

Charter Schools

This information brief describes Minnesota's charter school law. The law was first enacted in 1991 to promote innovative educational programs and give teachers and parents the responsibility for managing and operating public schools.

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Overview

A charter school is a public school organized by teachers or parents. A charter school is, by statutory definition, a public school and part of the state's public school system. Unlike other public schools, parents and teachers organize and operate a charter school with the oversight of a local or intermediate school board, a postsecondary institution, a qualified nonprofit corporation, or other eligible sponsor. The relationship between the charter school and its sponsor is reflected in a three-year, renewable contract that contains the terms for operating the charter school.

A charter school is exempt from statutes and rules that apply to other public schools and districts. Each charter school receives state funding as if it were a school district but cannot levy taxes or issue bonds and cannot use state money to purchase land or buildings.

State education data show that 17,965 students enrolled in charter schools in the 2005-2006 school year. This compares to 825,000 students enrolled in a traditional public school setting and a total of 947,116 students enrolled in all Minnesota elementary and secondary schools in the 2005-2006 school year.

Academic Content and Calendar

Education Program

A charter school is a public school and is part of the state's system of public education. Charter school programs must be nonsectarian and provide a comprehensive program of instruction for at least one grade or age group of pupils from five to 18 years old. A charter school program must improve or increase pupils' learning opportunities, create different and innovative measures of learning outcomes, create new forms of school accountability, encourage different and innovative teaching methods, or give teachers new professional opportunities. Charter schools may provide instruction to students younger than five and older than 18 years old, but receive no general education aid for this instruction. A charter school may provide online learning to students.

Education Outcomes

A charter school must design its program to meet or exceed the educational outcomes the Commissioner of Education adopts for other public school students. This provision is generally construed to require charter school pupils to meet the state's graduation requirements, including passing the state's basic skills tests in math, reading, and written composition, and completing specified high school-level course credits needed for graduation. A charter school may use a high school student's performance on a statewide assessment as a percentage of a student's final grade in a course or place the student's assessment score on the student's transcript.

Days of Instruction

The number of days of instruction provided to charter school pupils must meet or exceed the number of days of instruction provided to other public school students. A charter school may provide instruction throughout the school year under the flexible learning year program under Minnesota Statutes, sections 124D.12 to 124D.127, which allow various 45-15 plans, four-quarter plans, quinmester plans, extended learning year plans, flexible all-year plans, and four-day week plans, or under the learning year program under Minnesota Statutes, section 124D.128, which is designed to accelerate pupils' attainment of grade and graduation requirements.

The Role of Sponsors

Eligible Sponsors

The law specifies who may sponsor one or more charter schools:

- (1) a school board
- (2) an intermediate school district school board
- (3) an education district organized under Minnesota Statutes, sections 123A.15 to 123A.19
- (4) a section 501(c)(3) charitable organization that is a member of the Minnesota Council of Nonprofits or the Minnesota Council on Foundations, registers with the attorney general's office, and reports an end-of-year fund balance of at least \$2 million
- (5) a Minnesota private college that grants two- or four-year degrees and registers with the Minnesota Office of Higher Education
- (6) a community college, state university, or technical college governed by Minnesota State Colleges and Universities (MnSCU)
- (7) the University of Minnesota
- (8) a nonprofit corporation that is a chamber of commerce or board of trade or exchange and exempt from federal income tax, if certain conditions apply (the charter school has operated for at least three years under a different sponsor and the nonprofit corporation has existed for at least 25 years)

Sponsors, operators, and the department must inform the public, including low-income families and communities and students of color, about how to form and operate a charter school and how to use a charter school's offerings.

Sponsors' Duties

A sponsor is permitted to authorize one or more licensed teachers to operate a charter school, subject to the approval of the Commissioner of Education. The sponsor must file with the commissioner an affidavit stating its intent to authorize a charter school, the terms and conditions under which the sponsor proposes to authorize the school, and how the sponsor intends to

oversee the fiscal and student performance of the charter school and comply with the terms of the charter school contract. A sponsor is prohibited from making the bargaining unit status of charter school employees a condition of authorizing or renewing a charter school.

If the commissioner approves the proposed authorization within 90 days, the sponsor and the board of directors of the charter school must enter into a signed written contract indicating the terms and conditions under which the school will operate, consistent with the 11 contractual items listed under Minnesota Statutes, section 124D.10, subdivision 6. The sponsor and board must do this within 90 days. A sponsor may authorize a charter school before the charter school operators secure space, equipment, facilities, and personnel if the operators need the authorization to raise working capital, but the sponsor may not authorize the charter school before the commissioner approves the authorization. If the commissioner doesn't approve the proposed authorization within 90 days, a sponsor cannot authorize that school.

Sponsors' Evaluation of Charter School Performance

A sponsor must receive at least annual reports from a charter school it authorizes. A sponsor must monitor and evaluate the fiscal and student performance of the charter school. The Department of Education must review and make comments on the sponsor's evaluation before a charter school contract can be renewed. A sponsor may charge a charter school for the cost of the evaluation; the amount of the annual maximum charge for the first through third years of a charter school's operation is \$30 per student up to a maximum of \$10,000; and in the fourth and subsequent years of a charter school's operation the annual maximum charge is \$10 per student up to \$3,500. The sponsor must submit timely information to the department for review and comment.

Sponsors' Ability to Renew, Not Renew, or Terminate a Charter School Contract

A sponsor may renew or not renew a charter school contract at the end of the contract term and may unilaterally terminate a charter school contract during the contract term if the charter school:

- (1) fails to meet pupil performance requirements contained in the contract
- (2) fails to meet generally accepted standards of fiscal management
- (3) violates the law
- (4) shows other good cause

A sponsor must notify the charter school board of directors in writing at least 60 days before not renewing or terminating a contract. The sponsor must include in the notice the grounds for its proposed action and inform the members of the board of directors of their right to request an informal hearing before the sponsor within 14 days. (A charter school board of directors that fails to request a hearing is regarded as acquiescing to the sponsor's proposed action.) A sponsor that receives a timely written request for a hearing must conduct an informal hearing before taking final action. A sponsor must take final action to renew or not renew a contract by the last day of classes. The board of directors may appeal the sponsor's decision to the commissioner if the sponsor is a local school board.

If either the sponsor or the charter school board of directors wants to voluntarily terminate a contract at the end of a contract term, a change in sponsors is allowed if the commissioner approves. The party terminating the contract must notify the commissioner and the other party of its intent at least 90 days before the contract ends. The current sponsor must inform the approved different eligible sponsor about the school's fiscal and student performance. The charter school must be dissolved if the commissioner does not approve a different eligible sponsor.

Sponsors' Ability to Expand a Charter School's Operation

A sponsor may authorize the charter school operators to expand the operation of the charter school to include additional sites or grades beyond those described in an approved application only after submitting to the commissioner a supplemental application demonstrating that the charter school is fiscally sound, the expansion is supported by need and projected enrollment, the building of the additional site meets all health and safety requirements to be eligible for lease aid, and the sponsor supports the expansion.

Sponsors' Immunity from Liability

A sponsor and the sponsor's employees, as well as the members of a charter school's board of directors operating in their official capacity and the commissioner, are immune from civil and criminal liability for sponsoring a charter school or approving charter school activities.

The Charter School Contract

Contract Terms

Within 90 days of when the commissioner approves a sponsor's proposed authorization of a charter school, the sponsor and the board of directors of the charter school must enter into a signed written contract that at least specifies the following:

- the purpose of the program, which must improve or increase pupils' learning opportunities, create different and innovative measures of learning outcomes, create new forms of school accountability, encourage different and innovative teaching methods, or give teachers new professional opportunities
- pupil outcomes that meet or exceed the educational outcomes required of other public school students
- admission policies and procedures
- school management and administration
- requirements and procedures for program and financial audits
- how the charter school will comply with state and local requirements applicable to charter schools, the required number of days of student instruction, whether the charter school or the school district in which the charter school is located will provide

transportation to pupils enrolled in the charter school, and the causes for not renewing or terminating the contract

- the liability of the charter school
- the types and amounts of insurance the charter school will obtain
- the contract term, which must not exceed three years
- the financial parameters for providing special education instruction and services, if applicable
- the process and criteria the sponsor intends to use to monitor and evaluate the fiscal and student performance of the charter school

The charter school board of directors must obtain at least the amount and types of insurance specified in the contract and may sue and be sued.

Licensed and Nonlicensed Employees

A charter school must employ appropriately licensed teachers, may employ other employees, and may contract for other services. A charter school board may discharge teachers and nonlicensed employees. A charter school may contract with a person other than a licensed school administrator to perform administrative, supervisory, or instructional leadership duties. Upon a teacher's written request, a school district must grant a leave of absence of up to five years to allow a teacher to teach at a charter school. The employing school district may extend the leave at its discretion. Eligible charter school employees may form bargaining units. Teachers and other charter school employees participate in state retirement programs.

The Application and Start-up Process

Authorization and Approval Process

Teachers and parents interested in forming and operating a charter school first must obtain a sponsor to authorize the school, subject to the commissioner's approval. If a school board that is approached to act as a sponsor fails to act within 90 days or elects not to sponsor the charter school, the interested teachers and parents may appeal to the commissioner for assistance in finding an eligible sponsor. Before the operators may form and operate a school, the sponsor must file an affidavit with the commissioner stating its intent to authorize a charter school, the terms and conditions under which it would authorize the school, and how it intends to oversee the school's fiscal and student performance and comply with the terms of the charter school contract.

In addition to establishing a new charter school, a school board may convert one or more of its schools to charter schools at the beginning of an academic year if 60 percent of the full-time teachers at the school petition for the change. The charter school law must not be used to keep open a school that would otherwise close or to provide an education or generate revenue for homeschooled students.

Initial Organization

Operators authorized to organize and operate a charter school first must incorporate as a cooperative under Minnesota Statutes, chapter 308A, or as a nonprofit corporation under Minnesota Statutes, chapter 317A, before entering into a contract or other agreement for professional or other services, goods, or facilities, and must establish a board of directors of at least five members. School districts may form a corporation for the purpose of creating a charter school. An initial five-member board of directors must adopt articles and bylaws for the charter school and must hold a timely election for members of the board of directors. School staff and parents of children enrolled in the school elect the members of the board of directors. Licensed teachers employed at the school, including teachers providing instruction under contract with a cooperative, must be a majority of the members of the board of directors by the end of the school's third operational year unless the commissioner waives the requirement. Board of directors meetings are subject to the open meeting law under chapter 13D.

School Location

A charter school sponsored by a school district may be located in any school district unless the school board of the district in which the location is proposed adopts a written resolution disapproving the location. A board's disapproval of a proposed location cannot be appealed.

Student Preference

Before accepting other pupils by lot, a charter school that is the only school in a town serving pupils within a particular grade level must give preference to enrolling pupils residing in the town or within two miles of the school if the next closest public school is more than five miles away. A charter school also must give preference to the sibling of an enrolled pupil and to a foster child of that pupil's parents before accepting other pupils by lot. A charter school may not base admission on pupils' intellectual ability, measures of achievement or aptitude, or athletic ability. A charter school may limit admission to:

- pupils within a particular age group or grade level,
- pupils eligible to participate in the graduation incentives program, or
- pupils residing in an area where the concentration of minorities in that area is greater than the concentration of minorities in the congressional district in which that area is located and the charter school reflects the racial and ethnic diversity of that area.

Start-up Funds

A charter school is eligible to receive state aid for start-up and operating costs during its first two years of operation. The amount of the state start-up cost aid equals the greater of \$50,000 per charter school, or \$500 times the number of pupil units the charter school served during that school year. A charter school in its first year of operation receives 10 percent of the cumulative

amount guaranteed for the year on the first of 23 payment dates, and the remaining 90 percent is distributed in equal amounts in 22 subsequent payments.

The 2005 Legislature appropriated \$1,393,000 in fiscal year 2006 and \$3,185,000 in fiscal year 2007 for charter school start-up cost aid.

Charter schools also may apply to the Department of Education for competitive federal charter school planning and implementation funds for up to three years. The maximum amount of the federal grant is \$150,000 in each year.

Financing and Financial Management

State Aid

A charter school is eligible to receive general education revenue and other aids, grants, and revenue as though it were a school district; it receives transportation revenue, special education aid, and building lease aid. The Department of Education makes 23 equal aid payments to a charter school during a fiscal year, except in the first year of the school's operation when the first payment is 10 percent of the cumulative aid amount for that fiscal year, followed by 22 equal payments that total 90 percent of the cumulative aid amount.

A charter school may use total operating capital revenue for any school-related purpose and receive money from any source for capital facilities needs. It may not use state funds to purchase land or buildings, but may own land or buildings if the school obtains the property through nonstate sources.

A charter school is eligible to receive state aid for start-up and operating costs during its first two years of operation equal to the greater of \$50,000 or \$500 times the pupil units served for that year. In its first three years of operation, a charter school must submit to the department a school calendar and a quarterly student report; in the fourth and subsequent years, it must submit a school calendar and enrollment information. A charter school in statutory operating debt as defined in Minnesota Statutes, sections 123B.81 to 123B.83, must submit a plan to the commissioner to eliminate the debt.

Transportation Funding

Annually by July 1, a charter school must notify the Department of Education if it will provide transportation for its pupils in that fiscal year. A charter school that elects to provide transportation for its pupils receives state transportation aid. If the charter school elects not to provide transportation, the school district in which the charter school is located must provide transportation within the district and may provide transportation to nonresident pupils within the pupils' resident district. A district that provides transportation for charter school students has sole and complete control over the scheduling of routes, the manner and method of transportation, the control and discipline of the students, and all other transportation matters. A

charter school is not required to provide or pay for transportation between a nonresident pupil's home and the border of the district in which the charter school is located. The school may reimburse a parent for the costs of transporting a nonresident pupil to the border of the district if the pupil's family income is at or below the federal poverty level; reimbursement may not exceed the actual cost of transportation or 15 cents per mile, whichever is less, and may not be paid for more than 250 miles per week.

Prohibition Against Levying Taxes or Issuing Bonds

A charter school board of directors may not levy taxes or issue bonds.

Financial Integrity

Accountants, policymakers, and others have reported on charter schools' financial problems and publicized financial difficulties faced by particular charter schools. Finance-related problems have included the following:

- the difficulty in reporting Uniform Financial Accounting and Reporting System (UFARS) data due to unapproved accounting software
- charter school audits performed by unqualified auditing firms
- the uncertainty in calculating compensatory aid and lease aid amounts under particular lease terms
- management agreements for contracted services that do not address the ownership of assets upon terminating the contract, escrowing revenues to cover shortfalls, reasonable fees for management services, or lease agreements involving related parties
- the misreporting of Minnesota Automated Reporting Student System (MARSS) data, which may be related to the complexity of MARSS
- the absence of a comprehensive system for closing a charter school

The legislature, the education department, and charter schools have adopted measures to better ensure the financial integrity of charter schools.

Conflicts of Interest

A member of a charter school board of directors is prohibited from serving as a member of the board of directors or as an employee or agent of or as a contractor with a **for-profit** entity with which the charter school contracts for services, goods, or facilities. A member of a charter school board of directors who serves as a member of the board of directors or as an employee or agent of or as a contractor with a **nonprofit** entity with whom the charter school contracts for services, goods, or facilities must disclose conflicts of interest to the commissioner. The commissioner can void a contract that violates this prohibition. A member of a charter school board of directors who violates the prohibition is individually liable to the charter school for any damage resulting from the violation. The conflict of interest provisions do not apply to compensation paid to a teacher employed by the charter school who also serves as a member of

the board of directors, nor to a teacher who provides services through a cooperative and also serves on the board of directors.

Audits and Reports

A charter school is subject to the same financial audits and audit procedures and requirements as a school district. An auditor, when conducting an audit of a charter school, must comply with generally accepted governmental auditing standards, the Federal Single Audit Act, if applicable, and Minnesota Statutes, section 6.65, governing minimum procedures for audits. The commissioner must approve a charter school's deviations from the requirements governing school district finances under Minnesota Statutes, sections 123B.75 to 123B.83; deviations are permitted only to the extent they are needed to accommodate the charter school program.

Annually by December 31, a charter school must submit to the commissioner an audit report and include with the report all charter school agreements for corporate management services. If the charter school has an agreement for corporate management services with an entity that is exempt from taxation under section 501 of the Internal Revenue Code of 1986, that entity must file with the commissioner by February 15 a copy of its annual return required under section 6033 of the Internal Revenue Code of 1986. If the report contains a management letter indicating that a material weakness exists in the school's financial reporting systems, the school must explain how it will resolve the weakness. A charter school must make available to any individual upon request the minutes of official meetings and all financial statements of operations and transactions affecting income and surplus during the school's last annual accounting period and a balance sheet summarizing the school's assets and liabilities as of the closing date of the accounting period.

As a condition of receiving state aid payments, a charter school in its first three years of operation must submit timely quarterly reports to the Department of Education listing students' start and end dates and the hours and times of activities for students participating in a learning year program. The department must develop a web-based reporting form for this purpose. Charter schools in their fourth or a subsequent year of operation must submit enrollment information to the department in the form and manner requested by the department.

Financial Management Training

The commissioner annually must provide financial management training to newly elected and other members of a charter school board of directors. The training must address ways to do the following:

- maximize all available revenue sources
- establish and manage student records and complete auditable school records
- establish proper filing techniques
- document formal actions by the board of directors
- comply with state and federal payroll recordkeeping requirements

Use of Facilities

Building Leases

A charter school is prohibited from using state money to purchase land or buildings but may use funds from nonstate sources to purchase such property. A charter school may lease space from a school board that is eligible to be a charter school sponsor and from a public or private nonprofit, nonsectarian organization. If appropriate space is unavailable from a public or private nonprofit, nonsectarian organization, the charter school may lease space from another nonsectarian organization if the commissioner, in consultation with the Department of Administration, approves the lease. A charter school that is unable to rent appropriate space from a public or private nonsectarian organization may lease space from a sectarian organization if the leased space is constructed as a school facility and the commissioner, in consultation with the Department of Administration, approves the lease.

Building Lease Aid

A charter school that finds it economically advantageous to rent or lease a building or land for an instructional purpose and has insufficient total operating capital revenue available for that purpose may apply to the Department of Education for state building lease aid. The commissioner must use three criteria specific to charter schools to review and approve or deny a lease aid application:

- the reasonableness of the lease price based on current market values
- the extent to which the lease conforms to applicable state laws and rules
- the appropriateness of the proposed lease given the space needs and financial circumstances of the charter school

Building lease aid per pupil unit served in a school year must not exceed the lesser of (a) 90 percent of the approved lease cost or (b) the product of the pupil units served in the current school year times \$1,200. A charter school is prohibited from using building lease aid for custodial, maintenance services, utility, or other operating costs. The 2005 Legislature appropriated \$25,465,000 in fiscal year 2006 and \$30,929,000 in fiscal year 2007 for charter school building lease aid.

Lease Terms

To address the potential conflict of interest in a lease agreement between related parties, a charter school is prohibited from entering into a lease with a related party unless the lessor is a nonprofit corporation under chapter 317A or a cooperative under chapter 308A and the commissioner determines that the lease cost is reasonable based on current market values. Under this provision, the commissioner can recover from the lessor any excessive lease payments made by a charter school that enters into a lease with a related party and subsequently closes. The commissioner may withhold aid payments if the lease does not include the requisite notice of the

lien. This provision does not apply where the lessor and lessee are related parties but the lessor is a nonprofit corporation under chapter 317A or a cooperative under chapter 308A.

Statutory Requirements for Charter Schools

Requirements and Restrictions

A charter school is exempt from all statutes and rules applicable to a school, a board, or a district, except as provided under the charter school law or other law. Statutory requirements and restrictions applicable to charter schools include the following:

- state and local health and safety requirements
- a prohibition against authorizing a charter school or program affiliated with a nonpublic sectarian school or with a religious institution
- a prohibition against using the school to provide education or generate revenue for homeschooled students
- a prohibition against charging tuition
- human rights laws under chapter 363
- a prohibition against sex discrimination and a requirement to provide equal opportunity for members of both sexes to participate in athletic programs under Minnesota Statutes, section 121A.04
- at a minimum, educational outcomes the commissioner adopts for public school students
- the Pupil Fair Dismissal Act
- the public school fee law
- district financial audit procedures and requirements, including an annual audit report that indicates the total amount of funds received from grants and outside sources
- tort liability provisions under chapter 466
- an obligation to enroll an eligible pupil who submits a timely application unless the number of applications exceeds the capacity of the program, class, grade level, or building
- a prohibition against limiting pupils' admission based on intellectual ability, measures of achievement or aptitude, or athletic ability
- an obligation to employ or contract with licensed teachers or face a possible reduction in state aid
- special education laws and rules
- an obligation to give preference to pupils residing in a town in which the charter school is the only school located in the town and to pupils who live within two miles of the school where the next closest public school is more than five miles away
- annual reports to the sponsor and the commissioner on the school's fiscal and student performance
- notice to the department if the school will provide transportation for its enrolled pupils
- information to parents about pupil transportation
- provisions of chapter 179A governing a public employer if eligible school employees form a bargaining unit at the school
- teacher retirement provisions under chapters 354 and 354A

- public employee retirement provisions under chapter 353
- a prohibition against using state funds to purchase land or buildings
- a prohibition against levying taxes or issuing bonds
- an instructional year that equals or exceeds in length the instructional year of other public school students
- the open meeting law under chapter 13D
- recitation of the pledge of allegiance
- disclosure of acts of violence toward or inappropriate sexual contact with a student
- a criminal history background check for teachers
- Internet filters restricting students' access to harmful material
- school building inspections by the state fire marshal
- payment of financial obligations within 35 days

Charter School Flexibility

The law provides charter schools with some amount of flexibility. A charter school may provide a comprehensive program of instruction to one or more grades or age groups for pupils ages five to 18. A charter school also may provide instruction for pupils younger than five and older than 18 but receives no general education aid for this instruction. A charter school may limit admission to pupils within a particular age group or grade level, people eligible to participate in the graduation incentives program under Minnesota Statutes, section 124D.68, or residents of a particular geographic area if the percentage of nonwhite residents in the area is greater than the percentage of nonwhite residents in the congressional district in which the area is located and the school reflects the racial and ethnic diversity of the area.

A charter school may employ nonlicensed employees to perform duties other than teaching and may contract for services. A person who does not hold a valid administrator's license may perform administrative, supervisory, or instructional leadership duties. The charter school board of directors may decide matters related to the school's operation, including budgeting, curriculum, and operating procedures. A charter school may exceed the number of instructional days provided to other public school students.

A charter school may elect to comply with specific statutes or rules from which it is exempt.

The Causes and Process for Closing a Charter School

Causes for Not Renewing or Terminating a Contract

As described earlier, a sponsor may renew or not renew a charter school contract at the end of the contract term and may unilaterally terminate a charter school contract during the contract term if the charter school:

- (1) fails to meet pupil performance requirements contained in the contract
- (2) fails to meet generally accepted standards of fiscal management

- (3) violates the law
- (4) shows other good cause

When a contract is terminated or not renewed, the charter school must be dissolved under the applicable provisions of chapter 317A, if the charter school is organized as a nonprofit corporation, or chapter 308A, if the charter school is organized as a cooperative, unless the commissioner allows a different eligible sponsor to authorize the charter school.

Process for Not Renewing or Terminating a Contract

A sponsor must notify the charter school board of directors in writing at least 60 days before not renewing or terminating a contract. The sponsor must include in the notice the grounds for its proposed action and inform the members of the board of directors of their right to request an informal hearing before the sponsor within 14 days. A charter school board of directors that fails to request a hearing within 14 days is regarded as acquiescing to the sponsor's proposed action. A sponsor that receives a timely written request for a hearing must notify the board of directors of the hearing date and must conduct the informal hearing before taking final action. A sponsor must take final action to renew or not renew a contract by the last day of classes. If the sponsor is a local board, the charter school board of directors may appeal the sponsor's decision to the commissioner.

Commissioner's Ability to Terminate a Contract

The commissioner may terminate an existing relationship between a sponsor and a charter school if the charter school has a history of financial mismanagement or repeated violations of law. Before terminating the relationship, the commissioner must give reasonable notice to the charter school board of directors and the sponsor and provide an opportunity for a public hearing.

Parties' Ability to Voluntarily Terminate a Contract

Either a sponsor or a charter school board of directors may voluntarily terminate a contract at the end of a contract term and change sponsors if the commissioner approves a different eligible sponsor to authorize the charter school. If no different eligible sponsor is approved, the school must be dissolved according to applicable law and contract terms.

Pupils' Options

If a charter school contract is not renewed or is terminated, pupils enrolled in the charter school, their siblings, and other pupils who reside with them may enroll in the resident district or may apply to a nonresident district under the state's enrollment options program. A nonresident school district must promptly process the enrollment options application of an eligible pupil. The application and notice deadlines under the enrollment options program do not apply under this provision.

Eligibility for State Aid

The Department of Education may pay 84.3 percent of the amount of state aid due for a school year to a charter school that ceases its operation before the end of the school year after the prior fiscal year and the current fiscal year pupil counts are audited.

Charter School Advisory Council

A seven-member charter school advisory council brings to the attention of the commissioner any matters related to charter schools that the council deems necessary and:

- encourages school boards to make full use of charter school opportunities;
- encourages the creation of innovative schools;
- provides leadership and support for charter school sponsors to increase the innovation in and the effectiveness, accountability, and fiscal soundness of charter schools;
- serves an ombudsman function in facilitating the operations of new and existing charter schools;
- promotes timely financial management training for new and other members of a charter school board of directors; and
- facilitates compliance with auditing and other reporting requirements.

The council refers its proposals to the commissioner, who must provide time for council reports. The council expires on June 30, 2007.

Issues Requiring Clarification

Process for Closing a Charter School

Arguably, in part, the incompleteness of the law and a lack of administrative experience have made the process for anticipating the closing of a charter school problematic. Properly closing a charter school requires, among other things, an accurate final financial accounting, decisions about the ownership or possession of the school's assets purchased with public funds, final payment of compensation and other employee benefits, and preparation of final tax returns and other forms.

Timely Board Election

Charter school operators must establish an initial five-plus member board of directors that continues to serve as the charter school board until a timely election for the board of directors is held. The parameters of what is "timely" are unclear.

Duty to Disseminate Information

Sponsors, charter school operators, and the education department must disseminate information to the public about how to form and operate a charter school. Some district sponsors expend more public resources than other districts in disseminating this information.

Supplemental Applications

A sponsor seeking to expand the operation of a charter school must first submit a supplemental application to the commissioner. It is unclear whether the commissioner must approve the supplemental application before the sponsor may authorize the expansion.

Instruction and Supplemental Programs and Services for Younger and Older Students

Charter schools are prohibited from charging tuition. Charter schools may provide instruction to students younger than five and older than 18 years old, but charter schools do not receive general education aid for this instruction. It is unclear whether the authority to provide instruction encompasses early childhood or adult basic education programs, before and after school activities, kindergarten enrichment programs, or preschool programs, and if so, whether the charter school can charge tuition or fees for such instruction.

Length of the School Year

A charter school's annual school calendar must include at least the number of days of instruction adopted at the beginning of the 1996-1997 school year. Only 15 currently operating charter schools were operating in the 1996-1997 school year. The length of the school calendar for more recently authorized charter schools is unclear. Local school boards do not have the authority to determine the length of a charter's school's annual school calendar except to the extent transportation services are implicated.

Application Deadline

There currently is no annual statutory deadline by which a sponsor must apply to the commissioner for approval to authorize a charter school. Might such a deadline help charter school operators and sponsors better plan and prepare for organizing and operating a charter school in the subsequent school year?

Board Membership

It is unclear whether a member of a board of directors of an entity that sponsors a charter school also may serve as a member of the board of directors of the charter school being sponsored.

Conflicts of Interest for Nonprofit Entities

A member of a charter school board of directors must not serve as a member of the board of directors of a **for-profit corporation** with which the charter school contracts for services, goods, or facilities. A member of a charter school board of directors who serves as a member of the board of directors of a **nonprofit corporation** with whom the charter school contracts for services, goods, or facilities must disclose conflicts of interest. Is this distinction between for-profit and nonprofit corporations always reasonable in cases, for example, where a charter school board of directors elects to lease a facility from a nonprofit corporation and the same individual is a member of the board of directors of both the charter school and nonprofit corporation leasing the facility to the charter school?

Transportation Reporting Deadline

A charter school annually by July 1 must notify the district in which the charter school is located and the education department if it will provide transportation for students enrolled in the school. It is unclear whether an earlier reporting deadline might better enable districts to anticipate and schedule routes, decide the manner and method of transportation, and address other transportation matters.

Admissions Requirements and the High School Graduation Incentives Program

A charter school may limit admissions to students who are eligible to participate in the high school graduation incentives program under Minnesota Statutes, section 124D.68. The graduation incentives program allows students who have had difficulty in traditional education settings to enroll in alternative programs. An eligible program may serve those students under age 21 who satisfy a single eligibility criterion, e.g., students who underperform, are pregnant or parents, are chemically dependent, are dismissed from school, are homeless, etc. In contrast, charter schools that limit enrollment to students eligible to participate in the graduation incentives program must enroll all students who satisfy any of the 11 criteria and may not limit enrollment to students who satisfy a single eligibility criterion. It is unclear why the same program is interpreted and administered in two distinct ways.

For more information about public schools, visit the K-12 education area of our web site, www.house.mn/hrd/issinfo/ed_k12.htm.