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§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 education design, implementation or comprehensive 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;

- 1 E. Provides a program of education that:
2 (1) Includes one or more of the following: preschool, prekindergarten and any
3 grade or grades from kindergarten to grade 12;
4 (2) May include a focus on students with special needs, such as at-risk pupils,
5 English language learners or students involved with the juvenile justice system;
6 (3) May include a specific academic approach or theme, such as:
7 (a) Vocational and technical training;
8 (b) Natural resources and the environment;
9 (c) Farming, fishing and forestry;
10 (d) Foreign language and culture;
11 (e) Visual and performing arts;
12 (f) Science, mathematics and technology; and
13 (g) Project-based learning, experiential learning or online instruction;
14 F. Operates in pursuit of a specific set of educational objectives as defined in its
15 charter contract; and
16 G. Operates under the oversight of the authorizer from which its charter contract is
17 granted and in accordance with its charter contract.

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

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

23 **§2402. Public charter schools authorized**

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

34 **§2403. Role of the department; commissioner; rules**

35 **1. Information and technical assistance.** The department shall disseminate
36 information on how to form and operate a public charter school and on how to enroll in a
37 public charter school once the school is created. The department may provide assistance

1 and guidance to authorizers in developing effective authorization and oversight
2 procedures.

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

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

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

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

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

16 A. Organizational capacity and infrastructure;

17 B. Soliciting and evaluating applications;

18 C. Performance contracting;

19 D. Ongoing public charter school oversight and evaluation; and

20 E. Charter renewal decision making.

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

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

27 **7. Reports.** Four years after public charter schools have been in operation, the
28 commissioner shall issue to the Governor, the Legislature and the public a report on the
29 State's public charter school program, drawing from the annual reports submitted by
30 every authorizer pursuant to section 2405, subsection 4, as well as any additional relevant
31 data compiled by the commissioner up to the school year ending in the preceding
32 calendar year. The report must include an assessment of the public charter school
33 program's successes, challenges and areas for improvement in meeting the purposes of
34 this chapter and any suggested changes in state law or policy necessary to strengthen the
35 public charter school program. The commissioner shall issue a similar report after 8
36 years of operation of public charter schools.

37 **§2404. Public charter school eligibility; enrollment**

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

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

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

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

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

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

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

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

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

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

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

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

37 **3. Discrimination prohibited.** A public charter school may not discriminate on the
38 basis of race, ethnicity, national origin, religion, gender, sexual orientation, income level,
39 disabling condition, proficiency in the English language or academic or athletic ability,
40 except that nothing in this subsection may be construed to limit the formation of a public
41 charter school that is dedicated to focusing education services on at-risk pupils, students

1 with disabilities and students who pose such severe disciplinary problems that they
2 warrant a specific education program.

3 **§2405. Authorizers**

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

6 A. A local school board with regard to creating a public charter school within the
7 boundaries of the school administrative unit governed by that local school board;

8 B. The commission under subsection 8; and

9 C. A collaborative among authorizing entities that forms to set up a regional public
10 charter school.

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

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

14 B. Approve applications that meet identified educational needs;

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

16 D. Create a framework to guide the development of charter contracts;

17 E. Negotiate and execute sound charter contracts with each approved public charter
18 school;

19 F. Monitor the performance and compliance of public charter schools; and

20 G. Determine whether each charter contract merits renewal or revocation.

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

25 A. Organizational capacity and infrastructure;

26 B. Soliciting and evaluating applications;

27 C. Performance contracting;

28 D. Ongoing public charter school oversight and evaluation; and

29 E. Charter renewal decision making.

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

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

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

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

3 (1) Approved, but not yet open;

4 (2) Operating;

5 (3) Renewed;

6 (4) Transferred;

7 (5) Terminated;

8 (6) Closed; or

9 (7) Never opened; and

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

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

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

16 B. Charge up to 3% of funds received annually by each public charter school it
17 authorizes. These funds must be used to cover the costs for an authorizer to oversee
18 its public charter schools.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (2) Convene stakeholder groups and engage experts; and

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

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

37 **9. Transition period.** The public charter school program set out in this chapter must
38 begin with a 10-year transition period, beginning on the effective date of this chapter.
39 During the transition period, the commissioner shall register the charters approved by all
40 authorizers in chronological order by date of approval under this chapter. During the

1 transition period, only 10 public charter schools may be approved by authorizers other
2 than local school boards. Once the cap is reached, the commissioner may not accept
3 further registrations from authorizers other than local school boards and only local school
4 boards may approve charters until the end of the transition period.

5 This subsection is repealed July 1, 2022.

6 **§2406. Request for proposals**

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

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

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

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

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

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

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

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

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

38 (a) An executive summary;

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

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

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

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

9 (b) Proposed governing bylaws;

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (i) A detailed school start-up plan, identifying tasks, timelines and
36 responsible individuals; and

1 (j) A closure protocol, outlining orderly plans and timelines for transitioning
2 students and student records to new schools and for appropriately disposing
3 of school funds, property and assets in the event of school closure;

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (c) The school's plan for using internal and external assessments to measure
29 and report student progress on the measures and metrics of the performance
30 framework developed by the authorizer in accordance with section 2409; and

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

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

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

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

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

3 (d) Opportunities and expectations for parent involvement.

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

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

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

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

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

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

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

29 (5) Explain the relationship between the governing board and the education
30 service provider, specifying how the governing board will monitor and evaluate
31 the performance of the education service provider, the internal controls that will
32 guide the relationship and how the governing board will ensure fulfillment of
33 performance expectations;

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

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

39 I. With respect to a public charter school proposal from an applicant that currently
40 operates one or more schools in any other state or nation, in addition to the other

1 requirements of this subsection, the request for proposals must require applicants to
2 provide evidence of past performance and current capacity for growth.

3 **§2407. Charter applications**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 **§2408. Charter contracts**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 **§2409. Public charter school performance framework**

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

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

36 A. Student academic proficiency;

37 B. Student academic growth;

38 C. Achievement gaps in both proficiency and growth between major student
39 subgroups;

- 1 D. Attendance;
- 2 E. Recurrent enrollment from year to year;
- 3 F. With respect to high school, postsecondary readiness;
- 4 G. Financial performance and sustainability;
- 5 H. Governing board performance and stewardship; and
- 6 I. Parent and community engagement.

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

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

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

18 **§2410. Oversight**

19 **1. Data collection; monitoring.** For each public charter school it oversees, the
20 authorizer is responsible for collecting, analyzing and reporting all data from state
21 assessments in accordance with the performance framework developed under section
22 2409, subsection 1. An authorizer shall monitor the performance and legal compliance of
23 the public charter schools it oversees, including collecting and analyzing all data to
24 support ongoing evaluation according to the charter contract.

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

29 **§2411. Charter term and renewal**

30 **1. Initial charter term.** The term for an initial charter may not commence before
31 July 1, 2012. An initial charter must be granted for a term of 5 operating years. The
32 charter term commences on the public charter school's first day of operation. An
33 approved public charter school may delay its opening for one school year in order to plan
34 and prepare for the school's opening. If the public charter school requires an opening
35 delay of more than one school year, the public charter school must request an extension
36 from its authorizer. The authorizer may grant or deny the extension depending on the
37 particular public charter school's circumstances.

38 **2. Charter renewal term.** A charter may be renewed for successive terms of 5
39 years, although an authorizer may grant a renewal for a term not to exceed 15 years based
40 on the performance, demonstrated capacities and particular circumstances of each public

1 charter school. If a charter is renewed for more than 5 years, the authorizer shall still
2 issue a public charter school performance report every 5 years as called for by subsection
3 3. An authorizer may grant renewal with specific conditions for necessary improvements
4 to a public charter school.

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

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

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

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

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

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

27 **4. Renewal application.** No later than September 30th of a public charter school's
28 5th year of operation under a term of a charter contract or September 30th of a public
29 charter school's final authorized year of operation under a term of a charter contract, the
30 governing board of a public charter school seeking renewal shall submit a renewal
31 application to the authorizer pursuant to any renewal application guidance offered by the
32 authorizer under subsection 3.

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

36 A. Ground its decisions in evidence of the public charter school's performance over
37 the term of the charter in accordance with the performance framework under section
38 2409 set forth in the charter contract;

39 B. Ensure that data used in making renewal decisions are available to the public
40 charter school and the public; and

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

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

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

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

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

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

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

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

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

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

22 A. The authorizer shall oversee and work with the closing public charter school to
23 ensure timely notification to parents, orderly transition of students and student
24 records to new schools and proper disposition of school funds, property and assets in
25 accordance with the requirements of this chapter; and

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

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

36 **§2412. Operations**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 A. Receive and disburse funds for school purposes;

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

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

6 D. Contract with an education service provider for the management and operation of
7 the public charter school, as long as the public charter school's governing board
8 retains oversight authority over the public charter school;

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

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

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

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

18 I. Sue and be sued in its own name.

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

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

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

27 C. A public charter school may charge tuition. A public charter school may charge
28 tuition to an out-of-state student admitted to the school on a space-available basis.

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

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

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

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

39 B. Public charter schools are subject to the same student assessment and
40 accountability requirements applicable to other noncharter public schools in the State.

1 but nothing in this chapter precludes a public charter school from establishing
2 additional student assessment measures that go beyond state requirements if the
3 school's authorizer approves such measures.

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

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

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

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

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

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

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

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

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

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

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

40 **7. External audit.** A public charter school shall adhere to generally accepted
41 accounting principles and shall annually engage an external auditor to do an independent

1 audit of the school's finances. The public charter school shall submit the audit to its
2 authorizer and to the department.

3 **§2413. Attendance; funding**

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

6 **2. Funding.** The following provisions apply to funding of public charter schools.

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

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

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

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

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

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

32 **§2414. Facilities**

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

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

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

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

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

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

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

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

23 **§2415. Miscellaneous**

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

30 **2. Access to extracurricular and interscholastic activities.** A public charter
31 school is eligible for state-sponsored or school administrative unit-sponsored
32 interscholastic leagues, competitions, awards, scholarships and recognition programs for
33 students, educators, administrators and schools to the same extent as noncharter public
34 schools. A public charter school student is eligible to participate in extracurricular
35 activities not offered by the student's public charter school at the noncharter public school
36 within the attendance boundaries of which the student's custodial parent or legal guardian
37 resides or the noncharter public school from which the student withdrew for the purpose
38 of attending a public charter school. A public charter school student is eligible for
39 extracurricular activities at a noncharter public school subject to eligibility standards
40 applied to full-time students of the noncharter public school. A school administrative unit
41 or noncharter public school may not impose additional requirements on a public charter
42 school student to participate in extracurricular activities that are not imposed on full-time
43 students of the noncharter public school. Public charter school students shall pay the

1 same fees as other students to participate in extracurricular or cocurricular activities. For
2 each public charter school student who participates in an extracurricular or cocurricular
3 activity at a noncharter public school, the public charter school must pay a reasonable
4 share of the noncharter public school's costs for the activity, as determined through
5 negotiations between the schools involved.

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

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

16 **Sec. 7. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title
17 20-A, section 2405, subsection 8, of the initial members of the State Charter School
18 Commission, one member who is also a member of the State Board of Education serves a
19 3-year term, one member who is a member of the state board serves a 2-year term and
20 one member who is a member of the state board serves a one-year term. Two members
21 who are approved by the state board serve 3-year terms, one serves a 2-year term and one
22 serves a one-year term.

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

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

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

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

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

