unit of residence shall pay directly to the public charter school any federal or state aid attributable to a student with a disability attending the public charter school in proportion to the level of services for the student with a disability that the public charter school provides directly or indirectly.

C. Except as otherwise provided in this chapter, the State shall send applicable federal funds directly to public charter schools attended by eligible students. Public charter schools with students eligible for funds under Title I of the federal Elementary and Secondary Education Act of 1965, 20 United States Code, Section 6301 et seq. must receive and use these funds in accordance with federal and state law. During the first year of operation, a public charter school must receive Title I funds on the basis of an estimated enrollment of eligible students, as agreed with its authorizer.

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

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

F. In the event of the failure of the school administrative unit to make payments required by this section, the Treasurer of State shall deduct from any state funds that become due to the school administrative unit an amount equal to the unpaid obligation. The Treasurer of State shall pay over the amount to the public charter school upon certification by the department. The department shall adopt rules to implement the provisions of this paragraph.

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

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

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

J. The department may establish a method of transferring funds to public charter schools that is an alternative to the method provided in this subsection.

#### **§2414. Facilities**

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

A. A public charter school has a right of first refusal to purchase or lease at or below fair market value a closed noncharter public school facility or property or unused portions of a noncharter public school facility or property located in a school administrative unit from which it draws its students if the school administrative unit decides to sell or lease the noncharter public school facility or property. The school administrative unit may not require purchase or lease payments that exceed the fair market value of the property.

B. A public charter school may negotiate and contract with a school administrative unit, the governing body of a state college or university or public community college or any other public or for-profit or nonprofit private entity for the use of a school building.

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

D. A public charter school may purchase or lease at or below fair market value part or all of any surplus or unused state-owned facility or property located in the State. The state agency in control of the facility may not require purchase or lease payments that exceed the fair market value of the property.

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

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



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

#### **§2415. Miscellaneous**

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

2. Access to extracurricular and interscholastic activities. A public charter school is eligible for state-sponsored or school administrative unit-sponsored interscholastic leagues, competitions, awards, scholarships and recognition programs for students, educators, administrators and schools to the same extent as noncharter public schools. A public charter school student is eligible to participate in extracurricular activities not offered by the student's public charter school at the noncharter public school within the attendance boundaries of which the student's custodial parent or legal guardian resides or the noncharter public school from which the student withdrew for the purpose of attending a public charter school. A public charter school student is eligible for extracurricular activities at a noncharter public school subject to eligibility standards applied to full-time students of the noncharter public school. A school administrative unit or noncharter public school may not impose additional requirements on a public charter school student to participate in extracurricular activities that are not imposed on full-time students of the noncharter public school. Public charter school students shall pay the same fees as other students to participate in extracurricular or cocurricular activities. For each public charter school student who participates in an extracurricular or cocurricular activity at a noncharter public school, the public charter school must pay a reasonable share of the noncharter public school's costs for the activity, as determined through negotiations between the schools involved.

3. Retirement. A public charter school may establish a retirement plan or plans for employees. If a public charter school chooses to set up a plan with the Maine Public Employees Retirement System, the public charter school may establish a participating local district plan with the Maine Public Employees Retirement System under Title 5, chapter 425.

**Sec. 6. Review of retirement laws.** The Maine Public Employees Retirement System shall review the laws governing participating local districts' retirement plans and shall submit, by December 1, 2011, a report to the Joint Standing Committee on Appropriations and Financial Affairs that includes any proposed legislation necessary to fully implement this Act.

**Sec. 7. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title 20-A, section 2405, subsection 8, of the initial members of the State Charter School Commission, one member who is also a member of the State Board of Education serves a 3-year term, one member who is a member of the state board serves a 2-year term and one member who is a member of the state board serves a one-year term. Two members

who are approved by the state board serve 3-year terms, one serves a 2-year term and one serves a one-year term.

**Sec. 8. Public charter school; operational date.** Notwithstanding the Maine Revised Statutes, Title 1, section 302, a public charter school application submitted to an authorizer, as defined in Title 20-A, section 2401, subsection 2, before July 1, 2012 is subject to statutory amendments enacted or rule amendments adopted after the effective date of this Act and before July 1, 2012.

**Sec. 9. Department report.** The Department of Education shall submit a report to the Joint Standing Committee on Education and Cultural Affairs by November 1, 2011. The report must include the status of the following initiatives:

1. A draft version of the major substantive rules that the department determines are necessary to implement this Act, including but not limited to rules relating to the provision and funding of special education services to public charter school students, the process for transferring funds to public charter schools and standards for department oversight and authority over public charter school authorizers. The provisionally adopted rules must be transmitted to the Legislature on or before January 13, 2012;

2. The department’s proposed guidelines and interpretations regarding the procedures necessary to implement the public charter school legislation and the applicability of state laws and rules to public charter schools; and

3. The draft legislation that the department plans to submit to clarify or amend the statutory provisions established by this Act or that the department determines is necessary to implement a public charter school program in the State.

**Sec. 10. Appropriations and allocations.** The following appropriations and allocations are made.

**EDUCATION, DEPARTMENT OF**

**Charter School Program N083**

Initiative: Provides base allocations beginning in fiscal year 2012-13 for the public charter schools program.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$500
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$500</b>

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In House of Representatives, ..... 2011

Read twice and passed to be enacted.

..... Speaker

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In Senate, ..... 2011

Read twice and passed to be enacted.

..... President

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Approved ..... 2011

..... Governor