



2011 Legislative Changes Impacting Charter Schools Question & Answer Document

Senate Bill 1546

Link: <http://www.flsenate.gov/Session/Bill/2011/1546/BillText/er/PDF>

High-Performing Charter Schools and Systems

What is a high-performing charter school?

The Legislature has defined a high-performing charter school as a school that has met each of the following criteria:

- a. Received at least two school grades of “A” and no school grade below “B” for the last three years
- b. Received an unqualified opinion on each annual audit in the most recent three years for which such audits are available
- c. Did not receive a financial audit that revealed one or more of the financial emergency conditions set forth in s. 218.503, F.S., in the most three recent fiscal years for which audits are available. (Exception: Charter school-in-the-workplace can meet this criteria if the audit determines that the school has the monetary resources available to cover any deficiency, or that the deficiency does not result in a deteriorating financial condition)

Can a school that does not receive a school grade be considered high-performing?

No.

Who determines if a charter school is high-performing?

The Commissioner of Education, upon request by a charter school, shall verify that the charter school meets the criteria for high-performing status. Upon verification, the Commissioner will provide a letter to the charter school and sponsor designating the school as high-performing.

How will the Commissioner determine if a charter school is high-performing?

The State Board of Education will develop rules to administer the process by which charter schools can request the Commissioner verify high-performing status.

What is a high-performing charter school system?

The Legislature has defined a high-performing charter school system as a municipality, other public entity, private non-profit corporation with tax-exempt status under s.

501(c)(3) of the Internal Revenue Code, or a private for-profit education management corporation that meets each of the following criteria:

- a. Operates at least three high-performing charter schools in the state
- b. Operates a system of charter schools in which at least 50% of the charter schools are high-performing, with no schools that received a grade of “D” or “F” **
- c. Has not received a financial audit that revealed one or more of the financial emergency conditions set forth in s. 218.503, F.S. for any charter school within their system

** If a charter school system has assumed operation of a public school after that school has been closed by the District and reopened as a charter school under s.1008.33(5)(a)3, F.S., the school’s grade shall not be considered in determining high-performing status for a period of three years.

** If the charter school system establishes a new charter school that serves a student population the majority of which resides in a school zone served by a public school that is identified as lowest performing under s. 1008.33(4)(b), the charter school’s grade shall not be considered in determining high-performing status if it attains and maintains a school grade that is higher than that of the public school serving that school zone within three years after establishment.

Who determines if a charter school system is high-performing?

The Commissioner of Education, upon request by an entity, shall verify that the entity meets the criteria for high-performing status. Upon verification, the Commissioner will provide a letter designating the school as high-performing to the entity and sponsor.

How will the Commissioner determine if a charter school system is high-performing?

The State Board of Education will develop rules to administer the process by which charter school systems can request the Commissioner verify high-performing status.

What are the benefits offered to a high-performing charter school?

A high-performing charter school is authorized to:

- (a) Increase its student enrollment once per school year by up to 15% more than the capacity identified in the charter
- (b) Expand grade levels within K-12 to add grade levels not already served
- (c) Submit quarterly rather than monthly financial statements to the sponsor
- (d) Consolidate under a single charter the charters of multiple high-performing charter schools operated in the same district by the charter school’s governing board
- (e) Receive a modification of its charter to a term of 15 years
- (f) Replicate its educational program in any district in the state

A high-performing charter school must notify its sponsor, in writing, by March 1 if it plans to increase enrollment or expand grade levels for the next school year.

Will additional eligibility criteria, such as contract compliance, be considered in determining if a charter school may be designated high-performing?

While factors outside of the statutory criteria will not affect the charter school's high-performing designation, the charter agreement may identify how compliance problems should be addressed. A high performing charter school is subject to annual review by the sponsor, and may be terminated during its term and is accountable to its sponsor for performance as provided in law.

Are there any changes to the administrative fee that a District may withhold from a high-performing charter school?

Yes. A District may withhold an administrative fee of 2% (up to 250 students) for each high-performing charter school. The change in administrative fee, from the current 5% to 2% takes effect upon the Commissioner's verification of high-performing status. (Senate Bill 2120)

What is the process for replicating a high-performing charter school or a high-performing charter school that is part of a high-performing system?

A high-performing charter school may submit an application in any school district in the state to establish and operate a new charter school that will substantially replicate its educational program. The application must state that it is being submitted pursuant to s.1002.331 (3)(a), F.S. and must include the verification letter provided by the Commissioner of Education.

Must a high-performing charter school use the model charter school application when submitting an application to replicate?

Yes. The Department will create a new model charter school application for high-performing replications. Rule development will be initiated this summer.

How often can a high-performing charter school replicate?

A high-performing charter school may establish one charter school. A subsequent application to establish a charter school may not be submitted unless each charter school established under s.1002.331 (1)(a)-(c) achieves high-performing charter school status.

Can a sponsor deny an application from a high-performing charter school?

Yes. A sponsor may deny an application submitted by a high-performing charter school only if the sponsor demonstrates by clear and convincing evidence that:

- a. The application does not materially comply with the requirements in s.1002.33(6)(a), F.S.;
- b. The charter school proposed does not materially comply with the requirements in s. 1002.33(9)(a)-(f), F.S.;
- c. The proposed charter school's educational program does not substantially replicate that of the applicant or one of the applicant's high-performing schools;
- d. The applicant has made a material misrepresentation or false statement or concealed an essential or material fact during the process; or
- e. The proposed charter school's educational program and financial management practices do not materially comply with the charter school statute.

If the sponsor denies an application submitted by a high-performing charter school, the sponsor must, within 10 calendar days after the denial, state in writing the specific reasons for denial. The sponsor must submit the letter of denial, with supporting documentation, to the applicant and the Department of Education.

May an applicant appeal the decision of a sponsor to deny an application from a high-performing charter school?

Yes. The applicant may appeal the sponsor’s denial of the application directly to the State Board of Education (bypassing the Charter School Appeal Commission). The State Board of Education shall determine whether the sponsor has shown, by clear and convincing evidence, that:

- a. The application does not materially comply with the requirements in s.1002.33(6)(a), F.S.;
- b. The charter school proposed does not materially comply with the requirements in s. 1002.33(9)(a)-(f), F.S.;
- c. The proposed charter school’s educational program does not substantially replicate that of the applicant or one of the applicant’s high-performing schools;
- d. The applicant has made a material misrepresentation or false statement or concealed an essential or material fact during the process; or
- e. The proposed charter school’s educational program and financial management practices do not materially comply with the charter school statute.

The State Board of Education shall approve or reject the sponsor’s denial no later than 90 calendar days after the appeal is filed in accordance with State Board Rule.

The Department will amend State Board Rule 6A-.0781 (Procedures for Appealing District School Board Decision Denying Application for Charter School) to reflect the changes in law.

Is material non-compliance defined?

Yes. Material noncompliance is a failure to follow the requirements or a violation of prohibitions applicable to charter school applications, which failure is quantitatively or qualitatively significant either individually or when aggregated with other noncompliance.

Is the term “substantially replicate” defined?

Yes. An applicant is considered to be replicating a high-performing school if the proposed school is substantially similar to at least one of the applicant’s high-performing charter schools and the organization or individuals involved in the establishment and operation of the proposed school are significantly involved in the operation of the replicated schools.

Must a sponsor approve or deny an application from a high-performing charter school within 60 days?

Yes. If a sponsor fails to act on an application submitted by a high-performing charter school within 60 days after receipt of the application, the application is deemed approved.

Charter School Application Process

Must Districts provide charter school applicants with the opportunity to make corrections to a charter school application?

Yes. Before approving or denying any application, the District must allow the applicant to make technical or non-substantive corrections and clarifications if such errors are identified by the sponsor as cause to deny the application. Technical or non-substantive corrections and clarifications include, but are not limited to, corrections of grammatical, typographical, and like errors or missing signatures.

Are applicants required to attend new-applicant training?

No. The requirement to attend training prior to submitting an application to a district has been changed. Applicants who have received approval by their sponsor must attend a training provided by the Department of Education (or their sponsor) no later than 30 calendar days before the first day of classes at the charter school.

Sponsors may still require charter schools to attend the sponsor's training in lieu of the Department's training if the sponsor's training standards meet or exceed the standards developed by the Department. If the sponsor requires charter schools to attend their training, they may not require the charter school to attend the training within 30 calendar days before the first day of classes at the charter school.

A sponsor may not require a high-performing charter school or high-performing charter school system applicant to participate in the training more than once.

The Department will announce dates and locations for post-applicant training later this year.

Are there any changes to the Charter School Appeal Commission?

Yes. An appeal may not be heard by any Appeal Commission member that has a potential conflict of interest. As such, when a potential conflict exists, the Commission member that has the conflict will not participate in the appeal and a second member will not participate as well to ensure that one-half of the members hearing the appeal represent sponsors and one-half represent charter schools.

CHARTER SCHOOL GOVERNING BOARDS

Are there any new requirements for charter school governing boards?

Yes. Every charter school's governing board must appoint a representative to facilitate parental involvement, provide access to information, assist parents and others with questions and concerns, and resolve disputes. The representative must reside in the

school district. The representative may be a governing board member, employee, or individual contracted to represent the governing board.

Contact information for the representative must be provided in writing to parents each year, and must be posted prominently on the charter schools web site if a web site is maintained by the charter school.

Also, each charter school's governing board must hold at least two public meetings per school year in the school district. The meetings must be noticed, open, and accessible to the public. Attendees must be provided an opportunity to offer input regarding the schools operations and receive information about the school. The representative appointed by the governing board must be physically present at the two required meetings.

What if a governing board oversees multiple schools? Can the same person act as a representative for each school?

No. Each school must be represented by a separate individual.

May a sponsor require that a charter school's governing board members live in the District?

No. If the charter school governing board complies with the requirement to appoint a local person to represent the governing board (as discussed above), the sponsor may not require that governing board members reside in the school district.

Local Educational Agency Status for Charter School Systems

Can a Charter School System become a Local Educational Agency (LEA)?

A charter school system shall be designated a local educational agency for the purpose of receiving federal funds, the same as though the charter school system were a school district, if the governing board of the charter school system has adopted and filed a resolution with its sponsoring district school board and the Department of Education in which the governing board of the charter school system accepts the full responsibility for all local education agency requirements and the charter school system meets all of the following:

- (a) Includes both conversion charter schools and nonconversion charter schools;
- (b) Has all schools located in the same county;
- (c) Has a total enrollment exceeding the total enrollment of at least one school district in the state;
- (d) Has the same governing board; and
- (e) Does not contract with a for-profit service provider for management of school operations.

Terminations and Non-Renewals

Have there been changes to the regular (90 day) termination/non-renewal process?

Yes. Upon receipt of the sponsor's notice of intent to terminate/non-renew, a charter school may, within 14 calendar days, request a hearing. The sponsor must then conduct a hearing within 60 days of the request. At the sponsor's discretion, the hearing may be conducted by the sponsor or by an administrative law judge assigned by the Division of Administrative Hearings.

If the hearing is conducted by the sponsor it must be conducted in accordance with ss.120.569 and 120.57, F.S. The sponsor must decide upon nonrenewal or termination by a majority vote. The sponsor's decision shall be a final order.

If the hearing is conducted by an administrative law judge, the hearing shall be conducted in accordance with chapter 120. The administrative law judge shall issue a recommended order, which must then be either adopted or modified by the sponsor by a majority vote.

May a sponsor immediately terminate a charter contract?

Yes. A charter may be immediately terminated if the sponsor sets forth in writing the particular facts and circumstances indicating that an immediate and serious danger to the health, safety, or welfare of the school's students exists. In the event of an immediate termination, the charter school may request and receive a hearing after the charter has been terminated. The hearing must be expedited and the final order issued within 60 days after request.

In the event of an immediate termination the sponsor shall assume operation of the school throughout the pendency of the hearing, unless the continued operation of the charter school would materially threaten the health, safety, or welfare of the students. Failure to continue operation of the school shall result in the awarding of reasonable costs and attorney's fees to the charter school if the school prevails on appeal.

May a charter school appeal a nonrenewal/termination decision by a sponsor?

Yes. A charter school may appeal a sponsor's decision to terminate/non-renew to the District Court of Appeals with jurisdiction. Appeals for non-renewals or terminations will no longer be heard by the Charter School Appeals Commission.

Will the Charter School Appeal Commission still hear appeals for application denials?

The Charter School Appeals Commission will hear appeals for application denials of schools that are not applying as high-performing replications. If a sponsor denies an application from a high-performing charter school or high-performing charter school system, the applicant must appeal directly to the State Board of Education.

Are there any changes to enrollment preferences?

Yes. In addition to the enrollment preferences already permitted, charter schools may now provide an enrollment preference to the following groups:

- a. Students who are children of an employee of a business partner of a charter school-in-the-workplace or a resident of the municipality in which the school is located;
- b. Students who are children of a resident of a municipality that operates a charter school-in-a-municipality;
- c. Students who have successfully completed a voluntary pre-kindergarten education program under ss. 1002.51-1002.79, F.S. provided by the charter school or the charter school's governing board during the previous year; and
- d. Students who are the children of an active-duty member of any branch of the United States Armed Forces.

In addition, a charter school may hold up to 50% of its seats for students residing in a development in which a business entity provides the school facility and related property having an assessed value of at least \$10 million (Senate Bill 2120).

Will charter schools that offer these enrollment preferences be eligible to receive the federal Charter School Start-Up funds?

Federal regulations allow charter schools to offer enrollment preferences for students who are children of an employee of a business partner of a charter school-in-the-workplace, so long as those students make up only a small percentage of the school's overall enrollment.

Federal regulations may allow for preferences related to residents of a municipality, depending on the particular facts.

Federal regulations do not allow for a preference to be given to students who have completed a voluntary pre-kindergarten program. Any school that offers this enrollment preference will not be eligible to receive any federal CSP funds, including dissemination grants.

ADDITIONAL CHANGES

Federal Charter School Program Grant and co-located schools

Charter schools that share a facility with another charter school must provide for an audit of all items purchased with federal CSP funds if/when the school moves from the shared location to another location. The audit must be provided to the Department of Education within 60 days, and all CSP purchased items must be transferred to the new location.

Student Transfers

Charter schools may not transfer an enrolled student to another charter school without first obtaining written parental approval.

FDOE Study

The Legislature has directed the Department of Education to:

- a. Identify districts that distribute funds or provide facilities, renovation, or new construction with funds generated by the capital improvement millage authorized under s. 1011.71(2), F.S., to charter schools and the use of such funds by charter schools.
- b. Examine the costs associated with supervising charter schools and determine whether the 5% administrative fee for administrative and educational services for charter schools covers the costs associated with the provision of the services.
- c. Examine the distribution of federal education funding to eligible students enrolled in charter schools, including without limitation, funding provided under Title I and IDEA.
- d. Examine the impacts of removing the discretion given to school districts regarding the distribution of capital improvement millage authorized under s. 1011.71(2), F.S., to charter schools-in-a-municipality.

The Department must report its findings to the Governor, President of the Senate, and Speaker of the House no later than January 1, 2012.

VIRTUAL CHARTER SCHOOLS

Senate Bill 7197

Link: <http://www.flsenate.gov/Session/Bill/2011/7197/BillText/er/PDF>

Will the Department create a new model charter school application for virtual charter schools?

Yes. The Department will initiate the rule making process to either create a new and separate model application for virtual charter schools, or revise the existing model charter school application.

How can a current charter school become a virtual charter school?

A charter school must submit an application to its sponsor to open a new charter school (virtual) or amend its existing contract. If a charter school submits a new application to its sponsor, the application must include documentation that the applicant has contracted with an approved provider of virtual instructions services. These are the same providers approved for district virtual instruction programs.

Can only current charter schools apply to be a virtual charter school?

No. Virtual charter schools are not limited to current charter schools.

Can virtual charter schools provide part-time virtual instruction?

No. Virtual charter schools are authorized to provide full-time virtual instruction.

What grade levels may virtual charter schools serve?

Virtual charter schools may serve eligible district students in grades K-12.

What students are eligible to enroll in virtual charter schools?

Students must meet one of the following eligibility criteria:

- a) The student has spent the prior school year in attendance at a public school in this state and was enrolled and reported by a public school district for funding during the preceding October and February for purposes of the Florida Education Finance Program (FEFP) surveys.
- b) The student is a dependent child of a member of the United States Armed Forces who was transferred within the last 12 months to this state from another state or from a foreign country pursuant to the parent's permanent change of station orders.
- c) The student was enrolled during the prior school year in a school district virtual instruction program under this section or a K-8 virtual school program under Section 1002.415, Florida Statutes.
- d) The student has a sibling who is currently enrolled in the school district virtual instruction program and that sibling was enrolled in such program at the end of the prior school year.
- e) The student is eligible to enter kindergarten or first grade.

How are virtual charter schools funded?

Funding for virtual charter schools will be the same as that specified for district virtual instruction programs in section 1002.45(7), F.S. This means virtual charter schools are funded through the Florida Education Finance Program and that the funding is based on 'successful completions' rather than on seat time (attendance and enrollment). Like other virtual programs and schools, virtual charter schools may not receive any funding for the purpose of fulfilling class size requirements.

How are virtual charter schools held accountable for student learning?

Virtual charter schools are the public schools of record (enrollment) for their students. They will receive school grades based on the performance of their full-time students like other public schools in the district and state. Virtual charters are also funded based on successful completions, and they are school choice options for parents. In addition, virtual charter schools must meet performance criteria outlined in their charters with school districts.

Can a brick and mortar charter school provide blended-learning?

Yes. A charter school may implement blended learning courses which combine traditional classroom instruction and virtual instruction. Students in blended learning courses must be full-time students of the charter school and receive the online instruction in a classroom setting at the charter school.

What are the requirements for instructional personnel who provide virtual instruction for blended courses?

Instructional personnel may be employees of the charter school or may be under contract to provide instructional services to charter school students. At a minimum, the instructional personnel must hold a state certificate as required in s. 1012.55, F.S. or a

school district adjunct certification under s. 1012.57, F.S., for the subject area of the blended learning course.

What are the funding and performance accountability requirements for blended learning courses?

These are the same as those for traditional courses in traditional public schools. The funding is based on seat time (attendance and enrollment) and the student's charter school will receive a school grade based on the performance of students enrolled in the charter school.