

A MODEL LAW FOR
SUPPORTING THE GROWTH OF
**HIGH-QUALITY
CHARTER SCHOOLS**
SECOND EDITION



Table of Contents

A NOTE TO USERS OF THE MODEL LAW	5
ACKNOWLEDGMENTS.....	6
SUMMARY OF MAJOR CHANGES FROM THE FIRST EDITION OF THE MODEL CHARTER PUBLIC SCHOOL LAW	8
Enrollment.....	9
Authorizers	9
Applications.....	10
Full-Time Virtual Charter Public Schools.....	10
Performance Framework	11
Renewals, Revocations, and Non-renewals.....	11
Governance.....	11
Local Education Agency Status for Special Education	12
Education Service Providers.....	12
Funding	12
Facilities	13
ESSENTIAL COMPONENTS OF THE MODEL LAW	14
THE RATIONALE FOR THE KEY SECTIONS OF THE MODEL LAW	16
Legislative Declarations.....	16
<i>"As a Whole"</i>	16
Closing the Achievement Gap	16
Encouraging Replication of High-Performing Charter Schools	16
Charter Schools are Part of the State's Public Education System	17
Definitions.....	17
Applicant.....	17
Governing Board	17
Charter Public School	18
Authorizer.....	18
Education Service Provider	18
Charter Contract.....	18
Enrollment	19
Open Enrollment.....	19
Lottery.....	19
Limited Enrollment Preferences	19

Authorizers..... 20

 Creating Choice in Authorizers 21

 State Charter Public School Commission 21

 School Boards..... 22

 Mayors, City Councils, and Public Postsecondary Institutions..... 22

 Other Private and Nonprofit Options 22

 Authorizer Powers and Duties 22

 Authorizer Funding: Developing a Statewide Formula 23

 Authorizer Accountability 23

Application Process..... 24

 Applications 24

 Application Decision-making Process..... 25

 Charter Contracts..... 25

 Full-Time Virtual Charter Schools..... 26

Accountability..... 27

 Performance Framework..... 27

 Ongoing Oversight and Corrective Actions 28

 Renewals, Revocations, and Non-renewals 28

 Transfers 29

Operations and Autonomy 30

 Governing Board Requirements..... 30

 Automatic Waivers..... 30

 Multiple Schools on One Contract and Multiple Contracts for One Board... 30

 Local Education Agency Status for Special Education 31

 Education Service Providers..... 32

 Teacher Certification..... 32

 Collective Bargaining..... 33

 Access to State Retirement and Other Benefits Programs..... 33

 Extracurricular and Interscholastic Activities Eligibility and Access..... 33

 Funding..... 33

Facilities..... 35

 Facilities Funding..... 35

 Access to Public Space..... 35

 Access to Financing Tools..... 35

 Other Provisions 36

A Model Law for Supporting the Growth of
High-Quality Charter Public Schools..... 35

A NOTE TO USERS OF THE MODEL CHARTER PUBLIC SCHOOL LAW

Our goal in this effort is to create a model charter public school law that is grounded in principle, flexible enough to serve in a wide variety of state policy environments, and well-supported by research. As a whole, the model law is most applicable to the seven states without charter school laws (Kentucky, Montana, Nebraska, North Dakota, South Dakota, and West Virginia) and to the seven states with very weak charter school laws, most of which have a relatively small number of charter schools, students, and authorizers (Alaska, Iowa, Kansas, Maryland, Virginia, Wisconsin, and Wyoming). Even in these 14 states, though, the model law's provisions need to be vetted and modified to align with relevant state constitutional provisions, case law, and state context.

In the other 36 states and D.C., the focus should be less on applying the model law wholesale and more on using it as a resource to tackle outstanding challenges in the charter school movements in these states, such as funding and facilities. Most of these states already have a long history of chartering that has evolved from and within the unique context of each state and boast growing numbers of charter schools, students, and authorizers.

It is also important to note that a strong charter school law is a necessary but insufficient factor in driving positive results for charter schools. Twenty-five years of experience with charter schools across the country has shown that there are five primary ingredients of a successful charter school environment in a state, as demonstrated by strong student results:

- Supportive laws and regulations (both what is on the books and how it is implemented);
- Quality authorizers;
- Effective charter support organizations, such as state charter school associations and resource centers;
- Outstanding school leaders and teachers; and,
- Engaged parents and community members.

While it is critical to get the law right, it is equally critical to ensure these additional ingredients exist within a state's charter school movement.

ACKNOWLEDGMENTS

To create the first edition of the model law, the National Alliance for Public Charter Schools convened the following working group of individuals with deep expertise in charter public school law.

Working Group for First Edition of the Model Law in 2009

- Eileen Ahearn, Project Director, National Association of State Directors of Special Education
- Andrew Broy, Associate Superintendent, Georgia Department of Education
- Erin Dillon, Policy Analyst, Education Sector
- Mary Gifford, Director, Arizona Virtual Academy
- Jim Griffin, President, Colorado League of Charter Schools
- Katie Kelly, Chief of Staff, National Association of Charter School Authorizers
- Sara Mead, Senior Research Fellow, New America Foundation
- Colin Miller, Vice President of Policy, California Charter Schools Association
- Peter Murphy, Director of Development and Policy, New York Charter Schools Association
- Louann Bierlein Palmer, Associate Professor, Western Michigan University
- Gerard Robinson, President, Black Alliance for Educational Options
- Andy Rotherham, Co-Director, Education Sector
- Jon Schroeder, Coordinator, Education/Evolving
- Jabar Shumate, State Representative, Oklahoma House of Representatives
- Nelson Smith, President, National Alliance for Public Charter Schools
- Fernando Zulueta, President, Academica Corporation

In order to update the first edition of the model law, the National Alliance convened another working group of individuals with deep expertise in charter school law. The National Alliance tasked this working group with identifying policy issues that have emerged since the release of the first edition of the model law in 2009 and suggesting changes to the model law to better support the growth of high-quality charter schools.

Working Group for Second Edition of the Model Law in 2016

- Bill Bethke, Founder, Kutz & Bethke, LLC
- Andrew Broy, President, Illinois Network of Charter Schools
- Kenneth Campbell, Former President, Black Alliance for Educational Options
- Jim Griffin, President, Momentum Strategy & Research
- Sara Mead, Partner, Bellwether Education Partners
- Alex Medler, Former Vice President for Policy and Advocacy, National Association of Charter School Authorizers
- Denise Pierce, Founder, Law Office of Denise Nance Pierce, P.C. (Former General Counsel, Texas Charter Schools Association)
- Caroline Roemer, Executive Director, Louisiana Association of Public Charter Schools
- Lisa Scruggs, Partner, Duane Morris
- Don Shalvey, Deputy Director, The Bill & Melinda Gates Foundation
- Annie Sorich, Vice President, Charter Schools Growth Fund
- Ricardo Soto, Senior Vice President, Legal Advocacy, and General Counsel, California Charter Schools Association
- Renita Thukral, Principal, Charter School Growth Hub, and Senior National Legal Advisor, National Alliance for Public Charter Schools

We also shared drafts of the report with the National Alliance's State Leaders Council and Policy Advisory Council. Together, these groups represent the broad spectrum of stakeholders in the charter school movement.

This report was written by Todd Ziebarth, Senior Vice President, State Policy and Advocacy, at the National Alliance for Public Charter Schools, Louann Bierlein Palmer, Educational Leadership Professor at Western Michigan University, and Paul O'Neill, President and Founder of Tugboat Education Services.

SUMMARY OF MAJOR CHANGES FROM THE FIRST EDITION OF THE MODEL CHARTER PUBLIC SCHOOL LAW

Seven years have passed since the National Alliance for Public Charter Schools released *A New Model Law For Supporting The Growth of High-Quality Public Charter Schools* in 2009. The National Alliance's model law and the seven associated state charter school laws' annual rankings reports from 2010 to 2016 have had a major impact on the nation's charter school laws. As evidence, the four states that have enacted charter laws since 2009 have largely aligned them with the model law, while 36 states have made policy improvements to better align their laws with the model law since 2009.¹

At the same time, the charter public school movement has grown from more than 4,900 charter schools serving more than 1.4 million students in 40 states and D.C. in 2008-09 to more than 6,800 charter schools enrolling an estimated 2.9 million students in 42 states and D.C. in 2015-16. These numbers could be even higher, given that more than a million students are on wait lists for charter schools.²

While the health of the charter school movement is generally strong,³ and many charter schools are yielding outstanding results for students,⁴ the state policy environments supporting charter schools must continue to evolve to reflect emerging opportunities and challenges.

Although the vast majority of the provisions in the first edition of the model law are still reflective of smart policy, the time is right for some updates to the model law based upon lessons learned from experience, research, and analysis.

Some of these updates are focused on providing **more equitable support to charter school students**. Most notably, the new edition of the model law includes provisions strengthening facilities support for charter school students, requiring state departments of education to create an annual funding transparency report, ensuring the fairness of charter school admission lotteries, and ensuring a clear articulation and understanding about how student discipline will be handled at charter schools.

Other updates are focused on providing **more flexibility to charter schools**. Most notably, the new edition of the model law includes provisions ensuring that charter schools are able to serve preschool students, allowing charter schools to give enrollment preference to students who are at risk for academic failure, requiring a school's performance framework to include indicators, measures, and metrics for mission-specific goals, providing for the differentiated renewal of charter contracts for high-performing charter schools, and providing that authorizers may not request duplicative entries and submissions from its charter schools and may not use their performance frameworks to create cumbersome reporting requirements for its charter schools.

Still other updates are focused on **strengthening accountability for charter schools and their authorizers**. Most notably, the new edition of the model law includes provisions holding full-time virtual charter schools more accountable; creating a minimum standard of performance for an authorizer's portfolio of schools; ensuring that chronically low-performing charter schools are closed;

¹ Todd Ziebarth, *Assessing the Increasing Strength of Charter Laws* (Washington, D.C.: National Alliance for Public Charter Schools, 2015).

² Nora Kern and Wentana Gebru, *Waiting Lists to Attend Charter Schools Top 1 Million Names* (Washington, D.C.: National Alliance for Public Charter Schools, 2014).

³ Todd Ziebarth and Louann Bierlein Palmer, *Health of the Public Charter School Movement: A State-By-State Analysis, 2nd ed.* (Washington D.C.: National Alliance for Public Charter Schools, 2016).

⁴ National Alliance for Public Charter Schools, *Public Charter Schools Success: A Summary of the Current Research on Public Charters' Effectiveness at Improving Student Achievement* (Washington, D.C.: Author, 2013).

strengthening conflict of interest, code of ethics, and nepotism policies for charter schools; and strengthening accountability requirements for educational service providers that partner with charter schools.

More specifically, this new edition of the model law contains major changes in the following 11 sections (presented in the order they appear in the actual model law):

- Enrollment
- Authorizers
- Applications
- Full-Time Virtual Charter Public Schools
- Performance Framework
- Renewals, Revocations, and Non-renewals
- Governance
- Special Education Local Education Agency Status
- Education Service Providers
- Funding
- Facilities

The remainder of this part of the report provides a brief summary of the major changes made in these 11 sections. While there were other changes made to these sections, this part of the report only focuses on those that are the most significant.

Enrollment

Preschool Students. To ensure that charter schools are able to serve preschool students (particularly those from low-income families), the model law now states that a charter school: may consider children under the age of compulsory attendance as students if they are enrolled in a publicly funded or free preschool program operated by the school; may limit enrollment in the charter school's preschool program to students who meet income eligibility requirements to participate in state-funded preschool programs; and may give enrollment preference to children participating in a publicly funded or free preschool program operated by the charter school.

Fair Lotteries. To better ensure the fairness of charter school admission lotteries, the model law now provides more detailed language stating that a charter school conducting an admissions lottery shall ensure that every student has a fair opportunity to be considered in the

lottery and that the lottery is competently conducted, randomized, transparent, and impartial so that students are accepted into a charter school without regard to ethnicity, national origin, religion, gender, income level, disabling condition, proficiency in the English language, or academic or athletic ability.

At-Risk Students. To allow charter schools to better serve at-risk students, the model law now states that a charter school may give enrollment preference to students who are at risk for academic failure, defined as a student who has an economic or academic disadvantage that requires special services and assistance to succeed in educational programs. The term includes, but is not necessarily limited to, students who are members of economically disadvantaged families, students who are identified as having special educational needs, students who are limited in English proficiency, students who are at risk of dropping out of high school, and students who do not meet minimum standards of academic proficiency. We acknowledge there is tension between allowing charter schools to give an enrollment preference to at-risk students and fair and equal access to charter schools for all students (in fact, there is probably some tension between all of the model law's preferences and fair and equal access). However, we feel comfortable with this particular preference because it is written in such a way as to advantage at-risk students. To mitigate this tension, though, states may consider setting aside a percentage of seats that may be used for this preference (such as up to 50 percent), similar to what some states have done with geographic preferences.

Authorizers

Intent of Multiple Authorizing Options. To clarify the intent of allowing multiple authorizers in a state, the model law now states that the intent of the "Eligible Authorizing Entities" section is to create at least two active and effective authorizing options for each charter school applicant, but not a large number of authorizers with authority in any single school district.

Minimum Standard of Performance for an Authorizer's Portfolio of Schools. To strengthen accountability for authorizers, the model law now provides a new option for states to consider: that if an authorizer's portfolio of

schools fails to meet a state-established minimum standard of performance, the ability of the authorizer to authorize new charter schools shall be immediately suspended by the existing state entity tasked with authorizer oversight, unless the authorizer demonstrates exceptional circumstances that the existing state entity tasked with authorizer oversight finds justifiable. The model law also now provides that a determination to suspend the ability of an authorizer to authorize new charter schools shall identify the deficiencies that, if corrected, will result in the approval of the authorizer to authorize new charter schools.

Applications

Discipline. To ensure a clear articulation and understanding about how student discipline will be handled at a charter school, the application now requires an applicant to provide or describe clearly and concisely: a code of student conduct that addresses a full range of disciplinary sanctions for general education and special education students and ensures that student rights and due process are protected and a process for conducting disciplinary hearings and appeals that ensures that the due process rights of the participants are protected.

Transparency. To ensure greater transparency in the charter application review process, the model law now requires authorizers to be transparent about who is reviewing applications and conducting interviews.

Full-Time Virtual Charter Public Schools

The first edition of the model law included application and charter contract requirements for full-time virtual charter schools. However, as documented in *A Call to Action to Improve the Quality of Full-Time Virtual Charter Public Schools*,⁵ the breadth of the underperformance by full-time virtual charter schools convinces us that states need to change the policy framework within which these schools can operate. The specifics of the changes in each state will depend upon the sophistication of that state's

funding, attendance, and accountability systems. Subject to circumstances in each state, one or more of these provisions will be most relevant. However, we encourage states to adopt as many of these options as possible to increase the state's chances of elevating the quality of full-time virtual charter schools.

Authorizing Structure. We recommend that states permit only authorizers that have been granted statewide or regional chartering authority to oversee full-time virtual charter schools that enroll students from more than one district, while still allowing districts to authorize full-time virtual charter schools that enroll students only from within their districts. In order to curb the temptation to authorize for financial gain, we also recommend that states cap the amount of authorizing fees that an authorizer can withhold from a full-time virtual charter school.

Enrollment Criteria. We prefer that states initially maintain a core principle that full-time virtual charter schools, like all other types of charter schools, must serve all students. However, should it be shown that other interventions prove unable to make full-time virtual charter schools successful with all students, states should study the creation of criteria for enrollment, a change which in many states may require that full-time virtual charter schools operate as something other than charter schools.

Enrollment Levels. We recommend that states require authorizers and schools to create desired enrollment levels for the full-time virtual charter schools in their states for each year of a charter contract, not to exceed a certain number of students per school in any given year, and allow schools to grow—or not—based on performance.

Accountability for Performance. We recommend that states require authorizers and schools to jointly determine additional, virtual-specific goals regarding student enrollment, attendance, engagement, achievement, truancy, and attrition, as well as finances and operations, and to include these goals in the schools' charter contracts. These goals are in addition to the rigorous goals that every charter school contract should contain. We recommend that authorizers make renewal and closure decisions based upon schools' achievement of the goals in their contracts.

⁵ National Alliance for Public Charter Schools, National Association of Charter School Authorizers, 50-State Campaign for Achievement Now, *A Call to Action to Improve the Quality of Full-Time Virtual Charter Public Schools* (Washington, D.C.: National Alliance for Public Charter Schools, 2016).

Funding Levels Based on Costs. We recommend that states require full-time virtual charter school operators to propose and justify a price per student in their charter school applications. We also call on states to seek guidance from experts and researchers in determining responsible levels of funding based on the real costs of full-time virtual charter schools.

Performance-based Funding. We recommend that as states establish valid cost levels for operating full-time virtual charter schools, they also fund full-time virtual charter school students via a performance-based funding system.

To be clear, we do not support these policy options for brick-and-mortar charter schools or “hybrid” charter schools that make use of both brick-and-mortar and online settings. These provisions are tailored to the unique problems that have emerged among too many full-time virtual charter schools, problems that call for states to enact significant policy changes for these schools.

Also, while we support making such changes in the context of a state’s charter school law, we also realize that some of these changes may not fit within that context. States may need to consider governing full-time virtual schools outside of the state’s charter school law, simply as full-time virtual public schools. We will support state leaders that decide to govern full-time virtual schools in this way.

Performance Framework

Mission-Specific Goals. To ensure that a school is also held accountable for goals tightly aligned to its mission, the model law now requires the performance framework to also include indicators, measures, and metrics for mission-specific goals.

Performance Target Amendments. To ensure that a school has realistic goals for accountability, the model law now provides that the performance targets may be amended by mutual agreement after the charter school is operating and has collected baseline achievement data for its enrolled students.

Prohibiting Duplicative Data Entry, Submission, and Reporting Requirements. To ensure that the performance framework is used specifically and appropriately for school accountability, the model law now provides that an authorizer may not request duplicative data entry and submission from its charter schools and may not use the performance framework to create duplicative reporting requirements for its charter schools.

Renewals, Revocations, and Non-renewals

Differentiated Renewal of High-performing Charter Public Schools. To better support successful charter schools, the model law now provides for the differentiated renewal of charter contracts for high-performing charter schools.

Automatic Closures of Chronically Low-performing Charter Public Schools. To ensure that chronically low-performing charter schools are closed, the model law now provides that an authorizer shall not renew a charter contract if a charter school has failed to meet state-established minimum academic and financial standards, unless the school demonstrates exceptional circumstances that the authorizer finds justifiable.

Governance

Organization. To clarify the public purposes of charter schools, the model law now provides that a charter school shall be organized as a non-profit education organization in order to fulfill public purposes.

Conflict of Interest Policy and Code of Ethics. To better ensure the good governance of charter schools, the model law now requires each charter school governing board to adopt a viable conflict of interest policy and a code of ethics.

Nepotism Policy. To mitigate nepotism in the hiring and supervisory practices of charter schools, the model law now requires each charter school governing board to adopt a policy regarding the hiring of family members to avoid any nepotism in hiring and supervision. The policy shall include, among other things, a disclosure to the board of any potential nepotism in hiring and supervision and a provision that any party with such a conflict shall

not be involved in the hiring decision or supervision of a potential employee.

Local Education Agency Status for Special Education

The 43 jurisdictions with charter school laws vary greatly in how they address the local education agency (LEA) status of charter schools. Similar to the first edition of the model law, this edition provides two options for handling this issue in state law:

1. A charter school is an LEA.
2. A charter school is not an LEA.

What is different about the provisions in this edition of the model law is that they provide clearer guidelines for how special education provision and funding should work in charter schools.

When a charter school is an LEA, the model law now provides more detailed language concerning enrollment, service provision, the role of Network LEAs, funding, self-insurance, funding transparency, excess cost aid, and access to intermediate school districts and resource organizations.

When a charter school is not an LEA, the model law now provides more detailed language concerning enrollment, service provision, the role of Network LEAs, funding, severe needs programs, funding transparency, excess cost aid, and access to intermediate school districts and resource organizations.

Education Service Providers

Access to Records. To ensure that a charter school governing board is able to provide the necessary oversight of an education service provider, the model law now requires charter school governing boards to have access to education service provider records necessary to overseeing the education service provider contract.

Prohibition from Serving as Voting Members of Governing Boards. To ensure the independence of a charter school governing board from an education service provider, the model law now prohibits individuals compensated by an education service provider from serving as a voting member on the board of any charter

school that contracts with the education service provider, except in instances where the authorizer of the charter school waives such restriction.

Transparency. To ensure transparency in how public funds are spent as they relate to the operation of charter schools, the model law now requires education service providers partnering with charter schools to provide information on an annual basis to the governing board of the charter school regarding how the education service provider spends the public funding it receives for the operation of partner charter schools in such categories as salaries, insurance, taxes, benefits, capital outlay, supplies, and materials when the providers are performing a public function under applicable state law.

Criminal History Record Checks and Fingerprinting Requirements. To better ensure student safety, the model law now applies criminal history record checks and fingerprinting requirements to individuals who regularly come into contact with students, including any on-site employees of management organizations. (The previous edition of the model law applied these checks and requirements only to school personnel and governing board members.)

Funding

Funding Transparency Report. To better ensure that students in charter schools have available an amount of public funding equitable to the public funding provided to students in traditional public schools, inclusive of operational, categorical, and capital funding, the model law now requires the state department of education to create an annual report that includes:

- A comparison of the total per pupil revenues received from all local, state, and federal dollars in all operational, categorical, and capital funding streams for each charter school, with the total per pupil revenues received from all local, state, and federal public dollars in all operational, categorical, and capital funding streams for each district from which the school draws its students. This comparison of the total per pupil revenues shall be reported as an overall average and broken down by operational, categorical, and capital funding streams.

Facilities

Similar to the first edition of the model law, this edition provides a menu of policy options for handling this issue in state law. What follows are the major additions to this section of the model law in this edition:

Requirement to Provide School District Space or Funding. Based partly upon New York law, the model law now provides an option for a charter school to request public school facilities from any school district in which at least 50 enrolled students reside. In response, the school district shall either offer at no cost to the charter school space in a public school building or offer the charter school space in a privately owned or other publicly owned facility at the expense of the school district and at no cost to the charter school.

Right to Lease or Purchase Unused District Facilities.

Based largely upon Indiana law, the model law now provides more detailed language on the right of a charter school to lease or purchase unused district facilities. (The first edition of the model law provided some general language for this option.)

State Charter Public School Debt Reserve Fund. Based largely upon Colorado law, the model law now provides an option whereby states can create a state charter school debt reserve fund to enhance the ability of any qualified

charter school that chooses to finance capital construction with revenues from bonds issued on behalf of the qualified charter school by the appropriate authority to obtain such financing on favorable terms by providing a source of money that can be used to make bond payments if the qualified charter school fails to make such payments.

School District Inclusion of Charter Public Schools in School District Bonding and Mill Levy Requests.

Based largely upon Colorado law, the model law now provides an option in which states can require a school district that is considering the submission of any question regarding bonded indebtedness or a mill levy to the eligible electors of the district at an upcoming election to include any charter school located within the district in all discussions regarding the possible submission of such a question.

The remainder of this document is organized in the following way:

- First, we present a description of the essential components of the model charter school law.
- Second, we provide a rationale for the key sections of the model law.
- Finally, we present proposed statutory language.

ESSENTIAL COMPONENTS OF THE MODEL CHARTER PUBLIC SCHOOL LAW

As a quick guide to the primary ingredients of a strong charter public school law, we developed the following list of the essential components of such a law.

- 1) **No Caps** on the growth of charter schools in a state.
- 2) **A Variety of Charter Public Schools Allowed**, including new start-ups and public school conversions.
- 3) **Multiple Authorizers Available**, including non-school board authorizers, to which charter applicants may directly apply.
- 4) **Authorizer and Overall Program Accountability System Required**, whereby all authorizers must affirm interest to become an authorizer (except for a legislatively-created state charter school commission) and participate in an authorizer reporting program based on objective data, as overseen by some state-level entity with the power to sanction.
- 5) **Adequate Authorizer Funding**, including provisions for guaranteed funding from the state or authorizer fees and public accountability for such expenditures.
- 6) **Transparent Charter Application, Review, and Decision-making Processes**, including comprehensive academic, operational, and governance application requirements, with such applications reviewed and acted upon following professional authorizer standards.
- 7) **Performance-based Charter Contracts Required**, with such contracts created as separate post-application documents between authorizers and charter schools detailing academic performance expectations, operational performance expectations, and school and authorizer rights and duties.
- 8) **Comprehensive Charter Public School Monitoring and Data Collection Processes** so that all authorizers can verify charter school compliance with applicable law and their performance-based contracts.
- 9) **Clear Processes for Renewal, Non-renewal, and Revocation Decisions**, including school closure and dissolution procedures to be used by all authorizers.
- 10) **Transparency Regarding Educational Service Providers**, provided there is a clear performance contract between an independent charter school board and the service provider and there are no conflicts of interest between the two entities.
- 11) **Fiscally and Legally Autonomous Schools, with Independent Charter Public School Boards**, whereby charter schools are created as autonomous entities with their boards having most powers granted to traditional school boards.
- 12) **Clear Student Recruitment, Enrollment and Lottery Procedures**, which must be followed by all charter schools.
- 13) **Automatic Exemptions From Many State and District Laws and Regulations**, except for those covering health, safety, civil rights, student accountability, employee criminal history checks, open meetings, freedom of information requirements, and generally accepted accounting principles.

14) Automatic Collective Bargaining Exemption, whereby charter schools are exempt from any outside collective bargaining agreements, while not interfering with laws and other applicable rules protecting the rights of employees to organize and be free from discrimination.

15) Multi-School Charter Contracts and/or Multi-Charter Contract Boards Allowed, whereby an independent charter school board may oversee multiple schools linked under a single charter contract or may hold multiple charter contracts.

16) Extra-Curricular and Interscholastic Activities Eligibility and Access, where: (a) charter school students and employees are eligible for state- or district-sponsored interscholastic leagues, competitions, awards, scholarships, and recognition programs to the same extent as traditional public school students and employees; and (b) students at charter schools that do not provide extra-curricular and interscholastic activities have access to those activities at traditional public schools for a fee via a mutual agreement.

17) Clear Identification of Special Education Responsibilities, including clarity on which entity is the local education agency responsible for such services and how such services are to be funded (especially for low-incident, high-cost cases).

18) Equitable Operational Funding and Equal Access to All State and Federal Categorical Funding, flowing to the school in a timely fashion and in the same amount as district schools following eligibility criteria similar to all other public schools.

19) Equitable Access to Capital Funding and Facilities including multiple provisions such as facilities funding, access to public space, access to financing tools, and other supports.

20) Access to Relevant Employee Retirement Systems, with the option to participate in a similar manner to all other public schools.

21) Full-Time Virtual Charter School Provisions, including specific provisions regarding authorizing structure, enrollment criteria, enrollment levels, accountability for performance, funding levels based on casts, and performance-based funding.

THE RATIONALE FOR THE KEY SECTIONS OF THE MODEL CHARTER PUBLIC SCHOOL LAW

This section provides the rationale for the key aspects of the model law, organized by its major building blocks: legislative declarations; definitions; enrollment; authorizers; application process; accountability; operations and autonomy; funding; and facilities. The discussion of these aspects of the law is intended to highlight some of the most important lessons we have learned about charter public school law over the past 25 years. For each major section, we highlight the significant provisions from the law, discuss the rationale for the language in the law, and provide pertinent state examples to further illustrate the law's provisions.

LEGISLATIVE DECLARATIONS

The model law's "Legislative Declarations" section provides the state legislature opportunities to outline the need for the state to enact a charter school law, to present the purposes of the state's charter schools as a whole, and to state explicitly that charter schools are part of the state's public education system. While much of this language will look familiar to those who have been working on charter school law, we highlight four provisions from this section below that merit particular attention.

"As a Whole"

Most state laws list several purposes for the state's charter schools. What isn't always clear is whether an individual charter school needs to meet each one of the purposes or the state's charter schools as a whole need to meet all of them. To clarify the intent of these purposes (and to prevent charter school opponents from hounding a particular charter school because it only meets some of

the law's eight purposes), the model law contains the following provision:

"The general assembly finds and declares that the purposes of the state's charter public schools as a whole are:"

Closing the Achievement Gap

Over the past two decades or so, there has been increasing focus on closing the achievement gap between low-performing groups of students and their high-performing peers. The enactment of the No Child Left Behind (NCLB) Act in 2001 intensified this focus, especially NCLB's requirements to disaggregate student results by race and ethnicity, economic status, special education status, and English language learner status. Most charter school laws, however, were enacted prior to NCLB, and the purposes of charter schools as outlined in these laws are often silent on the very issue that has attracted countless school leaders, teachers, and parents into the charter school movement. To place charter school innovation within the larger aims of the state's public education system, and to capture the aspirations of many of the best charter schools across the country, the model law includes the following purpose for a state's charter schools:

"To close achievement gaps between high-performing and low-performing groups of public school students."

Encouraging Replication of High-Performing Charter Schools

When most charter school laws were enacted, they

envisioned groups of individuals banding together to start a single new public school. Over the life of the charter school movement, we have seen an increasing focus on expanding and replicating what is working in charter schools through the creation of nonprofit charter management organizations (CMOs) and for-profit education management organizations (EMOs). In fact, as of the 2015-16 school year, more than 40 percent of charter schools are managed by CMOs or EMOs (27 percent by CMOs and 14 percent by EMOs).¹ Most charter school laws have failed to adequately capture the role of high-performing charter schools that are replicating in their states. The model law attempts to do it in a few places. In the “Legislative Declarations” section, the model law adds the following purpose for a state’s charter schools:

“To encourage the replication of successful charter public schools.”

Charter Schools are Part of the State’s Public Education System

According to research conducted for the National Alliance for Public Charter Schools, only 29 percent of voters know that charter schools are public schools.² It is a misunderstanding that has significant ramifications for charter schools, particularly regarding the charter school movement’s goal of equitable public funding for charter school students. Several states understood the importance of explicitly stating the public nature of charter schools in their initial charter school laws, sometimes in anticipation of lawsuits to be filed challenging the legality of charter schools. Such states include Colorado, Florida, and Minnesota. The model law includes such a provision as well:

“All charter public schools in the state established under this Act are public schools and are part of the state’s public education system. The provisions of

¹ National Alliance for Public Charter Schools, *A Closer Look at the Charter School Movement* (Washington, D.C.: Author, 2016).

² The Glover Park Group conducted a telephone survey of 800 registered voters nationwide between November 30 and December 9, 2015, for the National Alliance for Public Charter Schools. The margin of error on a sample size of 800 is +/- 4.0 percent. The wording of the question cited here was: Do you think charter schools are public schools, private schools, religious schools, other—please specify, don’t know/not sure.

this Act should be interpreted liberally to support the findings and purposes of this section and to advance a renewed commitment by the state to the mission, goals, and diversity of public education.”

DEFINITIONS

The model law’s “Definitions” section defines the key terms used in the law. We highlight six definitions from this section below that merit particular attention.

Applicant

The model law takes a liberal view of eligible applicants for a charter school, with the understanding that there must be fair but rigorous approval, oversight, and renewal processes that will work to ensure that only those applicants with a high probability for success will be allowed to operate charter schools. After all, receiving approval to operate a charter school is a privilege, not a right. As a result, the model law’s definition of an “applicant” would allow a wide variety of charter schools, including new start-ups and public school conversions:

“An ‘applicant’ means any person or group that develops and submits an application for a charter public school to an authorizer.”

Governing Board

The model law makes it clear that charter schools must be autonomous entities and must have an independent governing board that signs a formal charter contract with the school’s authorizer. Even for charter schools authorized by their school board, a separate governing board must be created so that there are two formal parties to the charter contract. Specific language in the model law states:

“A ‘governing board’ means the independent board of a charter public school that is party to the charter contract with the authorizer, whose members have been elected or selected pursuant to the school’s application and charter contract.”

Charter Public School

Many state charter school laws do not provide a specific definition of a charter school. Where states do provide such definitions, they are usually brief and vague. The most comprehensive legal definition of a charter school is actually found in federal law via the Charter School Program (CSP).³ As a way to define the essential components of charter schools, the model law provides a modified version of the definition in the CSP that highlights such things as autonomy, independent board governance, accountability via a charter contract, and parent choice:

“A ‘charter public school’ means a public school that:

- Has autonomy over decisions including, but not limited to, matters concerning finance, personnel, scheduling, and curriculum and instruction;
- Is governed by an independent governing board;
- Is established, operated, and accountable under the terms of a charter contract between the school’s board and its authorizer;
- Is a school to which parents choose to send their children;
- Is a school that admits students on the basis of a lottery if more students apply for admission than can be accommodated;
- Provides a program of education that includes one or more of the following: pre-school, pre-kindergarten, any grade or grades from kindergarten through grade 12, and adult community, continuing, and vocational education programs;
- Operates in pursuit of a specific set of educational objectives as defined in its charter contract; and
- Operates under the oversight of its authorizer in accordance with its charter contract.”

Authorizer

When most states enacted their charter school laws, they gave short attention (if any at all) to charter authorizers beyond stating which entities were eligible to serve in this role. We have since learned the critical role that authorizers play in a state’s charter school movement. From our perspective, quality authorizers are one of the primary ingredients of a successful charter school movement in a state. Therefore, the model law gives considerable attention to the roles and responsibilities of authorizers. In the “Definitions” section, the model law defines an authorizer as follows:

“An ‘authorizer’ means an entity authorized under this Act to review applications, decide whether to approve or reject applications, enter into charter contracts with applicants, oversee charter public schools, and decide whether to renew, not renew, or revoke charter contracts.”

Education Service Provider

A wide variety of education service providers have played important roles in opening and operating charter schools. Just as the model law contemplates a wide variety of applicants but rigorous approval processes, it takes a liberal view of potential education service providers held accountable through charter contracts:

“An ‘education service provider’ means a for-profit education management organization, nonprofit charter management organization, or any other partner entity with which a charter public school contracts for educational program implementation or comprehensive management.”

Charter Contract

One of the essential characteristics of the charter school concept is a fixed-term, renewable contract between a school and its authorizer. Such a contract defines the roles, powers, responsibilities, and performance expectations for the school and its authorizer. While some state charter school laws explicitly require an authorizer to enter into a contract with a charter school, several state laws omit such a requirement. To make clear that schools and authorizers must enter into such contracts, the model law provides the

³ Elementary and Secondary Education Act, Title V, Part B, Subpart I, Section 5210, (1).

following definition of a “charter contract”:

“A ‘charter contract’ means a fixed-term, renewable contract between a charter public school and an authorizer that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.”

ENROLLMENT

The model law’s “Enrollment” section outlines the policies that govern enrollment in a charter school in a state. We highlight four provisions from this section below that merit particular attention.

Open Enrollment

As public schools, charter schools must be open to any student who wishes to attend the school. A charter school should not limit admissions based on such factors as academic ability. A charter school should also be able to serve preschool students, particularly those from low-income families. To ensure that charter schools operate within these parameters, the model law contains the following three provisions:

“A charter public school shall be open to any student.”

“A charter public school shall not limit admission based on ethnicity, national origin, religion, gender, income level, disabling condition, proficiency in the English language, or academic or athletic ability.”

“A charter public school may consider children under the age of compulsory attendance as students if they are enrolled in a publicly funded or free preschool program operated by the school. A charter public school may limit enrollment in the charter public school’s preschool program to students who meet income eligibility requirements to participate in state-funded preschool programs.”

Lottery

To provide all students an equally fair chance at attending a charter school, charter schools must hold a lottery if student demand exceeds the supply of available seats in a school. This approach prohibits a “first come, first served” approach to enrollment that often discriminates against students who don’t have parents aggressively pursuing each and every potential school option. Instead, when a school is looking to fill 100 seats from a list of 600 enrollees, student number #600 should have an equally good chance as student #1 of attending the school. The model law contains the following two provisions for lotteries:

“If capacity is insufficient to enroll all students who wish to attend the school, the charter public school shall select students through a lottery.”

“A charter public school conducting an admissions lottery shall ensure that, subject to the provisions of Section IV, (2), every student has a fair opportunity to be considered in the lottery and that the lottery is competently conducted, equitable, randomized, transparent, and impartial so that students are accepted in a charter public school without regard to ethnicity, national origin, religion, gender, income level, disabling condition, proficiency in the English language, or academic or athletic ability, except as stated herein.”

Limited Enrollment Preferences

While charter schools must be open enrollment schools, they should also be allowed to provide enrollment preferences in limited circumstances. First, non-charter schools that convert to charter school status should be required to give an enrollment preference to students who live in the former attendance area of the school. Such a preference would allow the current students to remain at the school after it converts. Here is the relevant language from the model law:

“Any non-charter public school converting partially or entirely to a charter public school shall adopt and maintain a policy giving enrollment preference to students who reside within the former attendance area of that public school.”

Second, since it is a high priority for some families to have each of their children attending the same school, charter schools should be allowed to give enrollment preferences to siblings of students already enrolled in the school. Here is the relevant language from the model law:

“A charter public school may give enrollment preference to siblings of students already enrolled in the charter public school.”

Third, to ensure that charter schools are able to serve preschool students (particularly those from low-income families), the model law states that a charter school may give enrollment preference to children participating in a publicly funded or free preschool program operated by the charter school. Here is the relevant language from the model law:

“A charter public school may give enrollment preference to children participating in a publicly funded or free preschool program operated by the charter public school.”

Fourth, charter schools should be allowed to give an enrollment preference to the children of the school’s founders, governing board members, and full-time employees. Since these individuals often devote much of their energies to starting and operating charter schools, we feel it is reasonable to allow a limited percentage of a school’s available seats to be reserved for them, as long as it is no more than 10 percent. Here is the relevant language from the model law:

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

Fifth, to allow charter schools to better serve at-risk students, the model law states that a charter school may give enrollment preference to students who are at risk for academic failure, defined as a student who has an economic or academic disadvantage that requires special services and assistance to succeed in educational programs. The term includes, but is not necessarily limited to, students

who are members of economically disadvantaged families, students who are identified as having special educational needs, students who are limited in English proficiency, students who are at risk of dropping out of high school, and students who do not meet minimum standards of academic proficiency.

We acknowledge there is tension between allowing charter schools to give an enrollment preference to at-risk students and fair and equal access to charter schools for all students. (In fact, there is probably some tension between all of the model law’s preferences and fair and equal access.) However, we feel comfortable with this particular preference because it is written in such a way as to advantage at-risk students. To mitigate this tension, though, states may consider setting aside a percentage of seats that may be used for this preference (such as up to 50 percent), similar to what some states have done with geographic preferences.

Here is the relevant language from the model law:

“A charter public school may give enrollment preference to students who are at risk for academic failure, as defined in Section III, (3).”

Lastly, to ensure that charter schools whose mission is single-gender education are allowed to implement their models effectively, the model law states that such charter schools may limit admission based on gender. Here is the relevant language from the model law:

“A charter public school whose mission is single-gender education may limit admission on the basis of gender. If capacity is insufficient to enroll all students who wish to attend such school, the charter public school shall select students through a lottery.”

AUTHORIZERS

The model law addresses the standard question of which entities should be allowed to authorize in a state, but it also tackles other areas of state law such as authorizer powers and duties, authorizer funding, and authorizer accountability. We discuss each of these four areas below.

Creating Choice in Authorizers: Multiple Ways to Create Multiple Authorizers

A well-designed charter school law must allow two active and effective authorizing options so that all charter applicants have the opportunity to seek approval from a conscientious and well-motivated authorizer. Having just one option is bad if it involves only a school board half-heartedly interested in the process. On the other hand, creating an environment in which charter schools can shop around among many authorizers for the laxest approval and accountability standards undermines school quality. To clarify the intent of allowing multiple authorizers in a state, the model law includes the following language:

“The intent of this section is to create at least two active and effective authorizing options for each charter public school applicant, but not a large number of authorizers with authority in any single school district.”

The model law presents multiple approaches for creating a multiple-authorizer environment, with the understanding that the conditions and capacities within a state will determine which environment makes the most sense in that state. To create multiple authorizers, the model law provides for three things:

- Establishment of a state charter school commission;
- Opportunity for school boards to register as authorizers with the existing state entity tasked with authorizer oversight; and,
- Opportunity for various entities—including mayors, city councils, non-profit organizations, and public and private postsecondary institutions—to apply for authorizing ability to the existing state entity tasked with authorizer oversight.

It is important to note that some believe only existing public entities should be allowed to serve as authorizers, while others argue for the inclusion of private and nonprofit entities to bring new expertise into the authorizing world. Experiences in various states with both public and non-public authorizing entities reveal that all types of authorizers can be successful if they meet at least three criteria: a clear desire to become an authorizer; enough political insulation to allow data-driven decisions; and the ability to create adequate infrastructure to carry out their

authorizer tasks.⁴

To this end, the model law envisions the inclusion of multiple entities as authorizers, all under an authorizer accountability system. Given the dynamics within a given state, the specific portfolio of authorizers may vary. For example, one state may allow school boards and a state charter school commission to authorize charter schools, while another state may allow school boards, universities, and mayors to do so.

State Charter Public School Commission

The model law establishes a special-purpose state charter school commission with statewide chartering authority. In a growing phenomenon across the country, 14 states and D.C. now have special-purpose charter school boards, with a number of other states seriously discussing the creation of such entities. The primary advantage of such boards is that their core mission is the authorization of charter schools. That, and only that, is what they do, allowing them to develop expertise on a tough task that is usually given inadequate attention in a state. When Colorado created its special-purpose charter school board, the Colorado Charter School Institute, in 2004, one of its stated purposes was to enhance charter school authorizing in the state. According to Colorado law, it is “the intent of the general assembly that the institute shall exist to model best practices in authorizing charter schools and make those practices available to school districts.”⁵

There is no single “right way” to structure the appointment and composition of a state charter school commission. Particularly in the matter of appointing commission members, various approaches can produce successful results. The most practical approach for a particular state will usually be determined by state-specific circumstances. For this reason, while the model law illustrates one possible approach to making such appointments, we recognize that variations on some specifics—such as the appointment process, number of board members, and terms of office—might make sense in some states.

Notwithstanding such potential variations, we recommend that states adhere to the following general

⁴ Louann Bierlein Palmer, *Alternative Charter School Authorizers: Playing a Vital Role in the Charter Movement* (Washington, D.C.: Progressive Policy Institute, 2006).

⁵ See CO Rev Stat § 22-30.5-501, (2), (a).

principles and recommendations when creating a state charter school commission:

- The commission should consist of an odd number of members to avoid tie votes. Seven or nine is a typical and practical size.
- Members should be appointed (either directly or through “advice and consent”) for staggered terms by multiple state government leaders or bodies that share responsibility for, and high interest in, the success of K-12 public education in the state. These appointing leaders or entities might include the governor, legislative leadership, the state board of education, and the state superintendent of education.
- The commission membership should be bipartisan, with no more than a simple majority of members from the same political party.
- The commission membership should include breadth of experience and expertise well-suited to the commission’s work, such as the types described in the model law.

In addition, in most states it would be advisable for the commission membership to reflect the geographic concentrations of population and likely concentrations of chartering activity throughout the state.

School Boards

To date, school boards have been allowed to authorize, often without having developed the commitment and capacity to doing the job well. To encourage local school boards to take their authorizing work seriously if they decide to do it, the model law requires them to register with the existing state entity tasked with authorizer oversight and provide information in several areas, such as their charter authorizing budget and personnel.

Mayors, City Councils, and Public Postsecondary Institutions

Currently, three states allow mayors or city councils to serve as authorizers and 16 states allow public postsecondary institutions to serve in this role. In most cases, these entities have been granted the ability to authorize by state law, without any kind of application and accountability requirements. To encourage these entities

to take their authorizing work seriously if they decide to do it, the model law requires them to apply to the existing state entity tasked with authorizer oversight for approval. They must provide information in several areas, such as a draft of the performance framework that the entity would use to guide the establishment of a charter contract and for ongoing oversight and evaluation of charter schools.

Other Private and Nonprofit Options

In addition to the options above, a small number of states currently allow other types of entities—such as private postsecondary institutions or nonprofit organizations—to serve as, or apply to serve as, charter authorizers. The model law allows the inclusion of such entities and includes language requiring public accountability and transparency for such private or nonprofit institutions in all matters concerning their charter-authorizing practices and decisions. The model law requires that such entities must apply to the existing state entity tasked with authorizer oversight for approval and clearly demonstrate their interest in, and capacity for, authorizing schools. These requirements mean that no preestablished longevity or asset amounts are specified in the law, allowing new single-purpose nonprofit authorizers to be established.

Authorizer Powers and Duties

Too often, state charter school laws are silent or vague about authorizer powers and duties. Given that charter authorizing is such a challenging task within K-12 public education, it is critical that state laws provide clarity regarding the roles and responsibilities of authorizers. To do so, the model law provides the following language:

“Authorizers are responsible for executing, in accordance with this Act, the following essential powers and duties:

- Soliciting and evaluating charter applications;
- Approving quality charter applications that meet identified educational needs and promote a diversity of educational choices;
- Denying weak or inadequate charter applications;
- Negotiating and executing sound charter contracts with each approved charter public school;

- Monitoring, in accordance with charter contract terms, the academic and fiscal performance and legal compliance of charter public schools; and
- Determining whether each charter contract merits renewal, non-renewal, or revocation.”

Authorizer Funding: Developing a Statewide Formula

Authorizer funding structures generally fall into three categories: fees retained from authorized charter schools; budget allocation from a parent organization (such as a university); and state or local budget appropriation.

Similar to the practice in 24 states, the model law allows an authorizer to retain a percentage or portion of revenue from each school it charters. There is no single formula for authorizer funding that is “the best” for every state. The determination of an adequate, efficient, and well-working formula for authorizer funding will depend on the conditions in each state, including the variety and preexisting financial capacities of authorizers in the state. Below are a few principles and recommendations that guided the model law’s provisions on authorizer funding:

- The funding formula should be set by the state and apply uniformly to all authorizers in the state. Authorizers should not be permitted to offer “cut-rate” or “below-market” oversight fees to charter schools, thereby creating an environment in which charter schools seek out the lowest-cost instead of the highest-quality or best-fitting authorizer.
- To ensure efficient and well-directed use of tax dollars, the existing state entity tasked with authorizer oversight should periodically review and, if warranted by the actual costs of authorizing (as reported annually to the state), adjust the authorizer funding formula or scale. Charter authorizing should be neither a financial burden nor a “cash cow” for authorizers. The funding formula should provide adequate funding for authorizers to fulfill the responsibilities of quality authorizing in accordance with the charter law, but should not give authorizers a financial incentive to pursue volume chartering at the possible expense of quality chartering.
- Three percent of charter school per-pupil funding is generally regarded as adequate funding for

authorizers in most states, particularly where separate start-up funding is allocated for the establishment of new authorizers like a statewide commission. In addition, once an authorizer has chartered schools for a few years and oversees a “critical mass” of charters, it might be able to continue authorizing effectively with a lower-percentage fee (because it is beyond start-up and also may have achieved some economies of scale) until the point where the number of schools it authorizes increases costs on a per-school basis. Such a determination should be made by the existing state entity tasked with authorizer oversight based on several consecutive years of financial data from all authorizers in the state. If the data warrant, the existing state entity tasked with authorizer oversight could, for example, establish a sliding scale that provides for authorizers to receive a higher-percentage fee (not to exceed three percent of charter school per-pupil dollars) in their first three years of authorizing, with the percentage decreasing thereafter.

Authorizer Accountability

One of the principles of the model law is that all authorizers should be held accountable for their work. The model law establishes authorizer accountability in two ways. First, the model law requires each authorizer to submit to the existing state entity tasked with authorizer oversight and the legislature an annual report that includes the following items:

- The authorizer’s strategic vision for chartering and progress toward achieving that vision;
- The academic and financial performance of all operating charter schools overseen by the authorizer, according to the performance expectations for charter schools set forth in the state’s Charter Public Schools Act;
- The status of the authorizer’s charter school portfolio, identifying all charter schools in each of the following categories: approved (but not yet open), operating, renewed, transferred, revoked, not renewed, voluntarily closed, or never opened;
- The authorizing functions provided by the authorizer to the charter schools under its purview, including the authorizer’s operating expenses as detailed through annual audited financial statements that conform

- with Generally Accepted Accounting Principles; and
- The services purchased from the authorizer by the charter schools under its purview, including an itemized accounting of the actual costs of these services.

Second, the model law requires that each authorizer’s performance be reviewed by the existing state entity tasked with authorizer oversight to ensure adherence to the charter school law as well as quality performance. The model law allows the existing state entity tasked with authorizer oversight to conduct a special review of an authorizer for persistently unsatisfactory performance of the authorizer’s portfolio of charter schools, a pattern of well-founded complaints about the authorizer or its charter schools, or other objective circumstances. As a result of such a review, the existing state entity tasked with authorizer oversight must notify an authorizer of identified problems and give the authorizer reasonable opportunity to respond and remedy the problems. If the authorizer fails to do so, the existing state entity tasked with authorizer oversight shall sanction the authorizer, which can include the termination of the authorizer’s chartering authority.

The model law also provides a new option for states to consider: that if an authorizer’s portfolio of schools fails to meet a state-established minimum standard of performance, the ability of the authorizer to authorize new charter schools will be immediately suspended by the existing state entity tasked with authorizer oversight until it approves the authorizer to authorize new charter schools, unless the authorizer demonstrates exceptional circumstances that the existing state entity tasked with authorizer oversight finds justifiable. It also provides that a determination to suspend the ability of an authorizer to authorize new charter schools shall identify the deficiencies that, if corrected, will result in the approval of the authorizer to authorize new charter schools.

One of the key questions related to authorizer accountability is which entity is best-positioned and most competent and trustworthy in a state to serve this “authorizer oversight” function. It is highly unlikely that the answer will be the same in every state, which is one of the challenges in writing a model law. One size does not fit all.

The designated entity for authorizer oversight must be committed to the success of charter schools

and authorizers in the state as well as to the successful implementation of chartering policies and practices consistent with nationally recognized principles and standards for quality charter authorizing. In some states, it may make the most sense for lawmakers to designate the state board of education or the state department of education to perform the “authorizer oversight” function. These entities oversee all public education in a state and are sometimes positioned well to oversee the work of charter authorizers.

Where state boards and departments of education are already serving as authorizers themselves or have a track record of being unsupportive or ambivalent toward charter schools, lawmakers should designate another entity to perform the “authorizer oversight” function. One option is to create a special legislative or governor’s office of charter authorizer oversight, similar to other special legislative or governor’s offices relating to public education. Another option is to designate a university to serve this role.

As practical conditions and circumstances may vary from state to state, lawmakers should carefully consider where to vest oversight authority over charter school authorizers. The best choice for each state should be based on the long-term best interests of the state’s charter schools and students, rather than short-term, temporary, or political circumstances.

APPLICATION PROCESS

We discuss three areas from the application process section below: applications, application decision-making process, and charter contracts.

Applications

Too often, authorizers implement a charter application process without reflecting on how they can use chartering strategically to meet the most pressing educational challenges in their communities. And too many authorizers, even years into their role, approve charters without clear processes for holding them accountable.

To solicit, encourage, and guide the development of quality charter school applications, the model law requires authorizers to issue and broadly publicize an application that contains the following:

- The authorizer’s strategic vision for chartering, including a clear statement of any preferences the authorizer wishes to grant to applications that help at-risk students. While these preferences should guide an authorizer’s chartering decisions, authorizers should remain open to bold new ideas that show promise for improving public education in a particular community.
 - The performance framework that the authorizer has developed for charter school oversight and evaluation.
 - The criteria that will guide the authorizer’s decision to approve or deny a charter application.
 - Clear and concise questions as well as guidelines concerning the format and content essential for applicants to demonstrate the capacities necessary to establish and operate a successful charter school.
 - The essential elements of the charter application.
 - Specific requirements for conversion charter schools, full-time virtual charter schools, charter school governing boards seeking to contract with an education service provider, and charter school governing boards currently operating one or more schools in the state or the nation.
- entity tasked with authorizer oversight, which shall apply to all authorizers in the state.
- A thorough evaluation of each written charter application, an in-person interview with the applicant group, and an opportunity in a public forum for local residents to learn about and provide input on each application.
 - Approval guidelines that include the following:
 - 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 charter school;
 - Base decisions on documented evidence collected through the application review process; and
 - Follow charter-granting policies and practices that are transparent, based on merit, and avoid conflicts of interest or any appearance thereof.
 - The adoption by resolution of all charter approval or denial decisions in an open meeting of the authorizer’s governing board. For any charter denial, the authorizer shall clearly state, for public record, its reasons for denial.

Application Decision-making Process

State laws seem to address authorizers’ decision-making processes for charter applications through one of two major approaches. The first approach treats the process rather vaguely (or not at all in the case of Maryland), leaving much discretion to authorizers for creating and implementing their own application process. The second approach provides some specifics about the process, but creates a situation where authorizers feel compelled to approve charter applications because the applicants have simply complied with the application submission requirements in the law.

- The model law offers a third approach that provides some specifics about certain items, but also makes clear that the authorizer has discretion to make the appropriate call about charter applications within the bounds of certain principles and standards. The key aspects of the model law’s approach include:
- A statewide timeline for charter approval or denial decisions annually published by the existing state

Charter Contracts

As mentioned earlier, one of the essential characteristics of the charter school concept is a fixed-term, renewable contract between a school and its authorizer. Such a contract defines the roles, powers, responsibilities, and performance expectations for the school and its authorizer. While some states explicitly require authorizers to enter into contracts with charter schools, other state laws do not. To make clear that schools and authorizers must enter into such contracts, the model law provides the following language:

“Within [INSERT NUMBER OF DAYS] of approval of a charter application, the authorizer and the governing board of the approved charter public school shall execute a charter contract that clearly sets forth the academic and operational performance expectations and measures by which the charter public school will be judged pursuant

to Section VII and the administrative relationship between the authorizer and charter public school, including each party's rights and duties.”

Even in those states that require contracts, it is not always clear that a charter contract must be created as a separate document from the charter application. The purposes of the charter application are to present the proposed 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, not to specifically define the roles, powers, responsibilities, and performance expectations for the school and its authorizer (which is what the charter contract does). To make clear that schools and authorizers must enter into such contracts as documents separate from charter applications, the model law provides the following provision:

“An approved charter application shall not serve as the school's charter contract.”

Full-Time Virtual Charter Schools

The first edition of the model law included application and charter contract requirements for full-time virtual charter schools. However, as documented in A Call to Action to Improve the Quality of Full-Time Virtual Charter Public Schools, the breadth of the underperformance by full-time virtual charter schools convinces us that states need to change the policy framework within which these schools can operate. The specifics of the changes in each state will depend upon the sophistication of that state's funding, attendance, and accountability systems. Subject to circumstances in each state, one or more of these provisions will be most relevant. However, we encourage states to adopt as many of these options as possible to increase the state's chances of elevating the quality of full-time virtual charter schools.

Authorizing Structure. We recommend that states permit only authorizers that have been granted statewide or regional chartering authority to oversee full-time virtual charter schools that enroll students from more than one district, while still allowing districts to authorize full-time virtual charter schools that enroll students only from

within their districts. In order to curb the temptation to authorize for financial gain, we also recommend that states cap the amount of authorizing fees that an authorizer can withhold from a full-time virtual charter school.

Enrollment Criteria. We prefer that states initially maintain a core principle that full-time virtual charter schools, like all other types of charter schools, must serve all students. However, should it be shown that other interventions prove unable to make full-time virtual charter schools successful with all students, states should study the creation of criteria for enrollment, a change which in many states may require that full-time virtual charter schools operate as something other than charter schools.

Enrollment Levels. We recommend that states require authorizers and schools to create desired enrollment levels for the full-time virtual charter schools in their states for each year of a charter contract, not to exceed a certain number of students per school in any given year, and allow schools to grow—or not—based on performance.

Accountability for Performance. We recommend that states require authorizers and schools to jointly determine additional, virtual-specific goals regarding student enrollment, attendance, engagement, achievement, truancy and attrition, as well as finances and operations, and to include these goals in the schools' charter contracts. These goals are in addition to the rigorous goals that every charter school contract should contain. We recommend that authorizers make renewal and closure decisions based upon schools' achievement of the goals in their contracts.

Funding Levels Based on Costs. We recommend that states require full-time virtual charter school operators to propose and justify a price per student in their charter school applications. We also call on states to seek guidance from experts and researchers in determining responsible levels of funding based on the real costs of full-time virtual charter schools.

Performance-based Funding. We recommend that as states establish valid cost levels for operating full-time virtual charter schools, they also fund full-time virtual charter school students via a performance-based funding system.

To be clear, we do not support these policy options for brick-and-mortar charter schools or “hybrid” charter schools that make use of both brick-and-mortar and online settings. These provisions are tailored to the unique problems that have emerged among too many full-time virtual charter schools, problems that call for states to enact significant policy changes for these schools.

Also, while we support making such changes in the context of a state’s charter school law, we also realize that some of these changes may not fit within that context. States may need to consider governing full-time virtual schools outside of the state’s charter school law, simply as full-time virtual public schools. We will support state leaders that decide to govern full-time virtual schools in this way.

ACCOUNTABILITY

We discuss four areas from the accountability section of the model law below: performance framework; ongoing oversight and corrective actions; renewals, revocations, and non-renewals; and transfers.

Performance Framework

Much of the best accountability work being done across the country was originally created in practice by charter authorizers rather than in state law. Notable examples included the work of the Chicago Public Schools, the District of Columbia Public Charter School Board, the Indianapolis Mayor’s Office, and the State University of New York. These entities and others had developed clear academic and operational performance goals and objectives with each of their charter schools that served as the basis for holding their schools accountable.

Initially, charter supporters struggled in translating such effective practices into state law to ensure wide adoption by authorizers throughout a state. Some charter supporters were understandably concerned about over-regulating the charter accountability process in state law and taking away authorizer discretion over complex decisions about school renewals, revocations, and non-renewals. Others were concerned that district authorizers would abuse any such accountability requirements to squash their charter schools. Notwithstanding these

concerns, the lack of sound performance frameworks generally outlined in state law allowed too many authorizers to take a pass on creating fair and rigorous accountability systems for their charter schools.

The model law balances the various concerns by including a section on performance frameworks that provides some specifics about certain items, but also makes clear that the authorizer has discretion to make the appropriate call about charter schools within the bounds of certain principles and standards. The key aspects of the model law’s approach include:

- Authorizers are required to base the performance provisions of the charter contract on a performance framework that includes at a minimum:
 - Student academic proficiency;
 - Student academic growth;
 - Achievement gaps in both proficiency and growth between major student subgroups;
 - Attendance;
 - Recurrent enrollment from year to year;
 - Postsecondary readiness (for high schools);
 - Mission-specific goals;
 - Financial performance and sustainability; and
 - Board performance and stewardship, including compliance with all applicable laws, regulations, and terms of the charter contract.
- Charter schools are required to set annual performance targets subject to approval by their authorizers. The performance targets may be refined or amended by mutual agreement after the charter school is operating and has collected baseline achievement data for its enrolled students.
- All student performance data must be disaggregated by major student subgroups.
- An authorizer may not request duplicative data entry and submission from their charter schools and may not use the performance framework to create duplicative reporting requirements for their charter schools.
- Multiple schools operating under a single charter contract or overseen by a single governing board must report their performance as separate, individual schools, with each school held independently accountable for its performance.

Ongoing Oversight and Corrective Actions

It is important that authorizers provide adequate oversight of their charter schools and have the authority to sanction charter schools that are not performing well but do not merit immediate closure. To ensure that authorizers provide adequate oversight and have the ability to sanction low-performing charter schools, the model law provides the following provisions:

“An authorizer shall continually monitor the performance and legal compliance of the charter public schools it oversees, including collecting and analyzing data to support ongoing evaluation according to the charter contract. Every authorizer shall have the authority to conduct oversight activities that enable the authorizer to fulfill its responsibilities under this Act, including conducting appropriate inquiries and investigations, so long as those activities are consistent with the intent of this Act, adhere to the terms of the charter contract, and do not unduly inhibit the autonomy granted to charter public schools.”

“Each authorizer shall annually publish and provide, as part of its annual report to the existing state entity tasked with authorizer oversight and the general assembly, a performance report for each charter public school it oversees, in accordance with the performance framework set forth in the charter contract and Section V, (7). The authorizer may require each charter public school it oversees to submit an annual report to assist the authorizer in gathering complete information about each school, consistent with the performance framework.”

“In the event that a charter public school’s performance or legal compliance is unsatisfactory, the authorizer shall promptly notify the charter public school of the perceived problem and provide reasonable opportunity for the school to remedy the problem, unless the problem warrants revocation, in which case the revocation timeframes in Section VII, (3) will apply.”

“Every authorizer shall have the authority to

take appropriate corrective actions or exercise sanctions short of revocation in response to deficiencies in charter public school performance or legal compliance. Such actions or sanctions may include, if warranted, requiring a school to develop and execute a corrective action plan within a specified timeframe.”

Renewals, Revocations, and Non-renewals

Often overlooked in state laws are charter renewals, revocations, and non-renewals. Similar to the model law’s language for the application process, its language for renewals, revocations, and non-renewals provides some specifics about certain items, but also makes clear that the authorizer has discretion to make the appropriate call about charter applications within the bounds of certain principles and standards. The key aspects of the model law’s approach include:

- A charter contract may be renewed for successive five-year terms, although authorizers may vary the term based on the performance, demonstrated capacities, and particular circumstances of each charter school and may grant renewal with specific conditions for necessary improvements to a charter school.
- A charter school that meets state-established performance standards may submit to its authorizer an application for a differentiated renewal of the charter contract. If such a charter school submits an application for a differentiated renewal, the charter contract automatically renews unless, not later than the 60th day after the date the charter school submits the application, the authorizer provides written notice to the charter school that differentiated renewal of the charter contract is denied. The authorizer may not deny differentiated renewal of a charter contract unless the authorizer finds exceptional circumstances that merit a denial.
- Authorizers must issue a charter school performance report and charter renewal application guidance to eligible charter schools.
- In making charter contract renewal decisions, authorizers must ground their decisions in evidence of the school’s performance, ensure that data used in making renewal decisions are available to the school and the public, and provide a public report

- summarizing the evidence basis for each decision.
- Authorizers may revoke or not renew a charter contract if a school does any of the following or otherwise fails to comply with the provisions of this Act:
 - Commits a material and substantial violation of any of the terms, conditions, standards, or procedures required under the charter contract or this Act;
 - Fails to meet or make sufficient progress toward the performance expectations set forth in the charter contract;
 - Fails to meet generally accepted standards of fiscal management; or
 - Substantially violates any material provision of law from which the charter school was not exempted.
- Authorizers must develop revocation and non-renewal processes that:
 - Provide the charter contract holders with a timely notification of the prospect of revocation or non-renewal and of the reasons for such possible closure;
 - Allow the charter contract holders a reasonable amount of time in which to prepare a response;
 - Provide the charter contract holders with an opportunity to submit documents and give testimony challenging the rationale for closure and in support of the continuation of the school at an orderly proceeding held for that purpose;
 - Allow the charter contract holders access to representation by counsel and to call witnesses on their behalf;
 - Permit the recording of such proceedings; and
 - After a reasonable period for deliberation, require a final determination be made and conveyed in writing to the charter contract holders.
- An authorizer shall not renew a charter contract if a charter school has failed to meet state-established minimum academic and financial standards, unless the school demonstrates exceptional circumstances that the authorizer finds justifiable.
- Authorizers must develop a charter school closure protocol 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 Act.

Transfers

In some situations, it makes sense for a charter school to transfer its contract from one authorizer to another before the expiration of its term, especially when its current authorizer has decided that it no longer has the commitment or capacity to effectively perform its authorizing duties. However, there are other situations in which it should be impermissible—for example, when a low-performing charter school facing probation or closure from a high-quality authorizer may seek to transfer its charter contract to a less-exacting authorizer that will not place it on probation or close the school. Understanding that it is difficult to make hard-and-fast rules about when transfers should be allowed, the model law addresses the transfer issue in the following way:

“Transfer of a charter contract, and of oversight of that charter public school, from one authorizer to another shall not be permitted except by special petition to the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] by a charter public school or its authorizer. The [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] shall review such petitions on a case-by-case basis and may grant transfer requests in response to special circumstances, evidence that such a transfer would serve the best interests of the charter public school’s students, and agreement by the school and the authorizers.”

OPERATIONS AND AUTONOMY

Governing Board Requirements

In addition to including a definition of a charter school governing board, the model law includes several other provisions related to governing boards, including the following:

“A charter public school shall be organized as a non-profit organization in order to fulfill public purposes.”

“Each governing board shall be required to adopt a viable conflict of interest policy and a code of ethics.”

“Each governing board shall adopt a policy regarding the hiring of family members to avoid any nepotism in hiring and supervision. The policy shall include, among other things, a disclosure to the board of any potential nepotism in hiring and supervision. Any party with such a conflict shall not be involved in the hiring decision or supervision of a potential employee.”

“Charter public school governing boards shall be subject to and comply with state open meetings and freedom of information laws.”

Automatic Waivers

School-level flexibility is one of the core principles of charter schooling. To provide charter schools with needed autonomy, states and districts waive many of the state and local laws, rules, and regulations that burden traditional public schools. Generally, there are two approaches that state charter school laws take to waivers. Some state charter school laws allow charter schools to apply to their school boards or state boards of education for waivers of state and local laws, rules, and regulations. This approach is typically onerous for the schools and makes it difficult for charter schools to obtain the type of flexibility that is needed to develop unique and innovative programs.

A far better approach is found in the state charter school laws that provide an automatic waiver from most state and local laws, rules, and regulations.

Such an approach allows for greater flexibility within charter schools and invites a greater number of charter applications with more innovative programs. The model law provides an automatic waiver to charter schools via the following language:

“Except as provided in this Act, a charter public school shall not be subject to the state’s education statutes or any state or local rule, regulation, policy, or procedure relating to non-charter public schools within an applicable school district regardless of whether such rule, regulation, policy, or procedure is established by the school board, the state board of education, or the state department of education.”

Multiple Schools on One Contract and Multiple Contracts for One Board

The charter school movement has created a major opportunity for rapid improvement in the performance of public schooling by scaling up successful models launched at a single site. While replication is challenging, it has proven to be an effective and efficient way of increasing the number of high-quality public school options available in a community, especially as compared to imposing “effective practices” on a school that is chronically failing.

When states first enacted charter school laws, they envisioned organizations opening and operating individual schools, not multiple schools. To better support the significant amount of replication activity in the charter school movement, the model law contains provisions allowing for the creation of multiple schools under a single charter contract and allowing a governing board to oversee schools under more than one charter agreement:

“A charter contract may consist of one or more schools, to the extent approved by the authorizer and consistent with applicable law. Each charter public school that is part of a charter contract shall be a discrete legal entity, separate and distinct from any others.”

“A single governing board may hold one or more charter contracts. Each charter public school that is part of a charter contract shall be a discrete legal entity, separate and distinct from any others.”

Such arrangements provide a high degree of flexibility and minimize administrative restrictions on the expansion of successful programs. It is important to note that authorizers must play a strong role in these cases to ensure that only effective governance models and high performing programs are rewarded with replication.

Local Education Agency Status for Special Education

Charter school responsibilities with regard to special education depend to a great extent on their local education agency (LEA) status. The model law offers two options for LEA status: (1) a charter school is a local education agency; or (2) a charter school is not a local education agency.

Option 1: A Charter Public School is a Local Education Agency

Some states treat charter schools as their own LEAs. There are two primary advantages to this approach:

- State and federal categorical funding flows directly from the state department of education to charter schools. There is no middleman, such as a state charter authorizer or a school district, to take a chunk of the funding or slow down the funding flow.
- Charter schools retain significant autonomy over resource allocation. Because there is no middleman for state and federal categorical dollars, charter schools have maximum control over how such funding is spent.

The two major disadvantages to this approach are:

- Being an LEA can be hugely burdensome and costly. Individual charter schools are responsible for applying to the various categorical programs and for detailed reporting about how they spend their program funds. These are not small, simple programs, but are actually some of the most heavily regulated and complex programs in public education. Furthermore, charter schools that are their own LEAs are responsible for covering the costs of special education services to eligible students without the economies of scale that resides in school district LEAs.

- Public schools are often isolated from existing state and local expertise in navigating application, delivery, and reporting requirements for categorical programs.

One variation on this approach is for schools that are their own LEAs to join in special education cooperatives and other arrangements that mitigate the burden of paperwork and staffing on individual schools.

Option 2: A Charter Public School is Not a Local Education Agency

Some states treat charter schools as part of other LEAs, such as school district LEAs or statewide LEAs. There are two primary advantages to this approach:

- Charter schools are able to focus their energies on their core work. In this arrangement, the school district or statewide LEA focuses on ensuring that charter schools are receiving the state and federal funds to which they are entitled, while the charter schools focus on using those funds to deliver a high-quality education.
- School districts have experience as an LEA and have developed expertise in navigating state and federal bureaucracies. Such experience and expertise could benefit charter schools with many issues on their plate, particularly in their start-up phase.

The two major disadvantages to this approach are:

- This approach adds another layer between the flow of dollars from state education agencies (SEAs) to charter schools. In this situation, the dollars must flow from the SEA to the school district or statewide LEA, which then distributes them to individual charter schools. Too often, these dollars do not flow to charter schools in a timely way, resulting in significant problems for charter schools.
- There is the potential of impinging on charter schools' autonomy, especially for school district LEAs that focus on creating more bureaucratic mechanisms to carry out its work. While school districts have experience and expertise as an LEA, their funding procedures, services, and reporting processes are usually designed for schools that do not have the unique mixture of autonomy and accountability found in charter schools. It may be tough for districts

to fit charter schools into their existing procedures in a way that is respectful of the charter school concept.

The model law does not take a position on whether it is preferable for a charter school to serve as its own LEA or not because there is no widely accepted best practice in this area. The model law does offer alternative provisions for states that elect to designate charter schools as their own LEAs and those that make them part of school district or statewide LEAs. Whichever approach a state takes, it is essential that the ramifications of LEA status of charter schools are understood well by those creating or revising a state charter school law and that LEA status is clearly stated and factored in throughout the law.

When a charter school is its own LEA, the model law provides more detailed language concerning enrollment, service provision, the role of Network LEAs, funding, self-insurance, funding transparency, excess cost aid, and access to intermediate school districts and resource organizations.

When a charter school is not its own LEA, the model law provides more detailed language concerning enrollment, service provision, the role of Network LEAs, funding, severe needs programs, funding transparency, excess cost aid, and access to intermediate school districts and resource organizations.

Education Service Providers

In addition to addressing education service providers in the “Definitions” and “Application Process” sections, the model law also includes several provisions related to them in the “Operations and Autonomy” section, including the following:

Independence of Governing Boards. To ensure that a charter school governing board retains its independence from an education service provider, the model law provides that a charter school governing board may contract with an education service provider for the management and operation of the charter school so long as the school’s governing board retains oversight authority over the school.

Access to Records. To ensure that a charter school governing board is able to provide the necessary oversight of an education service provider, the model

law requires charter school governing boards to have access to education service provider records necessary to overseeing the education service provider contract.

Prohibition from Serving as Voting Members of Governing Boards. To ensure the independence of a charter school governing board from an education service provider, the model law prohibits individuals compensated by an education service provider from serving as a voting member on the board of any charter school that contracts with the education service provider, except in instances where the authorizer of the charter school waives such restriction.

Transparency. To ensure transparency in how public funds are spent as they relate to the operation of charter schools, the model law requires education service providers partnering with charter schools to provide information on an annual basis to the governing board of the charter school regarding how the education service provider spends the public funding it receives for the operation of partner charter schools in such categories as salaries, insurance, taxes, benefits, capital outlay, supplies, and materials when the providers are performing a public function under applicable state law.

Criminal History Record Checks and Fingerprinting Requirements. To better ensure student safety, the model law applies criminal history record checks and fingerprinting requirements to individuals who regularly come into contact with students, including any on-site employees of management organizations. (The previous edition of the model law applied these checks and requirements only to school personnel and governing board members.)

Teacher Certification

Because of the lack of a strong empirical connection between teacher certification and student achievement, the model law provides charter schools flexibility regarding state teacher certification:

“In accordance with Section XIX, (1), (b), teachers in charter schools shall be exempt from state teacher certification requirements.”

Collective Bargaining

District collective bargaining agreements and personnel policies are often a significant constraint on school autonomy and usually fly in the face of the core charter school principle of school-level flexibility. In order to promote the autonomy of school leaders and teachers, the model law provides all charter school employees the option of participating in collective bargaining. It states that charter school employees cannot be required to be members of any existing collective bargaining agreement but that school leaders are also prohibited from interfering with civil services laws or the rights of charter school employees to organize:

“Charter public school employees cannot be required to be members of any existing collective bargaining agreement between a school district and its employees. A charter public school may not interfere, however, with civil service laws and other applicable laws and rules protecting the rights of employees to organize and be free from discrimination.”

Access to State Retirement and Other Benefits Programs

State charter school laws vary in how they address charter school employee access to state retirement and other benefits programs. Some states allow charter school employee access to these systems, but don't require them to participate. Others require charter school employees to participate. Still others prohibit charter school employees from accessing these systems.

Although some charter schools will choose to provide these benefits through other mechanisms for cost or other reasons, it is important that charter schools, as public schools, have the same access to these systems as other public schools. To create a level playing field in terms of retirement and other benefits programs, the model law allows charter schools to participate in state retirement and benefits programs:

“Employees in charter public schools shall be eligible for participation in retirement and other benefits programs of the state, if the charter public school chooses to participate in its state retirement

system and satisfies the criteria set forth by the Internal Revenue Service.”

Extracurricular and Interscholastic Activities Eligibility and Access

The model law states that charter school students and employees are eligible for state- or district-sponsored interscholastic leagues, competitions, awards, scholarships, and recognition programs to the same extent as traditional public schools. The model law also provides that students at charter schools that do not provide extracurricular and interscholastic activities have access to those activities at traditional public schools, with any fees the same as those charged of students attending the traditional public schools.

Funding

The 43 jurisdictions with charter school laws vary greatly in how they fund charter schools. While their approaches vary, most states share one commonality: They usually provide significantly less funding to charter schools as compared to traditional public schools. Indeed, a 2014 report noted that the funding disparity has actually grown over the years, going from a charter school student receiving only 78 percent of the funding that a traditional public school student receives in a 2005 report to a charter school student receiving only 72 percent in the 2014 report.⁶ This discrepancy means that the average charter school student in the United States received \$3,814 less in funding than the average traditional public school student in the 2014 report.

In the model law, we provide three options for how states should fund charter schools based upon how funds should flow from the state to the schools:

- In the first option, funding flows from the **state to school districts to charter schools**. This option is modeled on the approach in New York with some variations. The advantage of this approach is that it is relatively easy to integrate charter schools into the existing funding system. By sending the

⁶ Meagan Batdorff, Larry Maloney, Jay May, Sheree Speakman, Patrick Wolf, and Albert Cheng, *Charter School Funding: Inequity Expands* (Fayetteville, Arkansas: University of Arkansas, 2014).

money through school districts, however, states are providing a tangible reminder of the movement of dollars from districts to charter schools, which can be problematic—particularly when the charter schools are authorized by non-district entities.

- In the second option, funding flows from the *state directly to charter schools*. This option is modeled on the approach in Minnesota with some variations. The main advantage of this option is that it eliminates the middle man between states and schools. As a result, schools will likely receive their funds in a timely manner. With this approach, however, it can be more challenging for the state to figure out how to fold charter schools into the existing funding system for school districts.
- In the third option, funding flows from the *state to authorizers to charter schools*. This option is modeled on the approach in Colorado with some variations. While it is relatively easy to integrate district-authorized charter schools into the existing funding system, it can be more of a challenge for charter schools authorized by non-district entities.

The key principles shaping the statutory language for each option in the model law are as follows:

Operational Funding. Operational funding for charter school students should be statutorily driven, clear, free from interference or an annual, separate line item appropriation, and in the same amount as what traditional public school students receive.

It is important to note that the model law provides different sources of operational funding, depending upon the authorizer. For schools authorized by districts, the operational funding amount is composed of state and local dollars in the same amount to nearby district schools. For schools authorized by non-district entities, though, the operational funding amount is composed of state dollars in the same amount to the state and local dollars that nearby district schools receive. To ensure that there is no fiscal impact on state budgets, the model law provides that the state withhold from the state equalization payments for each school district with students attending the charter school an amount equal to one hundred percent of the amount of state and local dollars calculated pursuant to the state’s funding formula for each student in the school

district multiplied by the number of students enrolled in the charter school from the school district.

Timely Flow of Funds. Charter schools should receive funds in a timely manner. If district or non-district authorizers fail to send funds to charter schools in a timely manner, the state should be able to sanction them by intercepting funds until the obligation is satisfied.

Categorical Funding. Charter schools should have equal access to categorical funding streams, including pre-kindergarten and adult education, and state laws should provide clear guidance on the pass-through of federal and state categorical funding streams.

Special Education. State laws should explicitly address how federal and state special education funds will flow to the entities serving as LEAs for charter school special education purposes.

Financial Accountability. Charter schools should be held financially accountable in the following ways:

- They should adhere to Generally Accepted Accounting Principles.
- They should annually engage an external auditor to do an independent audit of the school’s finances. They should file a copy of each audit report and accompanying management letter to its authorizer by a certain date.

Transportation Funding. Charter schools should receive funding for transportation similar to school districts.

Funding Transparency Report. To better ensure that students in charter schools have available an amount of public funding equitable to the public funding provided to students in traditional public schools, inclusive of operational, categorical, and capital funding, the model law requires the state department of education to create an annual report that includes:

- A comparison of the total per pupil revenues received from all local, state, and federal dollars in all operational, categorical, and capital funding streams for each charter school with the total per

pupil revenues received from all local, state, and federal public dollars in all operational, categorical, and capital funding streams for each district from which the school draws its students. This comparison of the total per pupil revenues shall be reported as an overall average and broken down by operational, categorical, and capital funding streams.

FACILITIES

One of the biggest challenges facing charter schools is finding and financing school facilities. The 43 jurisdictions with charter school laws vary greatly in how they provide facility support to charter schools. What is clear from the initial 25 years of the charter school movement is that there is not a “silver bullet” to resolving charter schools’ facilities challenges. Instead, states will likely have to implement several “silver bullets” in order to slay the facility beast.

In the model law, we provide a menu of approaches for supporting charter school facility needs, organized into four areas.

Facilities Funding

Per-Pupil Facilities Allowance. The model law provides a per-pupil facilities allowance to each charter school that is calculated via a rolling formula based on total facilities costs in a state over the past five years. While 15 jurisdictions currently provide some type of a per-pupil facilities allowance to charter schools, the model law’s language is modeled on the approach in the District of Columbia.

Charter Public School Facility Grant Program. The model law provides a charter school facility grant program funded by a bond authorization. Fifteen jurisdictions have statutory language creating a facility grant program, but only seven are currently providing funding to these programs. The model law’s language is modeled on the approach in Connecticut, one of the states providing such funding.

Existing State Facilities Programs. Charter schools should have equal access to all existing state facilities

programs for traditional public schools in a state. One example is the Building Excellent Schools Today Grant Program in Colorado. To clarify that charter schools are eligible to obtain funding from the relevant program, a state must amend the relevant section of the law (e.g., Building Excellent Schools Today Grant Program section).

Access to Public Space

Requirement to Provide School District Space or Funding. Based partly upon New York law, the model law provides an option for a charter school to request public school facilities from any school district in which at least 50 enrolled students reside. In response, the school district shall either offer at no cost to the charter school space in a public school building or offer the charter school space in a privately owned or other publicly owned facility at the expense of the school district and at no cost to the charter school.

Right to Lease or Purchase Unused District Facilities. Based largely upon Indiana law, the model law provides language on the right of a charter school to lease or purchase unused district facilities.

Access to Financing Tools

Charter Public School Facility Revolving Loan Program. The model law provides a charter school facility revolving loan program funded by state appropriations. If state appropriations are unavailable, we recommend the state use monies from the federal Charter Schools Program (CSP). According to federal law, states can use up to 10 percent of their grants from the CSP to establish a revolving loan fund. Twelve jurisdictions have statutory language creating a revolving loan fund, but only seven are currently providing funding to these programs. The model law’s language is modeled on the approach in California, one of the states providing such funding.

Bonding Authority. Charter schools should have equal access to all relevant tax-exempt bonding authorities in a state or have their own bonding authority. For the first option, a state must amend the appropriate section of the law (e.g., state health and educational facility authority section) to clarify that charter schools are eligible to obtain

tax-exempt financing from the relevant authority. For the second option, a state must create a new section of state law establishing the authority as outlined in the model law.

Moral Obligation. The model law creates a mechanism for the legislature to provide limited credit enhancement for eligible highly-rated bond transactions for charter schools. Although four states provide such a mechanism, the model law's language is modeled on the approach in Colorado.

State Charter Public School Debt Reserve Fund. Based largely upon Colorado law, the model law provides an option whereby states can create a state charter school debt reserve fund to enhance the ability of any qualified charter school that chooses to finance capital construction with revenues from bonds issued on behalf of the qualified charter school by the appropriate authority to obtain such financing on favorable terms by providing a source of money that can be used to make bond payments if the qualified charter school fails to make such payments.

School District Inclusion of Charter Public Schools in School District Bonding and Mill Levy Requests. Based largely upon Colorado law, the model law provides an option in which states can require a school district that is considering the submission of any question regarding bonded indebtedness or a mill levy to the eligible electors of the district at an upcoming election to include any charter school located within the district in all discussions regarding the possible submission of such a question.

Credit Enhancement Fund. The model law creates a credit enhancement fund for charter school facilities. Such a fund provides grants to eligible nonprofit organizations to carry out the following activities:

- Obtaining financing to acquire interests in real property (including by purchase, lease, or donation), including financing to cover planning, development, and other incidental costs;
- Obtaining financing for construction of facilities or the renovation, repair, or alteration of existing

property or facilities (including the purchase or replacement of fixtures and equipment), including financing to cover planning, development, and other incidental costs;

- Enhancing the availability of loans (including mortgages) and bonds; and
- Obtaining lease guarantees.

Other Provisions

Contracting for Use of Facilities. The model law provides that a charter school may negotiate and contract at or below fair market value with a school district, 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 facility for a school building.

Use of Other Facilities under Preexisting Zoning and Land Use Designations. The model law provides that a library, community service, museum, performing arts, theatre, cinema, church, community college, college, and university facility may provide space to charter schools within their facilities under its preexisting zoning and land use designations.

Exemptions from Ad Valorem Taxes and Certain Fees. The model law provides that any facility, or portion thereof, used to house a charter school shall be exempt from ad valorem taxes. It also provides that charter school facilities are exempt from assessments of fees for building permits, fees for building and occupational licenses, impact fees, service availability fees, and assessments for special benefits.

A MODEL LAW FOR SUPPORTING THE GROWTH OF HIGH-QUALITY CHARTER PUBLIC SCHOOLS

I. Short Title	40
II. Legislative Declarations.....	40
III. Definitions	41
IV. Enrollment	42
(1) Open Enrollment and Lottery Requirements	42
(2) Enrollment Preferences	43
(3) Credit Transferability.....	43
(4) Information to Parents and the General Public	44
(5) Determination of Student Capacity of Charter Public Schools	44
V. Authorizers.....	44
(1) Eligible Authorizing Entities.....	44
(2) State Charter Public School Commission	45
(3) Chartering Authority Registration of School Boards	46
(4) Chartering Authority Application for Eligible Entities	46
(5) Authorizer Powers, Duties, and Liabilities	48
(6) Principles and Standards for Charter Authorizing	48
(7) Authorizer Reporting	48
(8) Authorizer Funding	49
(9) Conflicts of Interest.....	49
(10) Exclusivity of Authorizing Functions and Rights	50
(11) Services Purchased from Authorizer—Itemized Accounting	50
(12) Oversight of Charter Public School Authorizers	50
VI. Application Process.....	52
(1) Applications.....	52
(2) Application Decision-making Process.....	55
(3) Purposes and Limitations of Charter Applications	56
(4) Initial Charter Contract Term	56
(5) Charter Contracts.....	56
(6) Pre-Opening Requirements or Conditions.....	57

VII. Accountability 58

 (1) Performance Framework 58

 (2) Ongoing Oversight and Corrective Actions..... 58

 (3) Renewals, Revocations, and Non-renewals..... 59

 (4) School Closure and Dissolution..... 61

 (5) Charter Transfers 62

 (6) Annual Report..... 62

VIII. Operations and Autonomy..... 62

 (1) Legal Status of Charter Public Schools 62

 (2) Local Education Agency Status for Special Education 63

OPTION 1: A CHARTER PUBLIC SCHOOL IS A LOCAL EDUCATION AGENCY..... 63

OPTION 2: A CHARTER PUBLIC SCHOOL IS NOT A LOCAL EDUCATION AGENCY..... 64

 (3) Powers of Charter Public Schools 66

 (4) General Requirements 67

 (5) Applicability of Other Laws, Rules, and Regulations..... 67

 (6) Charter Public School Employees 68

 (7) Access to Extra-Curricular and Interscholastic Activities 68

IX. Funding..... 68

OPTION 1: FUNDING FLOWS FROM THE STATE TO SCHOOL DISTRICTS TO CHARTER PUBLIC SCHOOLS..... 69

 (1) Enrollment..... 69

 (2) Operational Funding..... 69

 (3) Payment Schedule 69

 (4) Sanctions for Failure to Make Payments 69

 (5) Categorical Funding..... 70

 (6) Special Education Funding (See Section VIII, (2))..... 70

 (7) Generally Accepted Accounting Principles—Independent Audit..... 70

 (8) Transportation Funding 70

 (9) Budget Reserves..... 70

 (10) Ability to Accept Gifts, Donations, and Grants..... 70

 (11) Funding Transparency Annual Report..... 71

 (12) This report shall be a public document that is presented to the general assembly by December 1 of each year. 71

OPTION 2: FUNDING FLOWS FROM THE STATE DIRECTLY TO CHARTER PUBLIC SCHOOLS 71

 (1) Enrollment..... 71

 (2) Operational Funding..... 71

 (3) Payment Schedule 72

 (4) Categorical Funding..... 72

(5) Special Education Funding (See Section VIII, (2)).....	72
(6) Generally Accepted Accounting Principles – Independent Audit.....	72
(7) Transportation Funding	72
(8) Budget Reserves.....	73
(9) Ability to Accept Gifts, Donations, and Grants.....	73
(10) Funding Transparency Annual Report.....	73
<i>OPTION 3: FUNDING FLOWS FROM THE STATE TO AUTHORIZERS TO</i>	
<i>CHARTER PUBLIC SCHOOLS</i>	74
(1) Enrollment.....	74
(2) Operational Funding.....	74
(3) Payment Schedule	74
(4) Sanctions for Failure to Make Payments	74
(5) Categorical Funding.....	75
(6) Special Education Funding (See Section VIII, (2)).....	75
(7) Generally Accepted Accounting Principles – Independent Audit.....	75
(8) Transportation Funding	75
(9) Budget Reserves.....	75
(10) Ability to Accept Gifts, Donations, and Grants.....	75
(11) Funding Transparency Annual Report.....	76
IV. Facilities.....	76
(1) Per-Student Facility Allowance.....	76
(2) Charter Public School Facility Grant Program	77
(3) Access to State Facilities Programs for Non-Charter Public Schools.....	77
(4) Requirement to Provide School District Space or Funding.....	77
(5) Right to Lease or Purchase Unused District Facilities.....	78
(6) Charter Public School Facility Revolving Loan Program	80
(7) Bonding Authority	81
(8) Moral Obligation of the State.....	82
(9) State Charter Public School Debt Reserve Fund.....	83
(10) School District Inclusion of Charter Public Schools in School District	
Bonding and Mill Levy Requests	83
(11) Credit Enhancement Fund.....	84
(12) Contracting for Use of Facilities.....	85
(13) Use of Other Facilities under Preexisting Zoning and Land Use	
Designations	85
(14) Exemptions from Ad Valorem Taxes and Certain Fees.....	85

I. Short Title

This act shall be known and may be cited as the “Charter Public Schools Act,” (the “Act”).

II. Legislative Declarations

(1) The general assembly hereby finds and declares the following:

- (a) It is in the best interests of the people of the state to provide all children with public schools that reflect high expectations and to create conditions in all schools where these expectations can be met;
- (b) Education reform is necessary to strengthen the performance of elementary and secondary public school students;
- (c) Those who know students best—their parents and educators—make the best education decisions regarding the students;
- (d) Parents and educators have a right and a responsibility to participate in the education institutions that serve them;
- (e) Different students learn differently, and public school programs should be customized to fit the needs of individual students; and
- (f) There are parents, educators, and other citizens in the state who are willing and able to offer educational programs but who lack a channel through which they can direct their efforts.

(2) The general assembly finds and declares that the purposes of the state’s charter public schools as a whole are:

- (a) To improve student learning by creating high-quality public schools with high standards for student performance;
- (b) To close achievement gaps between high-performing and low-performing groups of public school students;
- (c) To increase high-quality educational opportunities within the public education system for all students, especially those at risk of academic failure;
- (d) To create new professional opportunities for teachers, school administrators, and other school personnel that allow them to have a direct voice in the operation of their schools;
- (e) To encourage the use of different, innovative, and high-quality models of teaching, governing, scheduling, or other aspects of schooling that meet a variety of student needs;
- (f) To allow public schools freedom and flexibility in exchange for exceptional levels of results-driven accountability;
- (g) To provide students, parents, community members, and local entities with expanded opportunities for involvement in the public education system; and
- (h) To encourage the replication of successful charter public schools.

(3) All charter public schools in the state established under this Act are public schools and are part of the state’s public education system. The provisions of this Act should be interpreted liberally to support the findings and purposes of this section and to advance a renewed commitment by the state to the mission, goals, and diversity of public education.

III. Definitions

As used in this Act:

- (1) An “applicant” means any person or group that develops and submits an application for a charter public school to an authorizer.
- (2) An “application” means a proposal from an applicant to an authorizer to enter into a charter contract whereby the proposed school obtains charter public school status.
- (3) An “at-risk student” means a student who has an economic or academic disadvantage that requires special services and assistance to succeed in educational programs. The term includes, but is not necessarily limited to, students who are members of economically disadvantaged families, students who are identified as having special educational needs, students who are limited in English proficiency, students who are at risk of dropping out of high school, and students who do not meet minimum standards of academic proficiency.
- (4) An “authorizer” means an entity authorized under this Act to review applications, decide whether to approve or reject applications, enter into charter contracts with applicants, oversee charter public schools, and decide whether to renew, not renew, or revoke charter contracts.
- (5) A “charter contract” means a fixed-term, renewable contract between a charter public school and an authorizer that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.
- (6) A “conversion charter public school” means a charter public school that existed as a non-charter public school before becoming a charter public school.
- (7) An “education service provider” means a for-profit education management organization, nonprofit charter management organization, or any other partner entity with which a charter public school contracts for educational program implementation or comprehensive management.
- (8) A “full-time virtual charter public school” means a charter public school that offers educational services predominantly through an online program. A full-time virtual charter public school that serves students from more than one district may be authorized only by an authorizer with statewide chartering jurisdiction and authority. A full-time virtual charter public school that serves students from one school district may be authorized by the school board governing that school district or an authorizer with statewide chartering jurisdiction and authority.
- (9) A “governing board” means the independent board of a charter public school that is party to the charter contract with the authorizer, whose members have been elected or selected pursuant to the school’s application and charter contract.
- (10) A “non-charter public school” means a public school that is under the direct management,

governance, and control of a school board or the state.

- (11) A “parent” means a parent, guardian, or other person or entity having legal custody of a child.
- (12) A “charter public school” means a public school that:
- (a) Has autonomy over decisions including, but not limited to, matters concerning finance, personnel, scheduling, curriculum, and instruction;
 - (b) Is governed by an independent governing board;
 - (c) Is established and operating under the terms of a charter contract between the school’s board and its authorizer;
 - (d) Is a school to which parents choose to send their children;
 - (e) Is a school that admits students on the basis of a lottery if more students apply for admission than can be accommodated;
 - (f) Provides a program of education that includes one or more of the following: preschool, pre-kindergarten, any grade or grades from kindergarten through grade 12, and adult community, continuing, and vocational education programs;
 - (g) Operates in pursuit of a specific set of educational objectives as defined in its charter contract; and
 - (h) Operates under the oversight of its authorizer in accordance with its charter contract.
- (13) A “school board” means a school board exercising management and control of a local school district pursuant to the state constitution and state statutes.
- (14) A “school district” means a public agency that establishes and supervises one or more public schools within its geographical limits pursuant to the state constitution and state statutes.
- (15) A “start-up charter public school” means a charter public school that did not exist as a non-charter public school prior to becoming a charter public school.
- (16) A “student” means any child who is eligible for attendance in public schools in the state.

IV. Enrollment

- (1) Open Enrollment and Lottery Requirements
- (a) A charter public school shall be open to any student.
 - (b) A school district shall not require any student enrolled in the school district to attend a charter public school.
 - (c) A charter public school shall not limit admission based on ethnicity, national origin, religion, gender, income level, disabling condition, proficiency in the English language, or academic or athletic ability.
 - (d) A charter public school may limit admission to students 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.

(e) A charter public school may consider children under the age of compulsory attendance as students if they are enrolled in a publicly funded or free preschool program operated by the school. A charter public school may limit enrollment in the charter public school's preschool program to students who meet income eligibility requirements to participate in state-funded preschool programs.

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

(g) If capacity is insufficient to enroll all students who wish to attend the school, the charter public school shall select students through a lottery.

(h) A charter public school conducting an admissions lottery shall ensure that, subject to the provisions of Section IV, (2), every student has a fair opportunity to be considered in the lottery and that the lottery is competently conducted, randomized, transparent, and impartial so that students are accepted into a charter public school without regard to ethnicity, national origin, religion, gender, income level, disabling condition, proficiency in the English language, or academic or athletic ability, except as stated herein.

(2) Enrollment Preferences

(a) Once a student enrolls in a charter public school, that student remains enrolled until the student's enrollment is withdrawn by the student's legal guardian or the student is expelled by the school.

(b) Any non-charter public school converting partially or entirely to a charter public school shall adopt and maintain a policy giving enrollment preference to students who reside within the former attendance area of that public school.

(c) A charter public school may give enrollment preference to siblings of students already enrolled in the charter public school.

(d) A charter public school may give enrollment preference to children participating in a publicly funded or free preschool program operated by the charter public school.

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

(f) A charter public school may give enrollment preference to students who are at risk for academic failure, as defined in Section III, (3).

(g) A charter public school whose mission is single-gender education may limit admission on the basis of gender. If capacity is insufficient to enroll all students who wish to attend such school, the charter public school shall select students through a lottery.

(3) Credit Transferability

(a) If a student who was previously enrolled in a charter public school enrolls in another public school in this state, the student's new school shall accept credits earned by the student in courses or instructional programs at the charter public school in a uniform and consistent manner and according to the same criteria that are used to

accept academic credits from other public schools.

(4) Information to Parents and the General Public

(a) A school district shall provide or publicize to parents and the general public information about charter public schools authorized by the district as an enrollment option within the district to the same extent and through the same means that the district provides and publicizes information about non-charter public schools in the district.

(5) Determination of Student Capacity of Charter Public Schools

(a) An authorizer may not restrict the number of students a charter public school may enroll. The capacity of the charter public school shall be determined annually by the governing board of the charter public school in conjunction with the authorizer and in consideration of the charter public school's ability to facilitate the academic success of its students, to achieve the other objectives specified in the charter contract, and to ensure that its student enrollment does not exceed the capacity of its facility or site.

V. Authorizers

(1) Eligible Authorizing Entities

(a) The intent of this section is to create at least two active and effective authorizing options for each charter public school applicant, but not a large number of authorizers with authority in any single school district.

(b) The state charter public school commission created under Section V, (2) may authorize charter public schools anywhere in the state, provided that the commission fulfills the requirements of all charter public school authorizers under this Act.

(c) A school board may register with the [INSERT NAME OF STATE'S AUTHORIZER OVERSIGHT BODY], pursuant to Section V, (3) of this Act, for chartering authority within the boundaries of the school district overseen by the school board

(d) The following entities may apply to the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] for chartering authority pursuant to Section V, (3):

- (i) Governing boards of accredited public or private postsecondary institutions, including community colleges, technical colleges, tribal colleges, and four-year colleges and universities, for statewide, regional, or local chartering authority;
- (ii) A mayor, for chartering authority within the mayor's jurisdiction;
- (iii) A city council, for chartering authority within the city council's jurisdiction;
- and
- (iv) Governing boards of nonprofit or charitable organizations that are exempt from federal taxes under sections 501(c)(3) or 501(c)(6) of the Internal Revenue Code, which may be granted statewide, regional, or local chartering authority. Nonpublic sectarian or religious organizations, and any other charitable organization that

in their federal IRS Form 1023, Part IV, describe activities indicating a religious purpose, are not eligible to apply to become an authorizer.

(2) State Charter Public School Commission

(a) This Act establishes a state charter public school commission (the “Commission”) as an independent state agency with statewide chartering jurisdiction and authority. The Commission is the only authorizing entity in the state that does not need to register with or apply to the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] in order to become an eligible authorizer.

(b) The mission of the Commission shall be to authorize high-quality charter public schools throughout the state, particularly schools designed to expand opportunities for at-risk students, as defined in Section III, (3).

(c) The Commission is composed of the following seven members appointed to four-year terms:

(i) Two members, who may not be members of the same political party, appointed by the governor.

(ii) One member, who has previous experience with or on behalf of charter public schools, appointed by the state superintendent of education.

(iii) One member appointed by the president pro tempore of the Senate.

(iv) One member appointed by the minority leader of the Senate.

(v) One member appointed by the speaker of the House of Representatives.

(vi) One member appointed by the minority leader of the House of Representatives.

(d) In making the appointments, the appointers shall ensure statewide geographic diversity among Commission members.

(e) Members appointed to the Commission shall collectively possess strong experience and expertise in public and nonprofit governance, management and finance, public school leadership, assessment, curriculum and instruction, and public education law. All members of the Commission shall have demonstrated understanding of and commitment to charter public schooling as a strategy for strengthening public education.

(f) The initial appointments shall be made no later than [INSERT DATE].

(g) A member of the Commission may be removed for any cause that renders the member incapable or unfit to discharge the duties of the office. Whenever a vacancy on the Commission exists, the original appointing authority shall appoint a member for the remaining portion of the term.

(h) To commence operations, the Commission shall be funded initially by a one-time state appropriation of \$250,000. The Commission is authorized to receive and expend gifts, grants, and donations of any kind from any public or private entity to carry out the purposes of this Act, subject to the terms and conditions under which they are given, provided that all such terms and conditions are permissible under law.

(i) The Commission shall operate with dedicated resources and staff qualified to execute the day-to-day responsibilities of charter public school authorizing in accordance with this Act.

(3) Chartering Authority Registration of School Boards

(a) The [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] shall publicize to all school boards the opportunity to register with the state for chartering authority within the school districts they oversee. By [INSERT DATE] of each year, the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] shall provide information about the opportunity, including a registration deadline, to all school boards. To register as a charter authorizer in its school district, each interested school board shall submit the following information in a format to be established by the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT]:

- (i) Written notification of intent to serve as a charter authorizer in accordance with this Act;
- (ii) An explanation of the school board's strategic vision for chartering;
- (iii) An explanation of the school board's budget and personnel capacity and commitment to execute the duties of quality charter authorizing, in accordance with this Act;
- (iv) An explanation of how the school board will solicit charter public school applicants, in accordance with this Act;
- (v) A description or outline of the performance framework the school board will use to guide the establishment of a charter contract and for ongoing oversight and evaluation of charter public schools, consistent with the requirements of this Act;
- (vi) A draft of the school board's renewal, revocation, and nonrenewal processes, consistent with Section VII, (3); and
- (vii) A statement of assurance that the school board commits to serving as a charter authorizer in fulfillment of the expectations, spirit, and intent of this Act and will fully participate in any authorizer training provided or required by the state.

(b) Within [INSERT NUMBER OF DAYS] of receipt of a school board's duly submitted registration materials, the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] shall register the school board as a charter authorizer within the school board's school district and shall provide the school board a letter confirming its registration as a charter authorizer. No school board shall engage in any charter-authorizing functions without current registration as a charter authorizer with the state. Once registered, the school board's registration as a charter authorizer shall continue from year to year, provided that the school board fulfills all charter-authorizing duties and expectations set forth in this Act and remains an authorizer in good standing with the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT].

(4) Chartering Authority Application for Eligible Entities

(a) The [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] shall establish the annual application and approval process, including cycles and deadlines during the fiscal year, for all entities eligible to apply for chartering authority, as set forth in Section V, (1). By [INSERT DATE] of each year, the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH

AUTHORIZER OVERSIGHT] shall make available information and guidelines for all eligible entities concerning the opportunity to apply for chartering authority under this Act. This information and these guidelines shall provide for a clear and transparent process so that all applications are submitted within a predictable and publicly known timeframe. The application process shall require each interested eligible entity to submit an application that clearly explains or presents the following elements:

- (i) Written notification of intent to serve as a charter authorizer in accordance with this Act;
- (ii) The applicant entity's strategic vision for chartering;
- (iii) A plan to support the vision presented, including explanation and evidence of the applicant entity's budget and personnel capacity and commitment to execute the responsibilities of quality charter authorizing, in accordance with this Act;
- (iv) A draft or preliminary outline of the application that the applicant entity would, if approved as a charter authorizer, issue to solicit charter public school applicants, consistent with Section VI, (1);
- (v) A draft of the performance framework that the applicant entity would, if approved as a charter authorizer, use to guide the establishment of a charter contract and for ongoing oversight and evaluation of charter public schools, consistent with Section VII, (1);
- (vi) A draft of the applicant entity's renewal, revocation, and nonrenewal processes, consistent with Section VII, (3);
- (vii) A statement of assurance that the applicant entity seeks to serve as a charter authorizer in fulfillment of the expectations, spirit, and intent of this Act, and that if approved as a charter authorizer, the entity will fully participate in the state's authorizer accountability system and any authorizer training provided or required by the state; and
- (viii) A statement of assurance that the applicant will ensure public accountability and transparency in all matters concerning their charter-authorizing practices, decisions, and expenditures.

(b) By [INSERT DATE] of each year, the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] shall decide whether to grant or deny chartering authority to each applicant. The [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] shall make its decisions on the merits of each applicant's proposal and plans and ground its decisions in nationally recognized principles and standards for quality charter authorizing. The [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] will provide each applicant with a letter granting or denying the applicant's request and explaining the reasons for the decision.

(c) Within [INSERT NUMBER OF DAYS] of the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT]'s decision, the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] shall execute a renewable authorizing contract with each entity it has approved for chartering authority. The initial term of each authorizing contract shall be six years. The authorizing contract shall specify each approved entity's agreement to serve as a charter authorizer in accordance with the expectations of this Act and

shall specify additional performance terms based on the applicant's proposal and plan for chartering. No approved entity shall commence charter authorizing without an authorizing contract in effect.

(5) Authorizer Powers, Duties, and Liabilities

(a) Authorizers are responsible for executing, in accordance with this Act, the following essential powers and duties:

- (i) Soliciting and evaluating charter applications;
- (ii) Approving quality charter applications that meet identified educational needs and promote a diversity of educational choices;
- (iii) Denying weak or inadequate charter applications;
- (iv) Negotiating and executing sound charter contracts with each approved charter public school;
- (v) Monitoring, in accordance with charter contract terms, the performance and legal compliance of charter public schools; and
- (vi) Determining whether each charter contract merits renewal, nonrenewal, or revocation.

(b) An authorizing entity may delegate its duties to offices, employees, and contractors.

(c) Regulation by authorizers shall be limited to these powers and duties and consistent with the spirit and intent of this Act.

(d) An authorizing entity, members of the board of an authorizer in their official capacity, and employees of an authorizer are immune from civil and criminal liability with respect to all activities related to a charter public school they authorize.

(6) Principles and Standards for Charter Authorizing

(a) All authorizers shall be required to develop and maintain chartering policies and practices consistent with nationally recognized principles and standards for quality charter authorizing in all major areas of authorizing responsibility including: organizational capacity and infrastructure; soliciting and evaluating charter applications; performance contracting; ongoing charter public school oversight and evaluation; and charter renewal decision-making. Authorizers shall carry out all their duties under this Act in a manner consistent with such nationally recognized principles and standards and with the spirit and intent of this Act. Evidence of material or persistent failure to do so shall constitute grounds for losing charter authorizing powers.

(7) Authorizer Reporting

(a) Every authorizer shall be required to submit to the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] and the general assembly an annual report summarizing:

- (i) The authorizer's strategic vision for chartering and progress toward achieving that vision;

- (ii) The academic and financial performance of all operating charter public schools overseen by the authorizer, according to the performance expectations for charter public schools set forth in this Act;
- (iii) The status of the authorizer's charter public school portfolio, identifying all charter public schools in each of the following categories: approved (but not yet open), operating, renewed, transferred, revoked, not renewed, voluntarily closed, or never opened;
- (iv) The authorizing functions provided by the authorizer to the charter public schools under its purview, including the authorizer's operating expenses detailed in annual audited financial statements that conform with Generally Accepted Accounting Principles; and
- (v) The services purchased from the authorizer by the charter public schools under its purview, including an itemized accounting of the actual costs of these services, as required in Section V, (10).

(8) Authorizer Funding

- (a) To cover authorizer costs for overseeing charter public schools in accordance with this Act, each charter public school shall remit to its respective authorizer an oversight fee. The oversight fee shall be drawn from and calculated as a uniform percentage of the per-student operational funding allocated to each charter public school under Section IX, (2), not to exceed three percent of each charter public school's per-student funding in a single school year. The [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] shall establish a statewide formula for authorizer funding, which shall apply uniformly to every authorizer in the state. The [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] may establish a sliding scale for authorizer funding, with the funding percentage decreasing after the authorizer has achieved a certain threshold, such as after a certain number of schools have been authorized or after a certain number of students are enrolled in the authorizer's charter public schools. The [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] shall establish a cap on the total amount of funding that an authorizer may withhold from a full-time charter school.
- (b) An authorizer's oversight fee shall not cover any costs incurred in delivering services that a charter public school may purchase at its discretion from the authorizer. The authorizer shall use its funding provided under this section exclusively for the purpose of fulfilling authorizing obligations in accordance with this Act.
- (c) The [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] shall annually review the effectiveness of the state formula for authorizer funding and shall adjust the formula if necessary to maximize public benefit and strengthen the implementation of this Act.

(9) Conflicts of Interest

- (a) No employee, trustee, agent, or representative of an authorizer may simultaneously serve as an employee, trustee, agent, representative, vendor, or contractor of a charter public school authorized by that entity.

(10) Exclusivity of Authorizing Functions and Rights

(a) No governmental or other entity, other than those expressly granted chartering authority as set forth in this Act, may assume any charter authorizing function or duty in any form, unless expressly allowed by law.

(11) Services Purchased from Authorizer—Itemized Accounting

(a) With the exception of oversight services as required by Section V, (7), no charter public school shall 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.

(b) A charter public school may, at its discretion, choose to purchase services from its authorizer. In such event, the charter public 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 charter public school. An authorizer may not charge more than market rates for services provided to a charter public school.

(c) Within [INSERT NUMBER OF DAYS] after the end of each fiscal year, each authorizer shall provide to each charter public school it oversees an itemized accounting of the actual costs of services purchased by the charter public school from the authorizer. Any difference between the amount initially charged to the charter public school and the actual cost shall be reconciled and paid to the owed party. If either party disputes the itemized accounting, any charges included in such accounting, or charges to either party, the disputing party is entitled to request a third-party review at its own expense. The review shall be conducted by the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT], whose determination shall be final.

(12) Oversight of Charter Public School Authorizers

(a) The [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] shall be responsible for overseeing the performance and effectiveness of all authorizers established under this Act.

(b) In accordance with Section V, (6), every authorizer shall be required to submit to the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] and the general assembly an annual report. The [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] shall, by [INSERT DATE] of each year, communicate to every authorizer the requirements for the format, content, and submission of the annual report.

(c) Persistently unsatisfactory performance of an authorizer's portfolio of charter public schools, a pattern of well-founded complaints about the authorizer or its charter public schools, or other objective circumstances may trigger a special review by the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT]. In reviewing or evaluating the performance of authorizers, the

[INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] shall apply nationally recognized principles and standards for quality charter authorizing. If at any time the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] finds that an authorizer is not in compliance with an existing charter contract, its authorizing contract with the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT], or the requirements of all authorizers under this Act, the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] shall notify the authorizer in writing of the identified problems, and the authorizer shall have reasonable opportunity to respond and remedy the problems.

(d) If an authorizer's portfolio of schools fails to meet the state's minimum standard of performance of [INSERT STATE'S MINIMUM STANDARD OF PERFORMANCE], the ability of the authorizer to authorize new charter public schools shall be immediately suspended by the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] until it approves the authorizer to authorize new charter public schools, unless the authorizer demonstrates exceptional circumstances that the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] finds justifiable. A determination under this paragraph to suspend the ability of an authorizer to authorize new charter public schools shall identify the deficiencies that, if corrected, will result in the approval of the authorizer to authorize new charter public schools.

(e) If a school board registered as an authorizer under Section V, (3) persists in violating a material provision of a charter contract or fails to remedy other authorizing problems after due notice from the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT], the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] shall notify the school board, within a reasonable amount of time under the circumstances, that it intends to terminate the school board's chartering authority unless the school board demonstrates a timely and satisfactory remedy for the violation or deficiencies.

(f) If an authorizer granted chartering authority under Section V, (3) of this Act persists, after due notice from the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT], in violating a material provision of a charter contract or its authorizing contract with the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT], or fails to remedy other identified authorizing problems, the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] shall notify the authorizer, within a reasonable amount of time under the circumstances, that it intends to revoke the authorizer's chartering authority unless the authorizer demonstrates a timely and satisfactory remedy for the violation or deficiencies.

(g) In the event of revocation of any authorizer's chartering authority, the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] shall manage the timely and orderly transfer of each charter contract held by that authorizer to another authorizer in the state that is in good standing and has the capacity to assume oversight of additional charter contracts, with the mutual agreement of each affected charter public school and proposed new authorizer. The new authorizer shall assume the existing charter contract for the remainder of the charter term. In the event that no authorizer is willing to assume the charter contract of a given charter

public school, then the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] may make the Commission the authorizer of the school for a period of no more than two years, during which the school is required to find a permanent authorizer, which may include the Commission, or face closure. The [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] or the Commission may move to immediately close down any of these schools if they are not meeting the minimum academic and financial standards defined in Section VII, (3), (k).

(h) In the development and implementation of the state's authorizer accountability system, the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] shall seek input from current and eligible authorizers, charter public schools, and other stakeholders.

(i) The state shall provide for an annual appropriation to the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] to carry out its responsibilities regarding authorizer applications and authorizer oversight. The [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] is authorized to receive and expend gifts, grants, and donations of any kind from any public or private entity to carry out the purposes of this Act, subject to the terms and conditions under which they are given, provided that all such terms and conditions are permissible under law.

VI. Application Process

(1) Applications

(a) To solicit, encourage, and guide the development of quality charter public school applications, every authorizer operating under this Act shall issue and broadly publicize an application by [INSERT DATE]. The content and dissemination of the application shall be consistent with the purposes and requirements of this Act.

(b) Charter applicants may submit a proposal for a particular charter public school to no more than one authorizer at a time.

(c) The [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] shall annually establish and disseminate a statewide timeline for charter approval or denial decisions that shall apply to all authorizers in the state.

(d) Each authorizer's application shall present the authorizer's strategic vision for chartering, including a clear statement of any preferences the authorizer wishes to grant to applications that help at-risk students.

(e) The application shall include or otherwise direct applicants to the performance framework that the authorizer has developed for charter public school oversight and evaluation in accordance with Section VII, (1).

(f) The application shall include the criteria that will guide the authorizer's decision to approve or deny a charter application.

(g) The application shall state clear and concise questions as well as guidelines concerning the format and content essential for applicants to demonstrate the capacities necessary to establish and operate a successful charter public school.

- (h) The application shall require charter applicants to provide or describe clearly and concisely all of the following essential elements of the proposed school plan:
- (i) An executive summary;
 - (ii) The mission and vision of the proposed charter public school, including identification of the targeted student population and the community the school hopes to serve;
 - (iii) The location or geographic area proposed for the school;
 - (iv) The grades to be served each year for the full term of the charter contract;
 - (v) Minimum, planned, and maximum enrollment per grade per year for the term of the charter contract;
 - (vi) Evidence of need and community support for the proposed charter public school;
 - (vii) Background information on the proposed founding governing board members and, if identified, the proposed school leadership and management team;
 - (viii) The school's proposed calendar and sample daily schedule;
 - (ix) A description of the academic program aligned with state standards;
 - (x) 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, and teaching methods;
 - (xi) The school's plan for using internal and external assessments to measure and report student progress on the performance framework developed by the authorizer in accordance with Section VII, (1);
 - (xii) The school's plans for identifying and successfully serving students with disabilities, students who are English language learners, students who are academically behind, and gifted students, including but not limited to compliance with applicable laws and regulations;
 - (xiii) A description of co-curricular or extracurricular programs and how they will be funded and delivered;
 - (xiv) Plans and timelines for student recruitment, enrollment, and transfers, including enrollment preferences and procedures for conducting transparent admissions lotteries that are open to the public;
 - (xv) A code of student conduct that addresses a full range of disciplinary sanctions for general education and special education students and ensures that student rights and due process are protected;
 - (xvi) A process for conducting disciplinary hearings and appeals that is sufficiently detailed to ensure that the substantive and due process rights of the participants are protected;
 - (xvii) An organization chart that clearly presents the school's organizational structure, including lines of authority and reporting between the governing board, staff, 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;
 - (xviii) A clear description of the roles and responsibilities for the governing board, the school's leadership and management team, and any other entities shown in the organization chart;
 - (xix) A staffing chart for the school's first year and a staffing plan for the term of the charter;

- (xx) Plans for recruiting and developing school leadership, staff, and governing board members;
- (xxi) The school's leadership and teacher employment policies, including performance evaluation plans;
- (xxii) Proposed governing bylaws;
- (xxiii) Explanations of any partnerships or contractual relationships central to the school's operations or mission;
- (xxiv) The school's plans for providing transportation, food service, and all other significant operational or ancillary services;
- (xxv) Opportunities and expectations for parent involvement;
- (xxvi) A detailed school start-up plan identifying tasks, timelines, and responsible individuals;
- (xxvii) Description of the school's financial plan and policies, including financial controls and audit requirements;
- (xxviii) A description of the insurance coverage the school will obtain;
- (xxix) Start-up and five-year budgets with clearly stated assumptions;
- (xxx) Start-up and first-year cash-flow projections with clearly stated assumptions;
- (xxxi) Evidence of anticipated fundraising contributions, if claimed in the application; and
- (xxxii) A sound facilities plan, including backup or contingency plans if appropriate.

(i) In the case of a proposed charter public school that plans to convert an existing non-charter public school to charter public school status, the application shall additionally require the applicants to demonstrate support for the proposed charter public school conversion by a petition signed by a majority of teachers, a petition signed by a majority of parents of students in the existing non-charter public school, or a petition signed by the majority of the school board.

[Note: A state's charter public school law should include application requirements specific to full-time virtual charter public schools. What exactly those requirements should be depends on the sophistication of a state's student funding, attendance, and accountability systems. In the model law, we provide a list of options for states to consider. Depending on the circumstances in each state, one or more of these provisions will be most relevant. We encourage states to adopt as many of these options as possible to increase the state's chances of elevating the quality of full-time virtual charter public schools.]

(j) In the case of a proposed charter public school that plans to establish a full-time virtual charter public school, the application shall additionally require the applicants to provide a description regarding the methods by which the school will:

- (i) Ensure adequate supports are available to the students in their homes or regions, including parent-teacher conferences and interactions; and
- (ii) Monitor student outcomes and administer state-required assessments to all students in a proctored setting; AND/OR
- (iii) Establish and implement legally-permissible criteria and processes for enrollment based on the existence of supports needed for student success; AND/OR
- (iv) Provide the desired enrollment level of the school for each year of the charter contract, not to exceed [INSERT NUMBER] students in any given year, with any

increases in enrollment from one year to the next based on whether the school meets its performance requirements; AND/OR

(v) Provide detailed costs for the school and propose a funding level per student for the school that is based upon these detailed costs; AND/OR

(vi) Provide data for oversight, funding, and renewal and closure decisions for full-time virtual charter public school-specific goals regarding student enrollment, attendance, engagement, achievement, truancy, and attrition that demonstrates the school meets agreed upon benchmarks.

(k) In the case of a proposed charter public school that intends to contract with an education service provider for educational program implementation or comprehensive management, the application shall additionally require the applicants to:

(i) 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 non-academic school functions if applicable;

(ii) Provide a term sheet setting forth the proposed duration of the service contract; roles and responsibilities of the governing board, the school staff, and the service provider; scope of services and resources to be provided by the service provider; performance evaluation measures and timelines; compensation structure, including clear identification of all fees to be paid to the service provider; methods of contract oversight and enforcement; investment disclosure; and conditions for renewal and termination of the contract; and

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

(l) In the case of a proposed charter public school from an applicant that currently operates one or more schools in any state or nation, the application shall additionally require the applicant to provide evidence of past performance and current capacity for growth.

(2) Application Decision-making Process

(a) In reviewing and evaluating charter applications, authorizers shall employ procedures, practices, and criteria consistent with nationally recognized principles and standards for quality charter authorizing. The application review process shall include thorough evaluation of each written charter application, an in-person interview with the applicant group, and an opportunity in a public forum for local residents to learn about and provide input on each application. An authorizer shall be transparent about who is reviewing applications and conducting interviews.

(b) In deciding whether to approve charter applications, authorizers shall:

(i) 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 charter public school;

- (ii) Base decisions on documented evidence collected through the application review process; and
- (iii) Follow charter-granting policies and practices that are transparent, based on merit, and avoid conflicts of interest or any appearance thereof.

(c) No later than [INSERT NUMBER OF DAYS] after the filing of a charter application, the authorizer shall decide to approve or deny the charter application. The authorizer shall adopt by resolution all charter approval or denial decisions in an open meeting of the authorizer's governing board.

(d) An approval decision may include, if appropriate, reasonable conditions that the charter applicant must meet before a charter contract may be executed pursuant to Section VI, (5).

(e) For any charter denial, the authorizer shall clearly state, for public record, its reasons for denial. A denied applicant may subsequently reapply to that authorizer or apply to any other authorizer in the state.

(f) Within [INSERT NUMBER OF DAYS] of taking action to approve or deny a charter application, the authorizer shall report to the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] the action it has taken. The authorizer shall provide a copy of the report to the charter applicant at the same time that the report is submitted to the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT]. The report shall include a copy of the authorizer governing board's resolution setting forth the action taken and reasons for the decision and assurances as to compliance with all of the procedural requirements and application elements set forth in Section VI.

(3) Purposes and Limitations of Charter Applications

(a) The purposes of the charter application are to present the proposed charter public 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. An approved charter application shall not serve as the school's charter contract.

(4) Initial Charter Contract Term

(a) An initial charter contract shall be granted for a term of five operating years. The charter contract shall include the beginning and ending dates of the charter contract term. An approved charter public school may delay its opening for one school year in order to plan and prepare for the school's opening. If the school requires an opening delay of more than one school year, the school must request an extension from its authorizer. The authorizer may grant or deny the extension depending on the particular school's circumstances.

(5) Charter Contracts

(a) Within [INSERT NUMBER OF DAYS] of approval of a charter application, the authorizer and the governing board of the approved charter public school shall execute

a charter contract that clearly sets forth the academic and operational performance expectations and measures by which the charter public school will be judged pursuant to Section VII and the administrative relationship between the authorizer and charter public school, including each party's rights and duties.

[A state's charter public school law should include charter contract requirements specific to full-time virtual charter public schools. What exactly those requirements should be depends on the sophistication of a state's student funding, attendance, and accountability systems. In the model law, we provide a list of options for states to consider. Depending on the circumstances in each state, one or more of these provisions will be most relevant. We encourage states to adopt as many of these options as possible to increase the state's chances of elevating the quality of full-time virtual charter public schools.]

(b) The charter contract for a full-time virtual charter public school shall include a description and an agreement regarding the methods by which the school will:

- (i) Ensure adequate supports are available to the students in their homes or regions, including parent-teacher conferences and interactions; and
- (ii) Monitor student outcomes and administer state-required assessments to all students in a proctored setting; AND/OR
- (iii) Establish and implement legally-permissible criteria and processes for enrollment based on the existence of supports needed for student success; AND/OR
- (iv) Provide the desired enrollment level of the school for each year of the charter contract, not to exceed [INSERT NUMBER] students in any given year, with any increases in enrollment from one year to the next based on whether the school meets its performance requirements; AND/OR
- (v) Provide detailed costs for the school and propose a funding level per student for the school that is based upon these detailed costs; AND/OR
- (vi) Provide data for oversight, funding, and renewal and closure decisions for full-time virtual charter public school-specific goals regarding student enrollment, attendance, engagement, achievement, truancy, and attrition that demonstrates the school meets agreed upon benchmarks.

(c) The charter contract shall be signed by the president of the authorizer's governing board and the president of the charter public school's governing body. Within [INSERT NUMBER OF DAYS] of executing a charter contract, the authorizer shall submit to the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] written notification of the charter contract execution, including a copy of the executed charter contract and any attachments.

(d) No charter public school may commence operations without a charter contract executed in accordance with this provision and approved in an open meeting of the authorizer's governing board.

(6) Pre-Opening Requirements or Conditions

(a) Authorizers may establish mutually agreed upon pre-opening requirements or conditions to monitor the start-up progress of newly approved charter public schools, ensure that they are prepared to open smoothly on the date agreed, and ensure that each school meets all building, health, safety, insurance, and other legal requirements for

school opening.

VII. Accountability

(1) Performance Framework

(a) The performance provisions within the charter contract shall be based on a performance framework that clearly sets forth the academic and operational performance indicators, measures, and metrics that will guide the authorizer's evaluations of each charter public school. The performance framework shall include indicators, measures, and metrics for, at a minimum:

- (i) Student academic proficiency;
- (ii) Student academic growth;
- (iii) Achievement gaps in both proficiency and growth between major student subgroups;
- (iv) Attendance;
- (v) Recurrent enrollment from year to year;
- (vi) Postsecondary readiness (for high schools);
- (vii) Mission-specific goals;
- (viii) Financial performance and sustainability; and
- (ix) Board performance and stewardship, including compliance with all applicable laws, regulations, and terms of the charter contract.

(b) Annual performance targets shall be set by each charter public school subject to approval by its authorizer and shall be designed to help each school meet applicable federal, state, and authorizer expectations. The performance targets may be refined or amended by mutual agreement after the charter public school is operating and has collected baseline achievement data for its enrolled students.

(c) The performance framework shall require the disaggregation of all student performance data by major student subgroups (gender, race, poverty status, special education status, English Learner status, and gifted status).

(d) For each charter public school it oversees, the authorizer shall be responsible for collecting, analyzing, and reporting all data from state assessments and other state data sources in accordance with the performance framework. An authorizer may not request duplicative data entry and submission from their charter public schools and may not use the performance framework to create duplicative reporting requirements for their charter public schools.

(e) Multiple schools operating under a single charter contract or overseen by a single governing board shall be required to report their performance as separate, individual schools, with each school held independently accountable for its performance.

(2) Ongoing Oversight and Corrective Actions

(a) An authorizer shall continually monitor the performance and legal compliance of the charter public schools it oversees, including collecting and analyzing data to

support ongoing evaluation according to the charter contract. Every authorizer shall have the authority to conduct oversight activities that enable the authorizer to fulfill its responsibilities under this Act, including conducting appropriate inquiries and investigations, so long as those activities are consistent with the intent of this Act, adhere to the terms of the charter contract, and do not unduly inhibit the autonomy granted to charter public schools.

(b) Each authorizer shall annually publish and provide, as part of its annual report to the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] and the general assembly, a performance report for each charter public school it oversees, in accordance with the performance framework set forth in the charter contract and Section V, (7). The authorizer may require each charter public school it oversees to submit an annual report to assist the authorizer in gathering complete information about each school, consistent with the performance framework.

(c) In the event that a charter public school's performance or legal compliance is unsatisfactory, the authorizer shall promptly notify the charter public school of the perceived problem and provide reasonable opportunity for the school to remedy the problem, unless the problem warrants revocation, in which case the revocation timeframes in Section VII, (3) will apply.

(d) Every authorizer shall have the authority to take appropriate corrective actions or exercise sanctions short of revocation in response to deficiencies in charter public school performance or legal compliance. Such actions or sanctions may include, if warranted, requiring a school to develop and execute a corrective action plan within a specified timeframe.

(3) Renewals, Revocations, and Non-renewals

(a) A charter contract may be renewed for successive five-year terms of duration, although the authorizer may vary the term based on the performance, demonstrated capacities, and particular circumstances of each charter public school. An authorizer may grant renewal with specific conditions for necessary improvements to a charter public school.

(b) No later than [INSERT DATE], a charter public school that meets the following standards may submit to its authorizer an application for a differentiated renewal of the charter contract:

- (i) [INSERT ACADEMIC STANDARDS]; and
- (ii) [INSERT FINANCIAL STANDARDS].

If such a charter public school submits an application for a differentiated renewal, the charter contract automatically renews unless, not later than the 60th day after the date the charter public school submits the application, the authorizer provides written notice to the charter public school that differentiated renewal of the charter contract is denied. The authorizer may only deny differentiated renewal of a charter contract if the above authorizer finds exceptional circumstances that merit a denial.

(c) If a charter public school does not meet the criteria for differentiated renewal under paragraph (a) or for automatic closure under paragraph (k), the authorizer shall use the renewal process outlined in Section VII, (3), (d) to (j).

(d) No later than [INSERT DATE], the authorizer shall issue a charter public school performance report and charter contract renewal application guidance to any charter public school whose charter contract will expire the following year. The performance report shall summarize the charter public school's performance record to date, based on the data required by the charter contract and this Act, and shall provide notice of any weaknesses or concerns perceived by the authorizer concerning the charter public school that may jeopardize its position in seeking renewal if not timely rectified. The charter public school shall have [INSERT NUMBER OF DAYS] to respond to the performance report and submit any corrections or clarifications for the report.

(e) The renewal application guidance shall, at a minimum, provide an opportunity for the charter public school to:

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

(f) The renewal application guidance shall include or refer explicitly to the criteria that will guide the authorizer's renewal decisions, which shall be based on the performance framework set forth in the charter contract and consistent with this Act.

(g) No later than [INSERT DATE], the governing board of a charter public school seeking renewal shall submit a renewal application to the authorizer pursuant to the renewal application guidance issued by the authorizer. The authorizer shall rule by resolution on the renewal application no later than [INSERT NUMBER OF DAYS] after the filing of the renewal application.

(h) In making charter contract renewal decisions, every authorizer shall:

- (i) Ground its decisions in evidence of the school's performance over the term of the charter contract in accordance with the performance framework set forth in the charter contract;
- (ii) Ensure that data used in making renewal decisions are available to the school and the public; and
- (iii) Provide a public report summarizing the evidence basis for each decision.

(i) A charter contract may be revoked at any time or not renewed if the authorizer determines that the charter public school did any of the following or otherwise failed to comply with the provisions of this Act:

- (i) Commits a material and substantial violation of any of the terms, conditions, standards, or procedures required under the charter contract or this Act;
- (ii) Fails to meet or make sufficient progress toward the performance expectations set forth in the charter contract;
- (iii) Fails to meet generally accepted standards of fiscal management; or
- (iv) Substantially violates any material provision of law from which the charter public school was not exempted.

(j) An authorizer must develop revocation and non-renewal processes that:

- (i) Provide the charter contract holders with a timely notification of the prospect of revocation or non-renewal and of the reasons for such possible closure;
- (ii) Allow the charter contract holders a reasonable amount of time in which to prepare a response;
- (iii) Provide the charter contract holders with an opportunity to submit documents and give testimony challenging the rationale for closure and in support of the continuation of the school at an orderly proceeding held for that purpose;
- (iv) Allow the charter contract holders access to representation by counsel and to call witnesses on their behalf;
- (v) Permit the recording of such proceedings; and
- (vi) After a reasonable period for deliberation, require a final determination be made and conveyed in writing to the charter contract holders.

(k) At the end of the term of a charter contract, an authorizer shall not renew a charter contract if the standards below apply, unless the school demonstrates exceptional circumstances that the authorizer finds justifiable:

- (i) [INSERT ACADEMIC STANDARDS]; OR
- (ii) [INSERT FINANCIAL STANDARDS].

(l) If an authorizer revokes or does not renew a charter contract, the authorizer shall clearly state, in a resolution of its governing board, the reasons for the revocation or non-renewal.

(m) Within [INSERT NUMBER OF DAYS] of taking action to renew, not renew, or revoke a charter, the authorizer shall report to the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] the action taken and shall provide a copy of the report to the charter public school at the same time that the report is submitted to the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT]. The report shall include a copy of the authorizer governing board's resolution setting forth the action taken and reasons for the decision and assurances as to compliance with all of the requirements set forth in this Act.

(4) School Closure and Dissolution

(a) Prior to any charter public school closure decision, an authorizer shall have developed a charter public school closure protocol 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 Act. The protocol shall specify tasks, timelines, and responsible parties, including delineating the respective duties of the school and the authorizer. In the event of a charter public school closure for any reason, the authorizer shall oversee and work with the closing school to ensure a smooth and orderly closure and transition for students and parents, as guided by the closure protocol.

(b) In the event of a charter public school closure for any reason, the assets of the school shall be distributed first to satisfy outstanding payroll obligations for employees of the school, then to creditors of the school, and then to another charter public school or the

state treasury to the credit of the general revenue fund. If the assets of the school are insufficient to pay all parties to whom the school owes compensation, the prioritization of the distribution of assets may be determined by decree of a court of law.

(5) Charter Transfers

(a) Transfer of a charter contract, and of oversight of that charter public school, from one authorizer to another shall not be permitted except by special petition to the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] by a charter public school or its authorizer. The [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] shall review such petitions on a case-by-case basis and may grant transfer requests in response to special circumstances, evidence that such a transfer would serve the best interests of the charter public school's students, and agreement by the school and the authorizers.

(6) Annual Report

(a) On or before [INSERT DATE] of each year, beginning in the first year after the state will have had charter public schools operating for a full school year, the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] shall issue to the governor, the general assembly, and the public at large an annual report on the state's charter public schools, drawing from the annual reports submitted by every authorizer as well as any additional relevant data compiled by the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT], for the school year ending in the preceding calendar year. The annual report shall include a comparison of the performance of charter public school students with the performance of academically, ethnically, and economically comparable groups of students in non-charter public schools. In addition, the annual report shall include the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT]'s assessment of the successes, challenges, and areas for improvement in meeting the purposes of this Act, including the [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT]'s assessment of the sufficiency of funding for charter public schools, the efficacy of the state formula for authorizer funding, and any suggested changes in state law or policy necessary to strengthen the state's charter public schools. The [INSERT NAME OF EXISTING STATE ENTITY TASKED WITH AUTHORIZER OVERSIGHT] shall consult with the state's charter public schools and authorizers as it creates this annual report.

VIII. Operations and Autonomy

(1) Legal Status of Charter Public Schools

(a) Notwithstanding any provision of law to the contrary, to the extent that any provision of this Act is inconsistent with any other state or local law, rule, or regulation, the provisions of this Act shall govern and be controlling.

- (b) A charter public school shall be organized as a nonprofit education organization in order to fulfill public purposes.
 - (c) A charter public school shall be subject to all federal laws and authorities enumerated herein or arranged by charter contract with the school's authorizer, as permitted and consistent with applicable laws, rules, and regulations.
 - (d) Except as provided in this Act, a charter public school shall not be subject to the state's education statutes or any state or local rule, regulation, policy, or procedure relating to non-charter public schools within an applicable school district regardless of whether such rule, regulation, policy, or procedure is established by the school board, the state board of education, or the state department of education.
 - (e) A charter contract may consist of one or more schools, to the extent approved by the authorizer and consistent with applicable law. Each charter public school that is part of a charter contract shall be separate and distinct from any others.
 - (f) A single governing board may hold one or more charter contracts. Each charter public school that is part of a charter contract shall be separate and distinct from any others.
 - (g) Each governing board shall be required to adopt a viable conflict of interest policy and a code of ethics.
 - (h) Each governing board shall adopt a policy regarding the hiring of family members to avoid any nepotism in hiring and supervision. The policy shall include, among other things, a disclosure to the board of any potential nepotism in hiring and supervision. Any party with such a conflict shall not be involved in the hiring decision or supervision of a potential employee.
 - (i) Individuals compensated by an education service provider shall be prohibited from serving as a voting member on the board of any charter public school that contracts with the education service provider except in instances where the authorizer of the charter public school waives such restriction.
 - (j) A charter public school governing board shall have access to education service provider records necessary to oversee the education service provider contract.
- (2) Local Education Agency Status for Special Education *[The 43 jurisdictions with charter public school laws vary greatly in how they address the local education agency (LEA) status of charter public schools. In this model law, we provide two options for handling this issue in state law.]*

OPTION 1: A CHARTER PUBLIC SCHOOL IS A LOCAL EDUCATION AGENCY

- (a) Enrollment. A charter public school shall serve as the local education agency ("LEA") for the purpose of special education and related services. As such, it shall enroll all students without regard to disability and be responsible for identifying, evaluating, and providing appropriate special education and related services, modifications, and accommodations for students with disabilities and assuring that a full continuum of placements is available for any enrolled student.
- (b) Service Provision. Upon enrollment, students, including those with disabilities, are placed at the charter public school. After enrollment, the individualized education program ("IEP") team for each student with an IEP shall conduct a review, assessing the

new school setting in light of identified student needs and the current IEP. The IEP team will make any necessary adjustments to the IEP and the placement. The charter public school shall be responsible for conducting Child Find for all students enrolled in the charter public school. In order to implement a revised IEP, a charter public school may, if needed, retain independent contractors or contract for placements at other schools, in addition to employing its own special education and related service providers.

(c) Role of Network LEAs. A charter public school may collaborate with other charter public schools to create a Network Local Education Agency (“Network LEA”). In offering a continuum of placements to students with disabilities across multiple charter public schools, the Network LEA may take any action that could be taken by another LEA, subject to the same conditions that are placed on actions of the member charter public schools.

(d) Funding. A charter public school shall receive all federal and state categorical special education funds and be solely responsible for the cost of educating all students with disabilities who enroll at the school, including any cost of transportation and any cost of legal defense.

(e) Self-Insurance; Risk Pools. A charter public school may create a restricted self-insurance reserve for special education costs or liabilities. A charter public school may participate in any risk pool or similar cost-sharing arrangement otherwise permitted by law.

(f) Funding Transparency. The state department of education shall provide each charter public school with an annual accounting of federal, state, and local revenue, disaggregated by source, allocated to support the provision of special education and related services to students enrolled in the school.

(g) Excess Cost Aid. A charter public school shall have equal access to state supplemental reimbursement funds for students who require extraordinary special education and related services. A charter public school shall receive excess cost aid for special education and related services funded and delivered directly or indirectly by the school to pupils with significant disabilities in accordance with the level of service provided by the school. Where an LEA other than the charter public school provides these services directly or indirectly, it shall retain such funds.

(h) Access to Intermediate School Districts and Resource Organizations. A charter public school shall have access to centralized services and supports from the state’s intermediate school districts and resource organizations to the same extent as non-charter public schools.

OPTION 2: A CHARTER PUBLIC SCHOOL IS NOT A LOCAL EDUCATION AGENCY

(i) Enrollment. Each charter public school shall serve as a school of location within its local education agency (“LEA”) for purposes of special education and related services. A charter public school shall enroll students without regard to disability status. Following a student’s selection in the lottery, the individualized education program (“IEP”) of any student with a disability shall be immediately reviewed. If the charter public school has concerns about its ability to serve a student in a manner called for in a student’s IEP, it shall ask the LEA to convene an IEP team meeting to make any adjustments to the IEP and to school placement that the IEP team deems necessary. It is the LEA’s responsibility to determine an appropriate placement. In the instance where an IEP team determines

that the charter public school cannot implement a student's IEP, the LEA shall take responsibility for the student and direct his or her next placement.

(j) Service Provision. The LEA shall be responsible for identifying and evaluating in a timely matter those students with disabilities who are enrolled at the charter public school but not yet identified. For all students identified, the LEA shall be responsible for developing and overseeing an IEP. The LEA shall be responsible for the cost of any transportation required by the student's IEP and for any cost of legal defense. The charter public school shall be responsible for assuring that regular education employees of the charter public school implement the student IEPs. Should the LEA express concern regarding the conduct of any charter public school employee or contractor regarding a special education matter, the charter public school shall respond to such concerns in good faith, taking corrective action if appropriate. Should the school fail to take effective corrective action following such notice, it shall indemnify the LEA for any cost of defense or remedy attributable to the conduct of its employees or contractors.

(k) Role of Network LEAs. A charter public school may collaborate with other charter public schools to create a Network Local Education Agency ("Network LEA"). In offering a continuum of placements to students with disabilities across multiple charter public schools, the Network LEA may take any action that could be taken by another LEA, subject to the same conditions as are placed on the charter public schools.

(l) Funding.

(i) If the LEA provides all special education and related services to a charter public school, it shall receive all federal and state categorical special education funding. If the LEA provides less than all of the special education and related services, it shall retain an amount of federal and state funding proportionate to what it provides.

A charter public school may express its concerns with special education or related service staff of the LEA to the appropriate managers who shall respond to such concerns in good faith, taking corrective action or reassigning staff if appropriate.

(ii) If a charter public school provides special education and related services or contracts with other parties who provide such services, the school shall receive a share of federal and state special education funding, if any, proportionate to the level of services it provides to students with disabilities.

(iii) If a charter public school provides all special education and related services, or contracts with other parties to provide such services, for every student who enrolls in the school, the charter public school shall be responsible for identifying, evaluating, and providing appropriate special education and related services and accommodations for students with disabilities and assuring that a full continuum of placements is available. Such an arrangement shall be established only with the consent of the LEA and memorialized through a memorandum of understanding with the LEA. The charter public school may retain independent contractors or contract for placements at other schools, in addition to employing its own special education and related service providers. Such a charter public school shall receive all federal and state categorical special education funds less a reasonable administrative fee of the LEA, not to exceed two percent of such funds. The charter public school shall be solely responsible for the cost of educating all students with disabilities who enroll at the school including any cost of transportation and any cost of legal defense. The charter public school shall indemnify the LEA for all costs of defense

and all costs of remedies in special education matters attributable to any conduct of the charter public school and may maintain a restricted self-insurance reserve in an amount negotiated by the school and the LEA as security for such indemnification. The charter public school may participate in any risk pool or similar cost-sharing arrangement otherwise permitted by law.

(m) Severe Needs Programs. A charter public school may serve as a site for either a center-based or a model inclusion severe needs program. In that event, the LEA may place students in the program. Parents whose children are appropriately served by the severe needs program may select it by choice. The charter public school shall be responsible for designing the severe needs program and shall submit its plan to the LEA for approval, and that approval shall not be unreasonably denied. The charter public school shall receive all federal and state categorical special education funds attributable to such severe needs students and be solely responsible for the education of students placed in the program. The charter public school and LEA shall reach agreement on the excess and indirect costs that the LEA will pay the school, in addition to other funding, to support such a program. Students residing within the LEA shall receive preference in admissions. Enrollment of non-LEA students in the severe needs program shall be contingent upon available space and appropriate excess and indirect costs paid by the LEA-of-residence to support such enrollment. Should the LEA determine that the charter public school is not materially fulfilling its responsibilities under this section, it may revoke the charter public school's authority to conduct the severe needs program.

(n) Funding Transparency. An LEA shall provide each of its charter public schools with an annual accounting of federal, state, and local revenue, disaggregated by source, that is allocated to support the provision of special education and related services to students enrolled in the school.

(o) Excess Cost Aid. A charter public school shall have equal access to state supplemental reimbursement funds for students who require extraordinary special education and related services. A charter public school shall receive excess cost aid for special education and related services funded and delivered directly or indirectly by the school to pupils with significant disabilities in accordance with the level of service provided by the school. Where an LEA other than the charter public school provides all of these services, it shall retain such funds.

(p) Access to Intermediate School Districts and Resource Organizations. A charter public school shall have access to centralized services and supports from the state's intermediate school districts and resource organizations to the same extent as non-charter public schools.

(3) Powers of Charter Public Schools

(a) A charter public school shall have all the powers necessary for carrying out the terms of its charter contract including the following powers:

- (i) To receive and disburse funds for school purposes;
- (ii) To secure appropriate insurance and to enter into contracts and leases, free from prevailing wage laws;
- (iii) To contract with an education service provider for the management and

operation of the charter public school so long as the school's governing board retains oversight authority over the school;

(iv) To incur debt in reasonable anticipation of the receipt of public or private funds;

(v) To pledge, assign, or encumber its assets to be used as collateral for loans or extensions of credit;

(vi) To solicit and accept any gifts or grants for school purposes subject to applicable laws and the terms of its charter contract;

(vii) To acquire real property for use as its facility or facilities, from public or private sources;

(viii) To sue and be sued in its own name; and

(ix) To operate any education program that may be offered by any non-charter public school or school district.

(4) General Requirements

(a) A charter public school shall not discriminate against any person on the basis of race, creed, color, sex, disability, or national origin or any other category that would be unlawful if done by a non-charter public school.

(b) No charter public school may engage in any sectarian practices in its educational program, admissions or employment policies, or operations.

(c) A charter public school shall not discriminate against any student on the basis of national-origin minority status or limited proficiency in English. Consistent with federal civil rights laws, charter public schools shall provide students with limited English proficiency with appropriate services designed to teach them English and the general curriculum.

(d) A charter public school shall not charge tuition and may only charge such fees as may be allowed for non-charter public schools pursuant to state law.

(5) Applicability of Other Laws, Rules, and Regulations

(a) Charter public schools shall be subject to the same civil rights, health, and safety requirements applicable to other public schools in the state, except as otherwise specifically provided in this Act.

(b) Charter public schools shall be subject to the student assessment and accountability requirements applicable to other public schools in the state, but nothing herein shall preclude a charter public school from establishing additional student assessment measures that go beyond state requirements if the school's authorizer approves such measures.

(c) Charter public school governing boards shall be subject to and comply with state open meetings and freedom of information laws.

(d) An education service providers partnering with a charter public school shall provide information on an annual basis to the governing board of the charter public school regarding how the education service provider spends the public funding it receives for the operation of partner charter public schools in such categories as salaries, insurance, taxes, benefits, capital outlay, supplies, and materials when the providers are performing a public function under applicable state law.

(6) Charter Public School Employees

- (a) In accordance with Section VIII, (1), (d), teachers in charter public schools shall be exempt from state teacher certification requirements.
- (b) Employees in charter public schools shall have the same rights and privileges as other public school employees except as otherwise stated herein.
- (c) Employees in charter public schools shall be eligible for participation in retirement and other benefits programs of the state, if the charter public school chooses to participate and satisfies the criteria set forth by the Internal Revenue Service.
- (d) Criminal history record checks and fingerprinting requirements applicable to other public schools shall be mandatory for all school personnel, governing board members, and other individuals who regularly come into contact with students, such as volunteers and on-site employees of education service providers.
- (e) Charter public school employees cannot be required to be members of any existing collective bargaining agreement between a school district and its employees. A charter public school may not interfere, however, with laws and other applicable rules protecting the rights of employees to organize and be free from discrimination.

(7) Access to Extra-Curricular and Interscholastic Activities

- (a) A charter public school shall be eligible for state-sponsored or district-sponsored interscholastic leagues, competitions, awards, scholarships, and recognition programs for students, educators, administrators, and schools to the same extent as non-charter public schools.
- (b) A charter public school student is eligible to participate in extracurricular activities not offered by the student's school at the school within whose attendance boundaries the student's custodial parent or legal guardian resides or the non-charter public school from which the student withdrew for the purpose of attending a charter public school.
- (c) A charter public school student is eligible for extracurricular activities at a non-charter public school consistent with eligibility standards as applied to full-time students of the non-charter public school.
- (d) A school district or non-charter public school may not impose additional requirements on a charter public school student to participate in extracurricular activities that are not imposed on full-time students of the non-charter public school.
- (e) When selection to participate in an extracurricular activity at a non-charter public school is made on a competitive basis, a charter public school student is eligible to try out for and participate in the activity as provided in this section.
- (f) Charter public school students shall pay the same fees as other students to participate in extracurricular activities. Charter public school students are eligible for fee waivers similar to other students.

IX. Funding

[The 43 jurisdictions with charter public school laws vary greatly in how they fund charter public schools. In this model law, we provide three options for handling this issue in state law. In the first option, funding flows from the state to school districts to charter public schools. In the second option, funding flows from the state directly to charter public schools. In the third option, funding flows from the state to authorizers

to charter public schools.]

OPTION 1: FUNDING FLOWS FROM THE STATE TO SCHOOL DISTRICTS TO CHARTER PUBLIC SCHOOLS

(1) Enrollment

(a) The enrollment of students attending charter public schools shall be included in the enrollment, attendance, and, if applicable, count of students with disabilities of the school district in which the student resides. The charter public school shall report all such data to the school districts of residence in a timely manner. Each school district shall report such enrollment, attendance, and count of students with disabilities to the state department of education.

(2) Operational Funding

(a) For a charter public school authorized by a school district, the school district of residence shall pay directly to the charter public school for each student enrolled in the charter public school who resides in the school district an amount of state and local dollars for that student equal to one hundred percent of the amount calculated pursuant to the state's funding formula for school districts, notwithstanding the oversight fee reductions pursuant to Section V, (7).

(b) For a charter public school authorized by an entity other than a school district, the school district of residence shall pay directly to the charter public school for each student enrolled in the charter public school who resides in the school district an amount from the state equalization payments for the school district equal to one hundred percent of the amount calculated pursuant to the state's funding formula for each student in the resident school district multiplied by the number of students enrolled in the charter public school from the resident school district, notwithstanding the oversight fee reductions pursuant to Section V, (7).

(3) Payment Schedule

(a) Payments made pursuant to this section shall be made by school districts in twelve substantially equal installments each year beginning on the first business day of July and every month thereafter. Amounts payable under this section shall be determined by the state department of education. Amounts payable to a charter public school in its first year of operation shall be based on the projections of initial-year enrollment set forth in the charter contract. Such projections shall be reconciled with the actual enrollment at the end of the school's first year of operation. Any necessary adjustments shall be made to payments during the school's second year of operation.

(4) Sanctions for Failure to Make Payments

(a) In the event of the failure of a school district to make payments required by this section, the state treasurer shall deduct from any state funds that become due to such school district an amount equal to the unpaid obligation. The treasurer shall pay

such sum to the charter public school upon certification by the state department of education. The state department of education shall promulgate regulations to implement the provisions of this section.

(5) Categorical Funding

(a) A school district shall direct the proportionate share of moneys generated under federal and state categorical aid programs to charter public schools that have students or teachers who are eligible for such aid. A school district shall ensure that charter public schools with rapidly expanding enrollments are treated equitably in the calculation and disbursement of all federal and state categorical aid program dollars in the year in which they have students or teachers who are eligible for such aid. Each charter public school that receives such aid shall comply with all reporting requirements to receive the aid.

(6) Special Education Funding (See Section VIII, (2))

(7) Generally Accepted Accounting Principles—Independent Audit

(a) A charter public school shall adhere to Generally Accepted Accounting Principles.

(b) A charter public school shall annually engage an external auditor to do an independent audit of the school's finances. A charter public school shall file a copy of each audit report and accompanying management letter to its authorizer by [INSERT DATE].

(8) Transportation Funding

(a) The state department of education shall disburse state transportation funding to a school district for each of the charter public school students residing in the school district on the same basis and in the same manner as such funding is paid to school districts. A school district shall disburse state transportation funding to a charter public school in proportion to the number of the charter public school students who reside in the school district.

(b) A charter public school may enter into a contract with a school district or private provider to provide transportation to the school's student

(9) Budget Reserves

(a) Any monies received by a charter public school from any source and remaining in the charter public school's accounts at the end of any budget year shall remain in the charter public school's accounts for use by the charter public school during subsequent budget years.

(10) Ability to Accept Gifts, Donations, and Grants

(a) Nothing in this article shall be construed to prohibit any person or organization from providing funding or other assistance to the establishment or operation of a charter public school. The governing board of a charter public school is authorized to

accept gifts, donations, and grants of any kind made to the charter public school and to expend or use such gifts, donations, and grants in accordance with the conditions prescribed by the donor; provided, however, that no gift, donation, or grant may be accepted if subject to a condition that is contrary to any provision of law or term of the charter contract.

(11) Funding Transparency Annual Report

(a) It is the intent of the general assembly that students within charter public schools have available to their schools an amount of public funding equitable to the public funding provided to students in traditional public schools, inclusive of operational, categorical, and capital funding. To ensure that this intent is being fulfilled, the state department of education is required to create an annual report that includes the following:

(i) For each charter public school in the state, a comparison of the total per-pupil revenues received from all local, state, and federal dollars in all operational, categorical, and capital funding streams with the total per pupil revenues received from all local, state, and federal public dollars in all operational, categorical, and capital funding streams for each district from which the school draws its students, reported as an overall average and reported as broken down by operational, categorical, and capital funding streams.

(ii) An accounting of any funding weights that may exist in the distribution formula for any funds in which additional funding is provided for certain school types (e.g., high school) or student categories (e.g., special education), whereby efforts shall be made to offer the per pupil revenue comparisons after taking into consideration similar school types and similar groups of students within a given district.

(iii) Recommendations for steps that the general assembly should take to enhance equity as needed for students in charter public schools based upon the report's findings.

(12) This report shall be a public document that is presented to the general assembly by December 1 of each year.

OPTION 2: FUNDING FLOWS FROM THE STATE DIRECTLY TO CHARTER PUBLIC SCHOOLS

(1) Enrollment

(a) Each charter public school shall certify to the state department of education its student enrollment in the same manner as school districts.

(2) Operational Funding

(a) For a charter public school authorized by a school district, the state shall pay directly to the charter public school for each student enrolled in the charter public school an amount of state and local dollars for that student equal to one hundred percent of the amount calculated pursuant to the state's funding formula for the student's resident

school district, notwithstanding the oversight fee reductions pursuant to Section V, (7).

(b) For a charter public school authorized by an entity other than a school district, the state department of education shall withhold from the state equalization payments for each school district with students residing in the school district and attending the charter public school an amount equal to one hundred percent of the amount calculated pursuant to the state's funding formula for each student in the resident school district multiplied by the number of students enrolled in the charter public school from the resident school district. The state department of education shall send the sum of these withholdings to the charter public school, notwithstanding the oversight fee reductions pursuant to Section V, (7).

(3) Payment Schedule

(a) Payments made pursuant to this section shall be made by the state in twelve substantially equal installments each year beginning on the first business day of July and every month thereafter. Amounts payable under this section shall be determined by the state department of education. Amounts payable to a charter public school in its first year of operation shall be based on the projections of initial-year enrollment set forth in the charter contract. Such projections shall be reconciled with the actual enrollment at the end of the school's first year of operation. Any necessary adjustments shall be made to payments during the school's second year of operation.

(4) Categorical Funding

(a) The state shall direct the proportionate share of moneys generated under federal and state categorical aid programs to charter public schools that have students or teachers who are eligible for such aid. The state shall ensure that charter public schools with rapidly expanding enrollments are treated equitably in the calculation and disbursement of all federal and state categorical aid program dollars in the year in which they have students or teachers who are eligible for such aid. Each charter public school that receives such aid shall comply with all reporting requirements to receive the aid.

(5) Special Education Funding (See Section VIII, (2))

(6) Generally Accepted Accounting Principles – Independent Audit

(a) A charter public school shall adhere to Generally Accepted Accounting Principles.

(b) A charter public school shall annually engage an external auditor to do an independent audit of the school's finances. A charter public school shall file a copy of each audit report and accompanying management letter to its authorizer by [INSERT DATE].

(7) Transportation Funding

(a) The state department of education shall disburse state transportation funding to a charter public school on the same basis and in the same manner as such funding is paid to school districts.

(b) A charter public school may enter into a contract with a school district or private provider to provide transportation to the school's students.

(8) Budget Reserves

(a) Any monies received by a charter public school from any source and remaining in the charter public school's accounts at the end of any budget year shall remain in the charter public school's accounts for use by the charter public school during subsequent budget years.

(9) Ability to Accept Gifts, Donations, and Grants

(a) Nothing in this article shall be construed to prohibit any person or organization from providing funding or other assistance to the establishment or operation of a charter public school. The governing board of a charter public school is authorized to accept gifts, donations, and grants of any kind made to the charter public school and to expend or use such gifts, donations, and grants in accordance with the conditions prescribed by the donor; provided, however, that no gift, donation, or grant may be accepted if subject to a condition that is contrary to any provision of law or term of the charter contract.

(10) Funding Transparency Annual Report

(a) It is the intent of the general assembly that students within charter public schools have available to their schools an amount of public funding equitable to the public funding provided to students in traditional public schools, inclusive of operational, categorical, and capital funding. To ensure that this intent is being fulfilled, the state department of education is required to create an annual report that includes the following:

(i) For each charter public school in the state, a comparison of the total per pupil revenues received from all local, state, and federal dollars in all operational, categorical, and capital funding streams for the school with the total per pupil revenues received from all local, state, and federal public dollars in all operational, categorical, and capital funding streams for each district from which the school draws its students, reported as an overall average and reported as broken down by operational, categorical, and capital funding streams.

(ii) An accounting of any funding weights that may exist in the distribution formula for any funds in which additional funding is provided for certain school types (e.g., high school) or student categories (e.g., special education), whereby efforts shall be made to offer the per pupil revenue comparisons after taking into consideration similar school types and similar groups of students within a given district.

(iii) Recommendations for steps that the general assembly should take to enhance equity as needed for students in charter public schools based upon the report's findings.

(b) This report shall be a public document that is presented to the general assembly by

December 1 of each year.

OPTION 3: FUNDING FLOWS FROM THE STATE TO AUTHORIZERS TO CHARTER PUBLIC SCHOOLS

(1) Enrollment

(a) Each authorizer shall certify to the state department of education the student enrollment for that year for each of its charter public schools in the same manner as school districts.

(2) Operational Funding

(a) For a charter public school authorized by a school district, the school district shall pay directly to the charter public school for each student enrolled in the school an amount of state and local dollars for that student equal to one hundred percent of the amount calculated pursuant to the state's funding formula for the student's resident school district, notwithstanding the oversight fee reductions pursuant to Section V, (7).

(b) For a charter public school authorized by an entity other than a school district, the state department of education shall withhold from the state equalization payments for each school district with students residing in the school district and attending the charter public school an amount equal to one hundred percent of the amount calculated pursuant to the state's funding formula for each student in the resident school district multiplied by the number of students enrolled in the charter public school from the resident school district. The state department of education shall send the sum of these withholdings to the authorizer. The authorizer shall forward the sum of these withholdings to each charter public school, notwithstanding the oversight fee reductions pursuant to Section V, (7).

(3) Payment Schedule

(a) Payments made pursuant to this section shall be made by an authorizer in twelve substantially equal installments each year beginning on the first business day of July and every month thereafter. Amounts payable under this section shall be determined by the state department of education. Amounts payable to a charter public school in its first year of operation shall be based on the projections of initial-year enrollment set forth in the charter contract. Such projections shall be reconciled with the actual enrollment at the end of the school's first year of operation. Any necessary adjustments shall be made to payments during the school's second year of operation.

(4) Sanctions for Failure to Make Payments

(a) In the event of the failure of an authorizer to make payments required by this section, the state treasurer shall deduct from any state funds which become due to such an authorizer an amount equal to the unpaid obligation. The treasurer shall pay over such sum to the charter public school upon certification by the state department of

education. The state department of education shall promulgate regulations to implement the provisions of this section.

(5) Categorical Funding

(a) An authorizer shall direct the proportionate share of moneys generated under federal and state categorical aid programs to charter public schools that have students or teachers that are eligible for such aid. The state shall ensure that charter public schools with rapidly expanding enrollment are treated equitably in the calculation and disbursement of all federal and state categorical aid program dollars in the year in which they have students or teachers that are eligible for such aid. Each charter public school that receives such aid shall comply with all reporting requirements to receive the aid.

(6) Special Education Funding (See Section VIII, (2))

(7) Generally Accepted Accounting Principles – Independent Audit

(a) A charter public school shall adhere to Generally Accepted Accounting Principles.

(b) A charter public school shall annually engage an external auditor to do an independent audit of the school's finances. A charter public school shall file a copy of each audit report and accompanying management letter to its authorizer by [INSERT DATE].

(8) Transportation Funding

(a) The state department of education shall disburse state transportation funding to an authorizer for each of its charter public school students on the same basis and in the same manner as it is paid to school districts. An authorizer shall disburse state transportation funding to a charter public school in proportion to the amount generated by the school's students.

(b) A charter public school may enter into a contract with a school district or private provider to provide transportation to the school's students.

(9) Budget Reserves

(a) Any monies received by a charter public school from any source and remaining in the charter public school's accounts at the end of any budget year shall remain in the charter public school's accounts for use by the charter public school during subsequent budget years.

(10) Ability to Accept Gifts, Donations, and Grants

(a) Nothing in this article shall be construed to prohibit any person or organization from providing funding or other assistance to the establishment or operation of a charter public school. The governing board of a charter public school is authorized to accept gifts, donations, and grants of any kind made to the charter public school and to expend or use such gifts, donations, and grants in accordance with the conditions

prescribed by the donor; provided, however, that no gift, donation, or grant may be accepted if subject to a condition that is contrary to any provision of law or term of the charter contract.

(11) Funding Transparency Annual Report

(a) It is the intent of the general assembly that students within charter public schools have available to their schools an amount of public funding equitable to the public funding provided to students in traditional public schools, inclusive of operational, categorical, and capital funding. To ensure that this intent is being fulfilled, the state department of education is required to create an annual report that includes the following:

(i) For each charter public school in the state, a comparison of the total per pupil revenues received from all local, state, and federal dollars in all operational, categorical, and capital funding streams for the school with the total per pupil revenues received from all local, state, and federal public dollars in all operational, categorical, and capital funding streams for each district from which the school draws its students, reported as an overall average and reported as broken down by operational, categorical, and capital funding streams.

(ii) An accounting of any funding weights that may exist in the distribution formula for any funds in which additional funding is provided for certain school types (e.g., high school) or student categories (e.g., special education), whereby efforts shall be made to offer the per pupil revenue comparisons after taking into consideration similar school types and similar groups of students within a given district.

(iii) Recommendations for steps that the general assembly should take to enhance equity as needed for students in charter public schools based upon the report's findings.

(b) This report shall be a public document that is presented to the general assembly by December 1 of each year.

IV. Facilities

[In this model law, we provide a menu of approaches for handling this issue in state law, most of which should be included in a given state's law.]

FACILITIES FUNDING

(1) Per-Student Facility Allowance

(a) The per-student facility allowance for charter public schools shall be determined as follows: the total capital costs for public schools in the state over the past five years shall be divided by the total student count in the state's public schools over the past five years.

(b) The actual facility allowance payments to be received by each charter public school shall be determined as follows: the per-student facility allowance shall be multiplied by the number of students estimated to be attending each charter public school

(2) Charter Public School Facility Grant Program

(a) The [INSERT NAME OF APPROPRIATE STATE ENTITY] shall establish, within available bond authorizations, a grant program to assist charter public schools in financing school building projects, general improvements to school buildings, and repayment of debt for school building projects. Charter public schools may apply for such grants to the [INSERT NAME OF APPROPRIATE STATE ENTITY] at such time and in such manner as the [INSERT NAME OF APPROPRIATE STATE ENTITY] prescribes. The [INSERT NAME OF APPROPRIATE STATE ENTITY] shall give preference to applications from high-quality charter public schools serving at-risk students.

(b) For the purposes described in subsection (c) of this section, the [INSERT NAME OF APPROPRIATE STATE BONDING AUTHORITY] shall have the power, from time to time, to authorize the issuance of bonds of the state in one or more series and in principal amounts not exceeding in the aggregate [INSERT DOLLAR AMOUNT] provided [INSERT DOLLAR AMOUNT] of said authorization shall be effective [INSERT DATE].

(c) The proceeds of the sale of said bonds, to the extent of the amount stated in subsection (b) of this section, shall be used by the [INSERT NAME OF APPROPRIATE STATE ENTITY] for the purpose of grants pursuant to subsection (a).

(d) Bonds issued pursuant to this section shall be general obligations of the state, and the full faith and credit of the state are pledged for the payment of the principal of and interest on said bonds as the same become due, and accordingly and as part of the contract of the state with the holders of said bonds, appropriation of all amounts necessary for punctual payment of such principal and interest is hereby made, and the state treasurer shall pay such principal and interest as the same become due.

(3) Access to State Facilities Programs for Non-Charter Public Schools

[Charter public schools should have equal access to all of the existing state facilities programs for traditional public schools in a state. To implement this item, a state must amend the relevant section of the law (e.g., public school capital construction assistance fund section) to clarify that charter public schools are eligible to obtain funding from the relevant program.]

ACCESS TO PUBLIC SPACE

(4) Requirement to Provide School District Space or Funding

(a) A charter public school may request public school facilities from any school district in which at least 50 enrolled students reside. The school district shall furnish school facilities to the charter public school students pursuant to a written request from the charter public school.

(b) Within the later of five months after a charter public school's written request for school facilities and thirty days after the charter public school's application is approved by its authorizer, the school district in which the charter public school will be located shall either: offer at no cost to the charter public school space in a public school building

or offer the charter public school space in a privately owned or other publicly owned facility at the expense of the school district and at no cost to the charter public school. The space must be reasonable, appropriate, and comparable to public school building space.

(c) No later than thirty days after approval by the school district or expiration of the offer period prescribed in Section X, (1), (b), the charter public school shall either accept the school district's offer or appeal in accordance with Section X, (4), (d). If no appeal is taken, the school district's offer or refusal to make an offer shall be final and nonreviewable.

(d) The charter public school shall have the option of appealing the school district's offer or failure to offer a site through [OUTLINE APPROPRIATE APPELLATE OPTIONS].

(e) If the appeal results in a determination in favor of the school district, the school district's offer shall be final and the charter public school may either accept such offer and move into the space offered by the school district at the school district's expense or locate in another site at the charter public school's expense.

(f) If the appeal results in a determination in favor of the charter public school, the school district shall pay the charter public school an amount that is equal to the lesser of:

- (i) the actual rental cost of an alternative privately owned site selected by the charter public school or
- (ii) [INSERT APPROPRIATE PERCENTAGE] of the charter public school's total per pupil operating revenues based on the current year enrollment.

(5) Right to Lease or Purchase Unused District Facilities

(a) As used in this section, "charter public school" has the meaning set forth in Section III, (13) and includes a group or entity seeking approval from an authorizer to operate a charter public school.

(b) Except as provided in subsections (h) through (k), a school district shall make available for lease or purchase to any charter public school any school building owned by the local school district or any other entity that is related in any way to, or created by, the school district, including but not limited to a building corporation, that either is not used in whole or in part for classroom instruction at the time the charter public school seeks to lease the building or appears on the list compiled by the state department of education under subsection (c) and was previously used for classroom instruction in order for the charter public school to conduct classroom instruction.

(c) Not later than August 1 each calendar year, each school district shall inform the state department of education if a school building that was previously used for classroom instruction is closed, unused, or unoccupied. The department shall maintain a list of closed, unused, or unoccupied school buildings and make the list available on the department's Internet web site. Each school district shall provide a list of closed, unused, or unoccupied buildings to the department by the date set by the department. The department must update the list each year before August 31.

(d) If a school district fails to notify the department of a closed, unused, or unoccupied building under this section or otherwise seeks to dispose of the building in a manner

not consistent with this section, a charter public school or a statewide organization representing charter public schools has standing to bring suit against the school district to stop any disposal of the building and place the building on the department's list of available buildings. Any judgment on behalf of the charter public school or organization representing charter public schools shall include reasonable attorney's fees.

(e) If a charter public school wishes to use a school building on the list created under subsection (c), the charter public school shall send a letter of intent to the department. Within thirty (30) days after receiving a letter from a charter public school, the department shall notify the school district of the charter public school's intent, and, within thirty (30) days after receiving notification from the department, the school district that owns the school building shall lease the school building to the charter public school for one dollar (\$1) per year for as long as the charter public school uses the school building for classroom instruction or for a term at the charter public school's discretion, or sell the school building to the charter public school for one dollar (\$1). The charter public school must begin to use the school building for classroom instruction no later than two (2) years after acquiring the school building. If the school building is not used for classroom instruction within two (2) years after acquiring the school building, the school building shall be placed on the department's list under subsection (c). If during the term of the lease the charter public school closes or ceases using the school building for classroom instruction, the school building shall be placed on the department's list under subsection (c). If a school building is sold to a charter public school under this subsection and the charter public school or any entity related to the charter public school subsequently sells or transfers the school building to a third party, the charter public school or related entity must transfer an amount equal to the gain in the property minus the adjusted basis (including costs of improvements to the school building) to the school district that initially sold the vacant school building to the charter public school. Gain and adjusted basis shall be determined in the manner prescribed by the Internal Revenue Code and the applicable Internal Revenue Service regulations and guidelines.

(f) During the term of a lease under subsection (e), the charter public school is responsible for the direct expenses related to the school building leased, including utilities, insurance, maintenance, repairs and remodeling. The school district is responsible for any debt incurred for or liens that attached to the school building before the charter public school leased the school building.

(g) Notwithstanding subsection (b), a school district may request a waiver from the department from the requirements of subsection (b). In order for a school district to receive a waiver, the school district must apply to the department, on a form prescribed by the department, for the waiver. The application must include a statement that the school district believes that a charter public school would not be interested in leasing or purchasing the vacant or unused school building and another suitable use has been identified.

(h) If the department receives a waiver request under subsection (h), the department, within five (5) days after receiving the waiver request, shall notify each charter public school authorizer and statewide organization representing charter public schools by certified mail of the waiver request. The notice must include a copy of the school district's waiver request.

(i) Not later than thirty (30) days after a charter public school authorizer or statewide

organization representing charter public schools receives a notice described in subsection (i), the charter public school authorizer or a statewide organization representing charter public schools may submit a qualified objection to the school district's request for a waiver. The qualified objection must be submitted to the department in writing. In order for an objection to be considered a qualified objection by the department, the objection must include:

- (i) the name of the charter public school that is interested in leasing or purchasing the vacant or unused school building; and
 - (ii) a time frame, which may not exceed one year from the date of the objection, in which the charter public school intends to begin providing classroom instruction in the vacant or unused school building.
- (j) If the department receives a qualified objection under subsection (j), the vacant or unused school building shall remain on the department's list under subsection (c) with the designation with which the building is listed at the time the department receives the waiver request. If the department does not receive a qualified objection, the department shall grant the school district's request for a waiver. A school district that receives a waiver under this subsection may sell or otherwise dispose of the unused or vacant school building.
- (k) A school district may not make a covenant that prohibits the sale of real property to another educational institution.

ACCESS TO FINANCING TOOLS

(6) Charter Public School Facility Revolving Loan Program

- (a) The charter public school facility revolving loan program is hereby created in the state treasury. The charter public school facility revolving loan program shall comprise federal funds obtained by the state for charter public schools and any other funds appropriated or transferred to the fund by the state. Funds appropriated to the charter public school facility revolving loan program shall remain available for the purposes of the program until reappropriated or reverted by the general assembly.
- (b) Loans may be made from moneys in the charter public school facility revolving loan program to a charter public school, upon application by a charter public school and approval by the [INSERT NAME OF APPROPRIATE STATE ENTITY] or its designee. Money loaned to a charter public school pursuant to this section shall be for construction, acquisition, renovation, improvement, and maintenance of charter public school facilities. No loan to a charter public school shall exceed [INSERT DOLLAR AMOUNT] over [INSERT NUMBER OF YEARS]. A charter public school may receive multiple loans from the charter public school facility revolving loan program, as long as the total amount received from the program over [INSERT NUMBER OF YEARS] does not exceed [INSERT DOLLAR AMOUNT].
- (c) The [INSERT NAME OF APPROPRIATE STATE ENTITY] or its designee may consider all of the following when making a determination as to the approval of a charter public school's loan application:

- (i) Soundness of the financial business plans of the applicant charter public school.
- (ii) Availability to the charter public school of other sources of funding.

- (iii) Geographic distribution of loans made from the charter public school facility revolving loan program.
- (iv) The impact that loans received pursuant to this section will have on the charter public school's receipt of other private and public financing.
- (v) Plans for enhancing or leveraging funds received pursuant to this section, such as loan guarantees or other types of credit enhancements.
- (vi) The financial needs of the charter public school.

(d) Commencing with the first fiscal year following the fiscal year the charter public school receives the loan, the [INSERT NAME OF APPROPRIATE STATE AGENCY] shall deduct from apportionments made to the charter public school, as appropriate, an amount equal to the annual repayment of the amount loaned to the charter public school under this section and pay the same amount into the charter public school facility revolving loan program in the state treasury. Repayment of the full amount loaned to the charter public school shall be deducted by the [INSERT NAME OF APPROPRIATE STATE AGENCY] in equal annual amounts over a number of years agreed upon between the charter public school and the [INSERT NAME OF APPROPRIATE STATE ENTITY] or its designee, not to exceed [INSERT NUMBER OF YEARS] for any loan.

(e) Notwithstanding other provisions of law, a loan may be made to a charter public school pursuant to this section only in the case of a charter public school that is incorporated.

(f) Notwithstanding other provisions of law, in the case of default of a loan made directly to a charter public school pursuant to this section, the charter public school shall be solely liable for repayment of the loan.

(7) Bonding Authority

[Charter public schools should either have equal access to all of the relevant bonding authorities in a state or have their own bonding authority. For the first option, a state must amend the appropriate section of the law (e.g., state health and educational facility authority section) to clarify that charter public schools are eligible to obtain tax-exempt financing from the relevant authority. For the second option, see language below.]

- (a) As used in this section:
 - (i) "Authority" means the state charter public school finance authority created by this section.
 - (ii) "Obligations" mean any notes, debentures, revenue bonds, or other evidences of financial indebtedness, except general obligation bonds.
 - (iii) "Project" means:
 - (A) Any building, structure, or property owned, or to be acquired, by a charter public school for any of its educational purposes and the related appurtenances, easements, rights-of-way, improvements, paving, utilities, landscaping, parking facilities, and lands; or
 - (B) Any capital equipment owned, or to be acquired, by a charter public school for any of its educational purposes, interests in land, and grounds, together with the personal property necessary, convenient, or appurtenant to them.

- (b) There is created a body politic and corporate known as the state charter public school finance authority. The authority is created to provide an efficient and cost-effective method of financing charter public school facilities.
- (c) The governing board of the authority shall be composed of:
 - (i) The governor or the governor's designee;
 - (ii) The state treasurer; and
 - (iii) The state superintendent of public instruction or the state superintendent's designee.
- (d) Upon request, the state board of education shall provide staff support to the authority.
- (e) The authority shall have perpetual succession as a body politic and corporate.
- (f) The authority may:
 - (i) Sue and be sued in its own name;
 - (ii) Have, and alter at will, an official seal;
 - (iii) Receive and accept aid or contributions from any source, including the United States or this state, in the form of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this part, subject to the conditions upon which the aid and contributions are made, for any purpose consistent with this part;
 - (iv) Exercise the power to borrow money and issue obligations, except the authority may only exercise powers to finance a project as defined in state law;
 - (v) Employ advisers, consultants, and agents, including financial experts, independent legal counsel, and any advisers, consultants, and agents as may be necessary in its judgment and fix their compensation;
 - (vi) Make and execute contracts and other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions; and
 - (vii) Have and exercise any other powers or duties that are necessary or appropriate to carry out and effectuate the purposes of this chapter.
- (g) If the authority is dissolved at any time, for any reason, all funds, property, rights, and interests of the authority, following the satisfaction of the authority's obligations, shall immediately vest in and become the property of the state, which shall succeed to all rights of the authority subject to any encumbrances which may then exist on any particular properties.
- (h) None of the net earnings of the authority shall inure to the benefit of any private person.

(8) Moral Obligation of the State

- (a) The general assembly hereby finds and declares that its intent in enacting this section is to support charter public schools and charter public school capital construction by helping qualified charter public schools that choose to have the [INSERT NAME OF BONDING AUTHORITY] issue bonds on their behalf obtain

more favorable financing terms for the bonds.

(b) If the [INSERT NAME OF BONDING AUTHORITY] has issued bonds on behalf of a charter public school that defaults on its debt service payment obligations, the board of directors of the authority shall submit to the governor a certificate certifying any amount of moneys required to fulfill the school's debt service payment obligations. The governor shall submit a request for appropriations in an amount sufficient to fulfill the school's debt service payment obligations and the general assembly may, but shall not be required to, appropriate moneys for said purpose. If, in its sole discretion, the general assembly appropriates any moneys for said purpose, the aggregate outstanding principal amount of bonds for which moneys may be appropriated for said purpose shall not exceed [INSERT DOLLAR AMOUNT].

(9) State Charter Public School Debt Reserve Fund

(a) The general assembly shall create a state charter public school debt reserve fund, including a state charter public school interest savings account, to enhance the ability of any qualified charter public school that chooses to finance capital construction with revenues from bonds issued on behalf of the qualified charter public school by the appropriate authority to obtain such financing on favorable terms by providing a source of moneys that can be used to make bond payments if the qualified charter public school fails to make such payments. An initial appropriation of at least [INSERT DOLLAR AMOUNT] shall be made to this fund.

(b) This section shall not be construed to create any state debt, to require the state to make any bond payments on behalf of any qualified charter public school from any source of state moneys other than the state charter public school debt reserve fund, or to require the state to fully pay off any outstanding bonds of a qualified charter public school that cannot make scheduled bond payments.

(10) School District Inclusion of Charter Public Schools in School District Bonding and Mill Levy Requests

(a) Each school district that is considering the submission of any question regarding bonded indebtedness or a mill levy to the eligible electors of the district at an upcoming election shall include any charter public school located within the district in all discussions regarding the possible submission of such a question.

(b) Any resolution submitted to the qualified electors to request the approval of funding for bonds or mill levy purposes shall include an equitable funding amount for any charter public school:

- (i) located in the district's boundaries, whether authorized by the local school board or another authorizer;
- (ii) in good standing with its authorizer; and
- (iii) that provides the necessary information, as required by state law related to bond resolution or mill levy requests, in a timely manner to the school district for inclusion in the resolution that identifies the capital improvements of the charter public school for which the revenue proposed will be used.

(c) For resolutions approved by the electors, the amount of tax revenue to be distributed to each charter public school that was included in the resolution shall be determined each year and shall be in the same proportion as the average full-time-equivalent enrollment of the charter public school on the fortieth day of the prior school year is to the total such enrollment in the school district. The state department of education shall annually certify to the treasurer of the county in which the eligible charter public schools in the school district are located the percentage of the revenue to be distributed to each charter public school. The county treasurer shall distribute the charter public school's share of the property tax revenue directly to the charter public school.

(d) If a district is not submitting a resolution to the qualified electors, a charter public school in good standing may submit its own resolution to the voters of the district, following all applicable laws regarding the creation and submission of such a resolution. In this case, the charter public school shall agree to pay all costs of submitting the ballot question and the disbursement of funds.

(e) In the event a charter public school's charter contract is revoked or not renewed, the charter public school becomes insolvent and can no longer operate as a charter public school, or the charter public school otherwise ceases to operate, the ownership of any capital construction financed by the bond or mill levy proceeds shall automatically revert to the school district following payment of all other debts secured by the capital construction.

(11) Credit Enhancement Fund

(a) [INSERT DOLLAR AMOUNT] shall be set aside for a credit enhancement fund for charter public schools to be administered by the [INSERT NAME OF APPROPRIATE STATE ENTITY].

(b) Using the amounts described in paragraph (a), the [INSERT NAME OF APPROPRIATE STATE ENTITY] shall make and disburse grants to eligible nonprofit corporations to carry out the purposes described in paragraph (c).

(c) The recipient of a grant under this fund shall use the monies provided under the grant to carry out activities to assist charter public schools in:

- (i) Obtaining financing to acquire interests in real property (including by purchase, lease, or donation), including financing to cover planning, development, and other incidental costs;
- (ii) Obtaining financing for construction of facilities or the renovation, repair, or alteration of existing property or facilities (including the purchase or replacement of fixtures and equipment), including financing to cover planning, development, and other incidental costs;
- (iii) Enhancing the availability of loans (including mortgages) and bonds; and
- (iv) Obtaining lease guarantees.

(d) Funds provided under a grant under this subparagraph may not be used by a recipient to make direct loans or grants to charter public schools.

OTHER PROVISIONS

(12) Contracting for Use of Facilities

(a) A charter public school may negotiate and contract at or below fair market value with a school district, 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 facility for a school building.

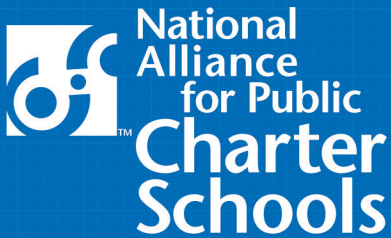
(13) Use of Other Facilities under Preexisting Zoning and Land Use Designations

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

(14) Exemptions from Ad Valorem Taxes and Certain Fees

(a) Any facility, or portion thereof, used to house a charter public school shall be exempt from ad valorem taxes.

(b) Charter public school facilities are exempt from assessments of fees for building permits, fees for building and occupational licenses, impact fees, service availability fees, and assessments for special benefits.



The National Alliance For Public Charter Schools

1101 Fifteenth Street, NW, Suite 1010, Washington, DC 20005

202.289.2700 www.publiccharters.org

Copyright National Alliance for Public Charter Schools 2016. All rights reserved

Our mission is to lead public education to unprecedented levels of academic achievement for all students by fostering a strong charter school movement.