

# **MARYLAND PUBLIC CHARTER SCHOOLS MODEL POLICY AND RESOURCE GUIDE**

**Maryland State Department of Education  
200 West Baltimore Street  
Baltimore, Maryland**

# MARYLAND PUBLIC CHARTER SCHOOLS MODEL POLICY AND RESOURCE GUIDE

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PART I

MARYLAND'S  
PUBLIC CHARTER SCHOOLS ACT

# PART I

## MARYLAND'S PUBLIC CHARTER SCHOOLS ACT

### PART A

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#### INTRODUCTION

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**D**uring the 2003 General Assembly session, the Maryland Public Charter School Act was passed and Governor Robert L. Ehrlich, Jr. signed the measure into law on May 22, 2003. The new law authorizes the establishment of public charter schools in Maryland. This Maryland Public Charter Schools Model Policy and Resource Guide is designed to guide local boards of education and school systems in Maryland in assisting individuals and organizations interested in establishing public charter schools.

With the enactment of the new law, Maryland joins a growing number of states that allow the development and operation of public charter schools. The Maryland statute invites the creation of public charter schools to help introduce alternative means within the public school system to provide innovative learning opportunities and creative educational approaches to improve the education of all students.

Maryland's law defines a "public charter school" as a "public school" that is nonsectarian, is chosen by parents for their children, and is open to all students on a space available basis. A public charter school can be either a newly created school or a conversion of an already operating public school. A public charter school operates with the approval of a local board of education in accordance with a written Charter Agreement executed between the local board of education and the administrative entity operating the public charter school. Just as any other public school, a public charter school is subject to federal, state and local laws prohibiting discrimination and must comply with all applicable health and safety laws.

For specific information concerning the Maryland Public Charter School Act of 2003, please refer to Attachment I of this document.

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#### BACKGROUND

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**G**enerally recognized as a development of the early 1990s, the public charter school is one of the fastest-growing policy innovations in America's public school system. Charter schools have been formed by teachers, parents and/or community members, and institutions of higher education and have varying degrees of flexibility to operate. While charter schools are often

established to introduce innovation and a means of providing educational alternatives, they are also schools of choice for parents and communities. It is not a requirement that a public charter school demonstrate unique programming or innovative approaches. Charter school operators accept accountability for specific learner results in exchange for flexibility concerning some common rules and regulations that apply to other public schools.

National information concerning charter schools indicates that generally most parents of public charter school students are quite satisfied with the charter school their children attend and are involved in their children's education-related activities. In particular, parent interest seems to be focused on the school's education program-curriculum.

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## **CHARTERING AUTHORITY AND ELIGIBILITY IN MARYLAND**

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**A** “Charter” is a formal agreement or contract entered into by a chartering authority and a statutorily authorized applicant. The application to establish a public charter school is the mechanism through which an applicant explains in detail its plans to establish and operate a school. The chartering authority may assist the applicant in understanding the application process, consult with the applicant concerning all requirements, and provide guidance throughout the application process. The completion of the application is the responsibility of the applicant. It is the chartering authority’s responsibility to review and approve or disapprove an application based on standards established by the chartering authority consistent with the state law authorizing public charter schools.

Maryland’s charter law identifies the 24 local boards of education as the primary chartering authorities in our State. The State Board of Education may become a chartering authority under limited circumstances involving a “restructured”<sup>1</sup> school. With identification of local boards of education as the primary chartering authority, the Maryland law places important responsibilities on local boards of education to ensure an environment that assists applicants in developing strong and effective public charter schools.

The Maryland law states that applications to establish a public charter school may be submitted to a local board of education by the:

- staff of a public school (conversion);
- a parent/guardian of a student who attends a school in the county/city;
- a nonsectarian nonprofit entity;
- a nonsectarian institution of higher education in the State; or
- any combination of these individuals or groups.

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<sup>1</sup> Restructured Definition – see Section IV-B of the Model Policy, page 8; also COMAR 13A.01.04.07C.

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## **MARYLAND PUBLIC CHARTER SCHOOLS – A SHARED RESPONSIBILITY FROM THE START**

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**C**harter school laws vary from state to state. While these laws often contain very similar sets of goals and purposes, there are usually important differences that need to be understood when considering establishing a charter school in a specific state and school district.

Maryland's Public Charter School Law is explicit in stating that a charter school is a public school. Accordingly, a careful review of the law will illustrate that the law contemplates the development of an effective relationship between the applicant seeking to create a public charter school and local school system in its role as the designated chartering authority. Maryland's law emphasizes a focus on innovation and student achievement and in so doing places a premium on the relationship between the school system and the public charter school applicant.

Maryland's Public Charter School Law provides an opportunity for a local school system and the public charter school leadership to create new, exciting and innovative education programs to meet the needs of students and communities. In some instances, the law identifies waivers of state and local requirements as the mechanism for achieving flexibility consistent with the education design of the proposed public charter school. The most flexibility and the areas of greatest promise are found in the opportunities within the following components of the public charter school initiative in Maryland:

- Leadership of the Public charter school;
- Education program-curriculum and instructional approaches employed by the Public charter school;
- Program emphasis that can focus on specific interests and needs of students attending the Public charter school;
- Staffing innovations within the Public charter school; and
- Budgeting priorities to support the programs.

The “trade-off” that helps support the public charter school initiative is that with the increased flexibility there is the continued expectation of strong accountability and the promise of improved student achievement.

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## **BEYOND THE EDUCATION PROGRAM**

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**A**lthough on a smaller scale, a public charter school will respond to similar management and administrative functions as any other public school. In that Maryland's Public Charter School Law defines a charter school as a public school, there are many administrative and support

services that can be provided to a charter school by the school system consistent with the services provided to other public schools within that system.

The functions that are listed below should be recognized as part of the agreement with a public charter school applicant and included in the Charter Agreement:

- Facilities and related custodial and maintenance needs;
- Student participation in public school programs not offered at the public charter school, especially extracurricular activities such as athletics, music, field trips, etc.;
- Arrangements for procurement of goods and services;
- Centralized technical assistance and staff development.

The new Public Charter School Law permits a local school system and the designated leadership of a public charter school to negotiate a range of options that may be mutually advantageous to both the school system and the chartering school leadership. The extent of these options is limited by the requirements of the new law and applicable federal and state laws and regulations.

An understanding of this approach to establish public charter schools highlights the nature of the relationship between the school system leadership and the public charter school. It also illustrates the critical nature of the public charter school application system and the development of a clearly written and properly executed Charter Agreement between the local board of education and the public charter school.

## **PART B**

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### **GETTING STARTED**

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**T**he comprehensiveness and clarity of the process through which an authorized applicant applies for approval to establish a public charter school in a school system is central to the successful planning and operation of a high quality, effective, and efficient public charter school that meets the educational needs of its students.

It is important that the applicant(s) and chartering authority establish open and effective communications. The understanding that the creation of a high quality public charter school should be a rich opportunity to assist students to achieve high standards is a fundamental principle that must guide all aspects of the application development, review, and program implementation process.

In addition to establishing a sound *policy statement* and clear local procedures to implement the policy, it is recommended that the local school system maintain an active and dynamic public information strategy to inform parents and community organizations of the opportunity to create public charter schools. The messages should also invite qualified applicants to seek assistance and information from the school system as early as possible as they begin to consider the establishment of a public charter school. A well done local procedure can help smooth the way

and expedite the application development and review components of the public charter school process. It is recommended that each school system develop clear, comprehensive support materials aligned with the application process.

This process should include specific information about key points, including how an applicant might receive startup funding for a public charter school as well as the appropriate amounts of local, state and federal funding to be distributed to the public charter school commensurate with the amounts disbursed to other public schools in the local jurisdiction. Information about public school facilities should also be made available to public charter school applicants.

Also, applicants should receive information about existing negotiated staff contracts.

In addition to helpful resources being made available through school systems concerning the public charter schools, potential applicants should be aware of a growing body of national information concerning virtually all aspects of establishing and operating a good public charter school. Some of these are included within Attachment II of this document. It is the responsibility of the applicant to seek and access appropriate research and assistance.

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## **MODEL POLICY STATEMENT AND PROCEDURES**

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The first step in the development of a comprehensive and well designed local public charter school program is the creation of a Policy Statement that explains to the public and school system personnel the local board of education's perspective on the purpose of a public charter school. With the adoption of a policy, the school system staff, working with its community, can establish the local procedures that will be needed to effectively implement the policy of the local board of education.

The following is a sample Model Policy Statement that may be considered as a starting point for development of local school system policies and procedures:

**MODEL POLICY  
STATEMENT CONCERNING  
PUBLIC CHARTER SCHOOLS**

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# **MODEL POLICY STATEMENT CONCERNING PUBLIC CHARTER SCHOOLS**

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## **I. PURPOSE**

To provide parents and students who reside in \_\_\_\_\_ County/City an alternative means within the existing public school system for additional innovative learning opportunities and creative educational approaches to improve the education of students.

## **II. DEFINITION**

**Public charter school means a public school that:**

- i) Is nonsectarian in all its programs, policies, and operations.
- ii) Is a school to which parents choose to send their children.
- iii) Is open to all students on a space-available basis and admits students on a lottery basis if more students apply than can be accommodated.
- iv) Is a new public school or a conversion of an existing public school.
- v) Provides a program of elementary or secondary education or both.
- vi) Operates in pursuit of a specific set of educational objectives.
- vii) Is tuition-free for all students who are eligible to attend any other \_\_\_\_\_ County/City school tuition-free.
- viii) Is subject to federal and state laws prohibiting discrimination.
- ix) Is in compliance with all applicable health and safety laws.
- x) Requires students to be physically present on school premises for a period of time substantially similar to that which other \_\_\_\_\_ County/City Public School students spend on school premises.
- xi) Is created in accordance with state law and regulations, and under the supervision of the Board of Education of \_\_\_\_\_ County/City.

## **III. POLICY STATEMENT**

In keeping with the local board of education's interest in providing varied innovative and creative instructional programs, a public charter school may be established in \_\_\_\_\_ County/City.

## **IV. POLICY GUIDELINES**

### **A. General Information**

1. A public charter school operates under the authority of the Board of Education of \_\_\_\_\_ County/City. Except as provided in § 9-104 of the Education Article, Annotated Code of Maryland, the public charter school must abide by the provisions of all laws,

policies, and regulations governing other public schools, except as otherwise provided in policy or state law.

2. The primary public chartering authority for the granting of a Charter is the Board of Education of \_\_\_\_\_ County/City.
3. The secondary public chartering authority for the granting of a Charter is the State Board of Education. The State Board may assume chartering authority for a restructured school in accordance with Section IV-B of this policy.
4. An application to establish a public charter school may be submitted to the local board of education by:
  - a. The staff of a public school;
  - b. A parent or guardian of a student who attends a public school in the county/city;
  - c. A nonsectarian, nonprofit entity;
  - d. A nonsectarian institution of higher education in the state; or
  - e. Any combination of persons specified above.
5. Under Maryland Law, the local board of education shall not grant a Charter to:
  - a. A private school;
  - b. A parochial school; or
  - c. A home school.
6. Upon submission of a completed and required application for a public charter school (on a form provided by the local superintendent and in accordance with the locally established procedures and timelines), the local board of education shall render a decision within 120 days of receipt of the application.
7. If the local board of education denies an application to establish a public charter school, the applicant may appeal the decision to the State Board of Education in accordance with §4-205(c) of the Education Article, Annotated Code of Maryland.
8. By law, the State Board of Education shall render a decision within 120 days of the filing of an appeal under this section.
9. If the local board of education denies an application to establish a public charter school and the State Board of Education reverses the decision, the State Board of Education may direct the local board of education to grant a Charter and shall mediate with the local board of education and the applicant to implement the Charter Agreement.

## **B. Restructured Schools**

Restructured schools are schools that must implement an alternative governance arrangement that has been approved by the State Superintendent of Schools and the State Board of Education if, after a year of corrective action, a school does not make adequate yearly progress as defined by *No Child Left Behind* legislation.

1. Upon submission of a completed and required application for creating a Charter Agreement for a school it has identified as meeting the conditions of restructuring (on a form provided by the local superintendent), the local board of education shall render a decision within 30 days of receipt of said application.
2. The local board of education may apply to the State Board of Education for an extension of up to 15 days from the time limit imposed under number 1 of this Section.
3. If an extension is not granted, and 30 days have elapsed, the State Board of Education may become a chartering authority. If an extension has been granted, and 45 days have elapsed, the State Board of Education may become a chartering authority.
4. If the local board of education denies an application to establish a public charter school, the applicant may appeal the decision to the State Board of Education, in accordance with § 4-205(c) of the Education Article, Annotated Code of Maryland.
5. By law, the State Board of Education shall render a decision within 120 days of the filing of an appeal under this section.
6. If the local board of education denies an application to establish a public charter school and the State Board of Education reverses the decision, the State Board of Education may direct the local board of education to grant a Charter and shall mediate with the local board of education and the applicant to implement the Charter Agreement.

### **C. Employees at a Public Charter School**

1. The superintendent retains the authority to assign and transfer educators as the needs of the system require and as negotiated in the Charter Agreement.
2. A member of the professional staff assigned at a public charter school shall hold the appropriate Maryland certification.
3. Employees at a public charter school are public school employees, as defined in §§ 6-401(d) and 6-501(f) of the Education Article, Annotated Code of Maryland and shall have all rights contained therein.
4. Employees are in the bargaining unit(s) with other public school employees in similar job classifications and are entitled to the salaries, benefits and working conditions in the existing negotiated agreement for their job classification.
5. Existing employee organizations and the public charter school may mutually agree to negotiate amendments to an existing agreement to address the needs of the particular public charter school. Agreements are subject to local school board approval.

### **D. Public Charter School Facilities**

If the public charter school wishes to use existing \_\_\_\_\_ County/City Public Schools' buildings or a portion thereof, such use must be negotiated with the local board of education. Policies and regulations related to health and safety cannot be waived.

### **E. Student Admission**

1. Tuition
  - a. Students domiciled in \_\_\_\_\_ County/City will be eligible for admittance without tuition charge. Students not domiciled in \_\_\_\_\_ County/City will be eligible for admittance without tuition charge only as allowed by the school system for other non-domiciled students attending other schools in the school system. The amount of any tuition charged will be calculated as if the student is attending any other public school in \_\_\_\_\_ County/City. The tuition will be paid to the \_\_\_\_\_ County/City Public School System. However, the funding provided by the school system to the public charter school

for that student will be calculated in the same manner as for all other students attending the public charter school.

- b. No eligible non-tuition-paying student may be denied admittance in the public charter school in order to accept a tuition-paying student.
2. The public charter school cannot discriminate and is in compliance with all federal and state anti-discrimination laws.
3. A random selection process must be used if the number of eligible applicants exceeds the predetermined student capacity in the public charter school as agreed upon in the approved charter application.

## **F. Compliance with Laws, Policies, and Regulations**

1. A public charter school shall comply with the provisions of law and regulations governing other public schools unless a waiver is granted by the State Board of Education. The State Board of Education may waive any provisions except laws or regulations relating to:
  - a. Audit requirements.
  - b. The measurement of student academic achievement, including all assessments required for other public schools and other assessments mutually agreed upon by the public chartering authority and the school.
  - c. The health, safety, or civil rights of a student or an employee of the public charter school.
2. A public charter school may request waivers of local policies and procedures from the local board of education.
3. Individualized Education Programs (IEPs) for students with disabilities will be implemented and all state and federal procedural safeguards will be followed, in accordance with the agreement established by the Charter.
4. Criminal background checks for all public charter school employees shall be required as dictated by local board of education policy and regulations, and applicable state law.
5. A Charter may not be granted to a school whose operation would be inconsistent with any public policy initiative, court order, or federal improvement plan governing special education that is applicable to Maryland.

6. Employees at a public charter school shall be evaluated in a manner that is consistent with state law and applicable local board of education policy and regulations and any applicable negotiated agreement provisions.
7. The local superintendent of schools shall ensure that prior to opening a public charter school the operators of the school are informed of and address the human, fiscal, and organizational capacity needed to fulfill the school's responsibilities related to children with disabilities.
8. The State Board of Education shall provide technical assistance to the operators of a public charter school to help the school meet the requirements of federal and state laws, including 20 U.S.C. §1400, et seq and §504 of the Rehabilitation Act of 1973, 29 U.S.C. §794.

#### **G. Evaluation of Public Charter Schools**

The public charter school shall be evaluated by the local board of education based on student achievement, fiscal management, and other criteria pursuant to its approved application and the terms and conditions of its Charter Agreement.

#### **H. Revocation of a Charter**

1. The local board of education may place a public charter school on probationary status to allow the implementation of a remedial plan, pending a decision to revoke the school's Charter.
2. The local board of education may revoke a public charter school's Charter for the following reasons:
  - a. The school has failed to meet the terms of its Charter Agreement.
  - b. The school has failed to comply with the Charter Agreement or provisions of federal, state, or local law.
  - c. The fiscal condition of the school is substantially deficient.
  - d. The physical environment presents a safety or health risk to building occupants.
  - e. The academic condition of the school is substantially deficient.
  - f. The facility can no longer support the needs of the educational program.
3. Upon revocation, personnel and students shall be reassigned pursuant to Board policy and procedure.

4. Upon revocation, resources provided by the school system shall remain under the supervision of the local board of education.

**I. Reporting Requirements**

1. An annual report on each public charter school will be presented to the local board of education and distributed to all parents, including:
  - a. Fiscal management;
  - b. Student achievement; and
  - c. Any other matter required pursuant to the Charter Agreement.
2. Public charter schools shall comply with all federal, state, and local reporting requirements, unless waived.

**J. Financial, Programmatic, or Compliance Audits of Public Charter Schools**

1. The local board of education shall require financial, programmatic, or compliance audits consistent with federal, state, and local law and procedures. The public charter school shall make available all required financial records and other material necessary to conduct an audit.
2. The local board of education will annually determine the appropriate amounts of local, state and federal funding to be distributed to the public charter school commensurate with the amounts disbursed to other public schools in the local jurisdiction.
3. The local board of education or State Board of Education may give surplus educational materials, supplies, furniture, and other equipment to a public charter school.
4. An approved public charter school may seek and receive other grants through local, state, or federal government sources or private sources without a reduction in its fair share allocation unless other provisions are included in the Charter Agreement.
5. An approved public charter school shall notify immediately the local school system superintendent if at any time during the year it determines that the school may not be in a position to meet its projected expenses. The public charter school shall provide the school system with the basis for the problem and cooperate with the school system in resolving the financial situation.
6. The Charter Agreement shall provide evidence of appropriate property and casualty insurance as reflected in the Charter Agreement.

## **K. Public Charter School Application Process**

1. An applicant to operate a public charter school shall submit an application to the local board of education in accordance with the procedures established by the local board of education.
2. The superintendent or designees shall make available to a charter school applicant advice, technical assistance, and consultation throughout the charter school application process. The applicant may use these services in order to help ensure that all components of the application have been completed and are addressed. It is the responsibility of the applicant to complete the application.
3. Applications shall include, but not be limited to, the following components:
  - a. A statement of intent to comply with applicable federal, state, and local laws and regulations and this policy.
  - b. The applicant's vision of public charter school expectations and mission. The primary mission must remain focused on student academic achievement.
  - c. A description of any special or unique educational focus to be implemented.
  - d. Strategies for developing and delivering educational programs including curriculum, staffing patterns and grade levels.
  - e. Specific educational results including student academic outcomes and how they will be measured.
  - f. Specific plans for meeting or exceeding current accountability provisions of \_\_\_\_\_ County/City Public Schools and state law and regulations.
  - g. Student admission procedures.
  - h. A facilities plan that describes the type of facilities, possible location, and the characteristics of the facility that will be needed to ensure the appropriate implementation of the proposed education program. The plan should also include the requirements to ensure accessibility consistent with the Americans with Disabilities Act. Final charter approval would be contingent upon the acquisition of the appropriate facilities consistent with the facilities plan.
  - i. A defined management and administrative structure that will be in place for the public charter school.
  - j. The proposed duration of the Charter Agreement which provides legal accountability for the operation of the public charter school.
  - k. Demonstration of financial solvency for the duration of the

- Charter Agreement and accountability for the use of funds and resources as addressed in the budget section of the charter school application.
- I. A plan which provides programmatic accountability for the length of the Charter Agreement.
  - m. Specific waivers of local, state and federal requirements needed to implement the proposed education program.
  - n. A plan for providing needed school support services such as transportation, custodial and maintenance, health services, and food services.
  - o. A description of the type and extent to which there is sufficient community support for the proposed public charter school must be submitted.

**V. LEGAL AUTHORITY**

This policy is consistent with Title 9 of the Education Article, Annotated Code of Maryland, known as the "Maryland Public Charter School Program".

**VI. EFFECTIVE DATE:**

This policy is effective \_\_\_\_\_ .

PART II

ORGANIZING TO ASSIST  
PUBLIC CHARTER SCHOOL  
DEVELOPMENT

## PART II

# ORGANIZING TO ASSIST PUBLIC CHARTER SCHOOL DEVELOPMENT

**I**t is important that a local school system establish a comprehensive application development and review process consistent with the local board of education policy. It is recommended that the application development process become the mechanism through which an applicant applies for approval to establish a public charter school. The application development process is a useful structure in planning and eventually operating a high quality, effective and efficient public charter school. Once completed, an approved application may become the central element of the Charter Agreement that authorizes the public charter school.

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### AVOIDING PROBLEMS THROUGH SOLID PREPARATION AND PLANNING

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**T**here are important responsibilities that need to be planned for when establishing a public charter school. A solid planning process can help prevent serious problems that all too often impact the operation of an otherwise strong program. Areas that are frequently identified as potential problems are: (1) inadequate capital funding and facilities; (2) cash flow problems and the difficulty of securing credit; (3) a large number of laws and regulations (and paperwork reporting) which continue to be required of charter schools; (4) struggles in obtaining local school board sponsorship; (5) difficulties managing the business of the schools; and (6) inadequate planning.

In addition, an applicant and local school system need to be sure there is a solid understanding of several important considerations. Among these are:

- **Funding**

The local board of education will annually determine the appropriate amounts of local, state and federal funding to be distributed to the public charter school commensurate with the amounts disbursed to other public schools in the local jurisdiction.

- **Facilities**

Public charter school applicants may not have identified a facility at the time an application is submitted for review by a local board of education. Often, the approval of the charter school application by a local board of education is needed in order to

secure the acquisition or lease of an appropriate facility. Under this circumstance, the charter applicant may be required, as part of the application, to identify a timetable for acquiring a site, along with a projection of the number of square feet needed to operate the education program and the general location within the jurisdiction. The applicant should also be able to identify the type of facility needed in order to efficiently operate the proposed education program.

It is appropriate that a local board of education withhold final approval of a Charter Agreement to operate a public charter school, pending the applicant's identification of either the acquisition or leasing of an appropriate facility that meets health and safety requirements, and the specific needs of the education program.

- **Federal Education Program Requirements (NCLB)**

Charter schools are subject to a number of requirements under the No Child Left Behind Act of 2001, which reauthorized the Elementary and Secondary Education Act of 1965 (ESEA). This act contains the bulk of laws authorizing most federal education programs, including the federal charter schools grant program. Because charter schools are public schools, charter schools that receive funds under any of the ESEA programs are required to comply with the ESEA requirements for use of the funds. For examples, a charter school receiving ESEA Title I Part A funds must comply with (1) the accountability requirements, (2) Title I public school choice provisions, (3) supplemental educational services provisions, (4) corrective action, and (5) the qualifications of teachers and paraprofessionals. A description of each of the various ESEA regulations governing charter schools is discussed in Section IV.

- **Students with Disabilities – Special Education Requirements**

Charter Schools are public schools, and as such are required to comply with federal and state special education laws and regulations. A local board of education shall ensure that the authorizing process for a public charter school and the application address the roles and responsibilities of the local school system and the operators of the public charter school consistent with the 1997 Individuals with Disabilities Education Act (IDEA) Amendments and Code of Maryland Regulations (COMAR) 13A.05.01 Provision of a Free Appropriate Public Education and COMAR 13A.05.02 Administration of Services for Students with Disabilities.

The local board of education shall ensure that, prior to approving the opening of a public charter school, the operators of the school are informed of the human, fiscal, and organizational capacity needed to fulfill the school's responsibilities related to children with disabilities. It is the responsibility of the operator to implement the Individualized Education Program (IEP) of any special needs student attending the public charter school.

A local board of education may not grant a Charter to a public charter school whose operation would be inconsistent with any public policy initiative, court order, or

federal improvement plan governing the provision of special education and related services.

The State Board of Education shall provide technical assistance to the operators of a public charter school to help the school meet requirements of federal and state laws, including 20 U.S.C. § 1400, et seq. and § 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794.

- **Availability of Waivers**

A public charter school in Maryland has the legal status of the other public schools within the jurisdiction and may, as any public school, request waivers other than those relating to health, safety, civil rights, and disabilities.

Local boards of education have procedures to waive their own rules. Local boards of education should include within their policies and procedures processes to receive and consider requests from public charter school applicants to waive local requirements consistent with the needs of the proposed public charter school in accordance with the *Public Charter Schools Act of 2003*.

A public charter school may request that the Maryland State Board of Education waive a state regulation(s) that is deemed unnecessary for the operation, enhancement of academic achievement, and student performance. In addition to the state waiver provisions, Maryland is an Ed-Flex state which permits waivers of some federal and local requirements under specific circumstances in accordance with the state's established procedures.

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## **APPLICATION/CHARTER AGREEMENT -- A TWO-STEP PROCESS**

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**O**ne approach that has developed in states and communities with deep experience in public charter school operation is the implementation of a two-step chartering system. The initial step is the application development, submission, and review process. This part of the system is an opportunity for a potential public charter school applicant to determine the need for and feasibility of creating a public charter school within a community. This is also the opportunity to develop and describe the educational program to be offered at the public charter school that will address the needs of students. It is at this point that local school system officials should be notified of the interest to establish a public charter school as early as possible. This notification is designed to initiate discussions and technical assistance between the applicant and school system staff concerning all aspects of the prospective public charter school.

The application development and submission process provides opportunities for the prospective public charter school organizing body and local school system officials to examine all aspects of the proposed educational program and to identify various administrative functions that will need to be fulfilled during the planning, opening, and operation of the public charter school. The application development process culminates in the submission of a completed application to the local board of education for its review and either approval or denial.

After the application process is complete and the public charter school has been approved, a Charter Agreement must be developed. This Agreement is a contract that is binding by law and explains in detail the responsibilities of all of the parties involved in the implementation of the public charter school. The thoroughness of the application process can pave the way for the conversion of the approved application into the main component of the formal Charter Agreement. Often, additional negotiations can be limited depending on the thoroughness of the application process.

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## **PUBLIC SCHOOL CONVERSION**

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**T**he Maryland Public Charter School Law permits the conversion of an existing public school to a public charter school. Local boards of education should establish procedures that accommodate an application for such a conversion. For example, one aspect of the procedure might include a requirement that a certain percentage of parents with children attending the school are in agreement with the conversion. A similar requirement may be appropriate for certified staff currently assigned to the school.

With the exception of specific considerations such as these, all other requirements relating to the establishment of a public charter school within the school system would apply to the prospective converted school. Schools that fail to make Adequate Yearly Progress for five years may convert to a public charter school in year six as one option in accordance with No Child Left Behind.

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## **THE CHARTER DEVELOPMENT STAGE**

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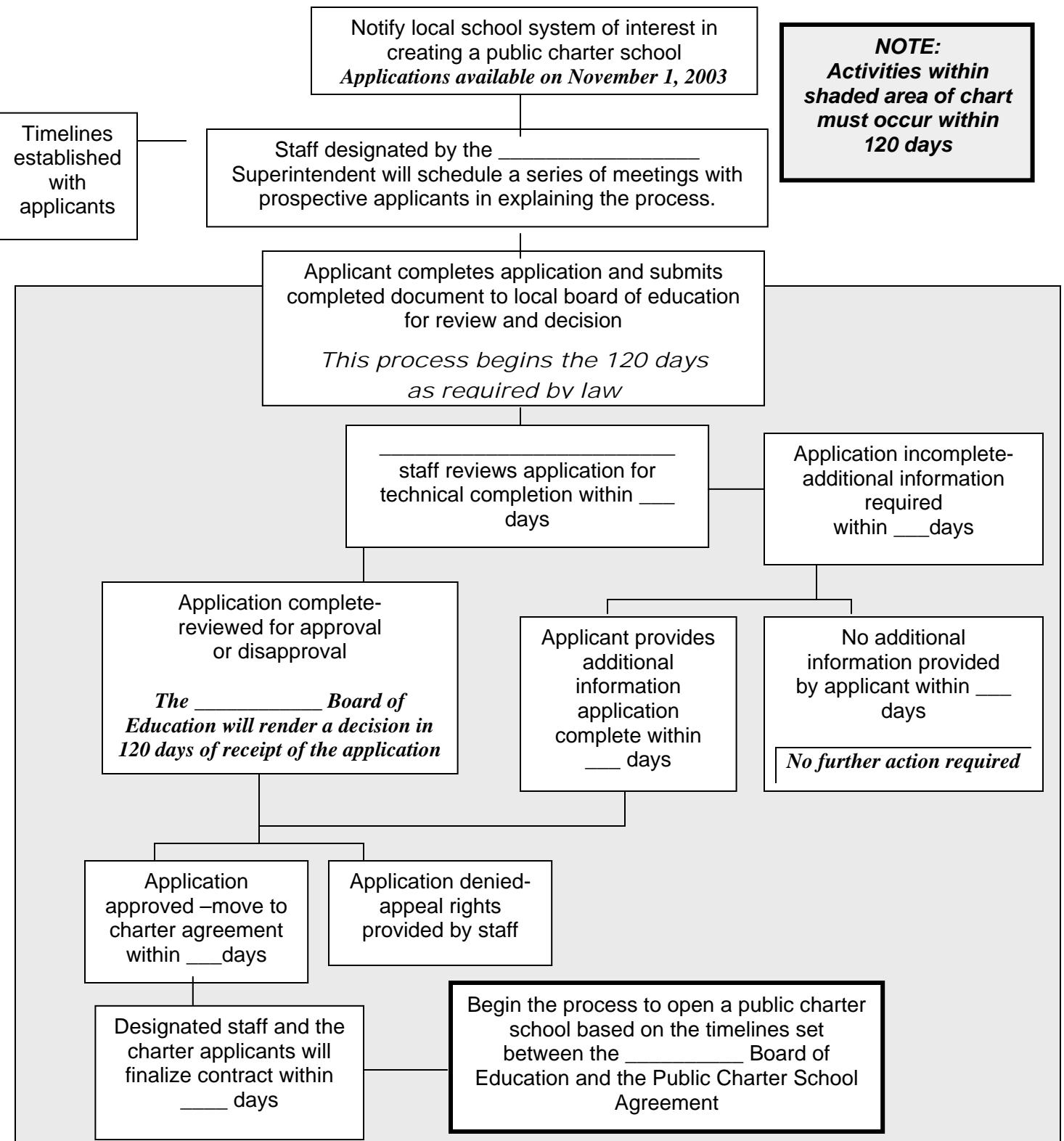
**P**resuming approval of the application by the local board of education, the second step of the process begins. This is the development of a formal written Charter Agreement between the public charter school applicant and the local board of education. This legally enforceable document should describe all aspects of the new public charter school and identify the education program to be offered to students as well as the administrative activities that will be undertaken in the establishment and operation of the public charter school. It also must identify which entity

(local school system or public charter school operator) will be responsible to fulfill the various elements both programmatic and administrative within the new program. The agreement should also specify the length of the Charter Agreement and the process and basis for terminating a Charter Agreement.

In summary, there is much to consider when a community contemplates establishing a public charter school. As a prospective applicant and a school system begin to develop a strong partnership concerning the creation of a public charter school, it would be appropriate to review the responsibilities and administrative functions that are required to operate a public charter school. A review of these areas could help inform the application development process and assist in identifying the specific areas that will need consideration and inclusion within the Charter Agreement between the applicant and local school system officials. These areas are listed in Part III of this Guide. Local school systems may also want to consider sponsoring conferences and training opportunities for potential public charter school operators.

It may be helpful for the local school system to develop a flow chart describing the local procedures to establishing a public charter school within the school system. This flow chart can be augmented with specific timelines and names of school system personnel to contact for information. The following is a sample process flow chart developed by a local school system that may be of assistance.

## Sample Process Flow Chart on Public Charter Schools



PART III

COMPLETING THE  
PUBLIC CHARTER SCHOOL  
APPLICATION

# PART III

## COMPLETING THE

### PUBLIC CHARTER SCHOOL APPLICATION

The areas listed below are a sample of important considerations for inclusion in the application development, review and approval process.

The application form itself can be designed to assist an applicant address each area in written form to help ensure that the completed application responds to key items. It is also recommended that the application form or a companion document provide the guidance concerning the criteria that will be used to evaluate the applicant's response to a particular item. This latter point might be best illustrated through the following examples: "Mission and Goals"; and "Management and Administrative Structure of the Public Charter School". Here we have selected two topic areas of a hypothetical application and provided examples of a "rubric" that would be used to both respond to the item as well as determine completeness and appropriateness of the response.

- **Criteria: Mission and Goals**
  - Is the mission clearly articulated?
  - Are the goals clearly written and consistent with the mission?
  - Do the goals provide a coherent and consistent basis on which to build an education program aligned with mission?
  - Are the goals consistent with the needs of students identified as the target group of students for the program, etc?
- **Criteria: Management and Administrative Structure**
  - Is the leadership-management group made up of individuals with relevant experience and demonstrated knowledge and skills needed to create and operate a public charter school?
  - Is the proposed management structure sound, consistent with the stated vision and mission, and does it provide evidence that the structure will be effective (clearly defined decision making procedures, spelled-out roles and responsibilities that are aligned), etc.

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## **POSSIBLE COMPONENTS OF A PUBLIC CHARTER SCHOOL APPLICATION – A SAMPLE CHECKLIST**

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### **1. EXECUTIVE SUMMARY**

	<b>Reviewed/ Addressed</b>	<b>To be Addressed</b>	<b>Not Applicable</b>
a. Provide overview of needs to be addressed by the public charter school.			
b. Describe briefly the program to be implemented including any specific focus of the program.			

### **2. MANAGEMENT AND ADMINISTRATIVE STRUCTURE**

	<b>Reviewed/ Addressed</b>	<b>To be Addressed</b>	<b>Not Applicable</b>
a. Legal entity/corporate structure			
b. Governing boards – roles, responsibilities, functions			
c. Administrative practices			
d. School management			
e. Organizational chart of the public charter school			
f. Administrative staffing plan			
g. Job descriptions for all staff			
h. Outreach to the community – public information procedures and documents			

### **3. SCHOOL'S EDUCATION PROGRAM**

	<b>Reviewed/ Addressed</b>	<b>To be Addressed</b>	<b>Not Applicable</b>
a. Mission, philosophy and goals of the program			
b. Education levels to be offered (elementary, middle secondary, combination)			
c. Special focus of the school program as appropriate			
d. Curriculum and instructional methods to be employed			
e. Educational outcomes to be achieved			
f. Assessment of school performance and student achievement			
g. Extended day program/supplemental programs			
h. Student to teacher ratio			
i. Extracurricular activities			

j. Appropriate technology, libraries and other media available			
k. Extra-curricular activities (on and off campus)			

#### **4. STUDENT PERFORMANCE ACCOUNTABILITY**

	Reviewed/ Addressed	To be Addressed	Not Applicable
a. Reporting student performance and progress			
b. Reporting state assessments and performance results			
c. Meeting local performance standards			
d. Basis for student promotion and graduation			

#### **5. STUDENT AFFAIRS**

	Reviewed/ Addressed	To be Addressed	Not Applicable
a. Enrollment catchment area as appropriate			
b. Procedures for recruitment of students system			
c. Student enrollment lottery system			
d. Admission/attendance/withdrawal policies			
e. Non-discriminatory practices			
f. Parent and community involvement			
g. Orientation for parents, teachers, community			
h. Public and parent information plans			

#### **6. SPECIAL POPULATIONS**

	Reviewed/ Addressed	To be Addressed	Not Applicable
a. Provision for students with disabilities (IDEA and Section 504)			
b. Provision for English Language Learners			

#### **7. TRANSPORTATION**

	Reviewed/ Addressed	To be Addressed	Not Applicable
a. Projection of transportation needs			
b. Service agreements and funding			
c. Bus routes – pickup and drop-off plans			

## **8. FACILITIES**

	<b>Reviewed/ Addressed</b>	<b>To be Addressed</b>	<b>Not Applicable</b>
a. Identification and location of site if known at time of application			
b. Identification and location of site pending approval of application			
c. Building site plan and floor plan(s)			
d. Building gross and net square footages			
e. Building current and proposed space use			
f. Building inspection report(s)			
g. Building systems and materials condition			
h. Building codes			
i. Fire safety and health codes			
j. <i>Americans with Disabilities Act</i> accessibility for individuals with disabilities			
k. Hazardous materials			
l. Casualty insurance			
m. Facility acquisition/lease			
n. Planning and zoning			
o. Proposed site redevelopment, new construction or renovation, and estimated costs			
p. Schedule for occupancy			
q. Plans for building security, maintenance and custodial services			

## **9. PROFESSIONAL/SUPPORT PERSONNEL-QUALIFICATIONS**

	<b>Reviewed/ Addressed</b>	<b>To be Addressed</b>	<b>Not Applicable</b>
a. Job descriptions for all direct service staff			
b. Qualification and certification of teachers and other professional staff			
c. Fingerprinting and criminal background checks for all staff/volunteers			
d. Resumes for all professional staff			
e. Personnel evaluation and accountability system			

## **10. STUDENT SUPPORT SERVICES**

	<b>Reviewed/ Addressed</b>	<b>To be Addressed</b>	<b>Not Applicable</b>
a. Written policies and procedures			
b. Enrollment and attendance data			
c. Compulsory attendance requirements			
d. Length of student instructional day			
e. Nonresident tuition policy as appropriate			
f. Student withdrawals and dismissal policies			
g. Student promotion-retention policies			
h. Discipline procedures – suspensions – expulsions – alternatives			
i. Student records and forms requirements			
j. Students/family confidentiality standards and procedures			
k. Student emergency plan and procedures			
l. Health and safety – students and staff policies			
m. Health services available to students			
n. Immunization practices			
o. Food services to be provided			

## **11. REGULATIONS/LEGAL**

	<b>Reviewed/ Addressed</b>	<b>To be Addressed</b>	<b>Not Applicable</b>
a. Assurances forms required by local and state requirements			
b. Reporting requirements and annual review process			
c. Civil liability and insurance as appropriate			
d. General liability insurance as appropriate			
e. Plan to maintain compliance with state and federal education program requirements			
f. Records maintenance/distribution			
g. Appropriate licenses to operate as appropriate; e.g., child development center license			

## **12. PROFESSIONAL/SUPPORT STAFF -- SERVICES**

	<b>Reviewed/ Addressed</b>	<b>To be Addressed</b>	<b>Not Applicable</b>
a. Employment policies/recruitment procedures			
b. Salary scales and benefits			
c. Access to and knowledge of current negotiated personnel agreements/contracts within the school system			
d. Standards and assessments for performance			

e. Tenure and related employee matters			
f. Professional development plans			
g. Employee relationships/staff discipline			
h. Leave policy for personnel			
i. Grievance procedures/dispute resolution			
j. Non-discriminatory practices			

### **13. BUDGET AND FINANCE**

	Reviewed/ Addressed	To be Addressed	Not Applicable
a. Pre-opening expenses			
b. Startup budget			
c. Determination of the annual distribution of state, local and federal funds			
d. Capital budget			
e. Financing of the facility			
f. Annual budget for duration of Charter Agreement			
g. Anticipated sources of funds			
h. Financial management/accounting system -- procedures			
i. Cash flow projection – annual			
j. Financial/budget reviews			
k. Provision for financial audits by school system			
l. Supervision of and inventory control of material, equipment and supplies			
m. Planned fundraising efforts annually			

## PART IV

### FREQUENTLY ASKED QUESTIONS (FAQs)

## PART IV

# FREQUENTLY ASKED QUESTIONS (FAQs)

Enclosed under this section are FAQs that have been developed to assist local public school personnel and public charter school applicants. This section contains three sets of FAQs.

The first are of a general nature (see below). The second and third were taken from the U.S. Department of Education website and concern *No Child Left Behind*.

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### GENERAL QUESTIONS AND ANSWERS

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*Q: What should be the focus of a Maryland public charter school?*

A: The public charter school represents a choice for parents and may provide innovative learning opportunities and creative educational approaches to improve the education of students. Public charter schools strive for high academic standards and are accountable for results for student performance as any other public school.

*Q: What requirements are imposed on Maryland public charter schools?*

A: Public charter schools are subject to any federal, state, and local policies, regulations and statutes that affect traditional elementary and secondary public schools unless certain policies, procedures or regulations are waived by local education authorities or the State Board of Education, as appropriate.

*Q: What is the process for establishing a public charter school in Maryland?*

A: Each local board of education will establish policies and procedures that describe the process to be used by public charter school applicants in that school system. Public charter school operators must follow those procedures and use the application process established by the local board of education in the jurisdiction where the public charter school will operate. Public charter schools operate under the supervision of the public chartering authority from which its Charter Agreement is granted.

*Q: Who is eligible to submit an application for a public charter school?*

A: Public charter school applications may be submitted to the local board of education by the staff of a public school, a parent or guardian of a student who attends a public school in the county/city, a nonsectarian nonprofit entity, a nonsectarian institution of higher education in the state, or any combination of the above.

*Q: Who is responsible for completing the application?*

A: The applicant is responsible for the completion of the application and compliance with all laws, regulations, policies and procedures.

*Q: To whom will the public charter school operators report?*

A: Public charter school operators report to the public chartering authority from which its Charter Agreement is granted.

*Q: May a restructured school become a public charter school?*

A: Yes, in accordance with state regulations (*COMAR 13A.01.04.07C*) and local procedures.

*Q: May ‘start-up’ funds be provided for public charter schools?*

A: There are specific charter school grant funds available for the Pre-Planning, Planning and Design and Implementation phases of charter school operation. These competitive funds are available through the Federal Charter School Grant Program managed by the Maryland State Department of Education. Check the MSDE website for more details on these funds.

*Q: How are public charter schools funded?*

A: The local board of education will disburse to public charter schools an amount of county, state and federal money that is commensurate with the amount disbursed to other public schools in the local jurisdiction. Additionally, surplus educational materials, supplies, furniture and other equipment may be given to the public charter school by the state or local board of education.

*Q: May public charter schools charge tuition?*

A: No. Public charter schools are public schools and may not charge tuition to residents of the jurisdiction where the school is located. As authorized by Maryland statutes and regulations, a local school system may charge tuition to out-of-district students.

*Q: May a local board of education assess an application fee for establishing a public charter school?*

A: There is no basis in Maryland’s public charter school law authorizing the assessment of fees.

*Q: What is the enrollment process for public charter schools?*

A: Public charter schools are open to all students on a space-available basis, and on a lottery basis if more students apply than can be accommodated.

*Q: May private or religious schools convert to public charter schools?*

A: A public charter school may not be a private school, a parochial school or a home school.

*Q: Can public schools convert to public charter schools?*

A: Yes. Existing public schools can convert to public charter schools.

*Q: Who will review and evaluate public charter school applications?*

A: Public charter school applications will be reviewed and evaluated by the county board of education in which the charter school will be established.

*Q: Can the local board of education’s decisions on charter applications be appealed?*

A: Yes. Appeals will be heard by the State Board of Education in accordance with the requirements of the Public Charter School Act of 2003.

*Q: Is there a specified number of years for which a charter will be granted?*

A: No. However, a local board of education may develop requirements of a specific term as well any standards for renewal of the Charter Agreement.

*Q: How are public charter schools held accountable to standards?*

A: The public charter school will meet current accountability provisions of local education authorities and state regulations and statutes. The public charter school must provide documentation to the chartering authority regarding fiscal accountability and performance on recognized academic measures as agreed upon in the Charter Agreement.

*Q: What kinds of flexibility do public charter schools receive?*

A: Public charter schools will receive flexibility in a number of areas, principally in the areas of management and administrative structure, staffing, educational programming, curriculum/instructional focus, program emphasis and budgeting, in exchange for high academic performance. Additional areas of flexibility may be negotiated between the public charter school and the local board of education.

*Q: What buildings can house public charter schools?*

A: Public charter school buildings must meet all federal, state and local facility, health and safety standards and the building must be appropriate for the education program being offered and must be accessible in accordance with the Americans with Disabilities Act.

*Q: Are public charter school personnel employees of the school system?*

A: Employees of a public charter school are public school employees of the county/city in which the public charter school is located. If a collective bargaining agreement is already in existence in the county/city where a public charter school is located, the public charter school employees are covered by the terms and conditions in that contract; however, the public charter school and the employee organization may mutually agree to negotiate amendments to the existing agreement to address the needs of the particular public charter school and approved by the local school board.

*Q: May public charter schools employ non-certified educators?*

A: The professional staff of a public charter school must have the appropriate Maryland certification.

*Q: Can volunteers work in the public charter school?*

A: Yes. All staff and volunteers in public charter schools must meet required state and local background checks.

*Q: Will public charter school staff receive professional development?*

A: Public charter school staff will receive the same services as public school staff in that jurisdiction unless indicated in the Charter Agreement.

*Q: Are educational support services available to public charter schools?*

A: The local board of education will provide technical support through the designated public charter school contact. The Maryland State Department of Education is also available to provide technical assistance to the operators of a public charter school to help the school meet the requirements of federal and state laws.

*Q: Will transportation services be provided for students to/from the public charter school?*

A: Students attending public charter schools should receive the same services as students attending other public schools in that jurisdiction. Transportation services are subject to agreements outlined in the Charter Agreement. Transportation services are to be provided to students with disabilities in accordance with their Individualized Education Program (IEP).

*Q: Will the public charter school have extra-curricular activities such as sports?*

A: Yes. Public charter schools can offer extra-curricular and supplemental services as described in the educational program.

*Q: May students with disabilities attend a public charter school?*

A: Yes. Public charter school operators must fulfill the responsibilities related to children with disabilities. Public charter schools are open to all students on a non-discriminatory basis.

*Q: What ages should the public charter school accept?*

A: Public charter schools may support the ages that provide a program of elementary or secondary education, or both.

*Q: Will public charter school students participate in assessments?*

A: The measurement of student academic achievement must include all assessments required for other public schools and other assessments mutually agreed upon by the public chartering authority and the public charter school.

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# **THE IMPACT OF THE NEW TITLE I REQUIREMENTS ON CHARTER SCHOOLS**

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*(Excerpts from the USDE guidance on ESEA programs that apply to Maryland.  
Complete document can be found at [www.ed.gov/offices/OII/choice/charterguidance03.doc](http://www.ed.gov/offices/OII/choice/charterguidance03.doc))*

## **A. Charter Schools and Accountability Requirements in NCLB**

### **A-1. Are charter schools subject to meeting adequate yearly progress (AYP)?**

Yes, charter schools, like all public schools within a State, are subject to the State's Title I accountability requirements. However, a State shall look to its charter school law to ascertain the entity responsible for overseeing charter school accountability for Title I purposes.

### **A-2. Which entity in a State is responsible for ensuring that charter schools make adequate yearly progress and comply with other accountability provisions in Title I, Part A?**

Section 1111(b)(2)(K) of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001 (NCLB) and Section 200.49(f) of the final Title I regulations (67 Fed.Reg. 71710, 71727, to be codified at 34 C.F.R. pt. 200) require accountability for charter schools to be overseen in accordance with State charter school law. Thus, a State's charter school law determines the entity within the State that bears responsibility for ensuring that charter schools comply with the Title I, Part A accountability provisions, including AYP. The charter authorizer is responsible for holding charter schools accountable for Title I, Part A provisions unless State law specifically gives the SEA direct responsibility for charter school accountability. We do not expect the LEA in which the charter school is located to be this entity, unless it is also the charter authorizer.

### **A-3. Must charter school authorizers now insert state plans for meeting AYP into individual charter contracts?**

NCLB requires that authorizers monitor their charter schools to ensure they are meeting the State's AYP definition. If authorizers wish, they may choose to incorporate the AYP definition into charter contracts, especially for new schools, but NCLB does not explicitly require this step.

### **A-4. Given the important role for charter authorizers in many States under NCLB, should authorizers be assured resources from SEAs to discharge their accountability oversight responsibilities effectively?**

Yes, pursuant to State charter laws, NCLB empowers many charter authorizers with the oversight responsibilities for this Act. In States where the charter law defers to charter authorizers for accountability oversight, SEAs should consult with authorizers, especially in States that permit alternate authorizers such as public universities and/or municipal governments, to ensure they have the resources necessary to perform the duties assigned to them under NCLB.

**A-5. Will eligible charter authorizers now be responsible for allocating Title I and other federal formula funds to their charter schools?**

No. If a charter school is authorized by an entity other than a traditional (school-district) LEA, the SEA will still be responsible for allocating Title I funds directly to the charter school, pursuant to federal and state laws. In allocating these funds, SEAs will still comply with Section 5206 of ESEA and ensure that funds are allocated in a timely and efficient manner for new and expanding charter schools. If a charter is, under State law, part of an LEA, the LEA will allocate Federal funds to the school on the same basis that it provides funds to its other schools.

**A-6. Should State Title I accountability plans specifically address charter schools and reflect input from charter authorizers and operators?**

Yes. Charter schools are public schools subject to the accountability requirements of NLCB. In accordance with congressional intent, Title I state accountability plans may not "replace or duplicate the role of authorized chartering agencies" in overseeing accountability requirements for charter schools. State Title I accountability plans should respect the unique nature of charter schools and should reflect input from charter operators and authorizers.

**A-7. Are charter schools subject to the same Title I accountability requirements as other public schools under NCLB?**

Yes. In general, State charter laws currently require charter schools to participate in a State's assessment system for public schools in the State. Charter schools are subject to the same Title I accountability requirements as other public schools in a given State, including AYP (see A-1 and A-2).

**A-8. What if a charter school fails to meet AYP requirements but meets its contractual requirements with its authorizer?**

If a charter school fails to meet AYP requirements, then the charter school authorizer must take actions as required by NCLB.

**A-9. Does NCLB prohibit more rigorous accountability requirements than the requirements of a State's Title I accountability plan in an existing charter contract or a future charter contract?**

No. Nothing in NCLB prohibits the continuation of existing charter contracts, nor prohibits the development of future contracts that meet or exceed the Title I accountability requirements of NCLB. If a charter school's contract with its authorizer imposes more immediate consequences than a State's Title I accountability plan, the Department believes the authorizer should continue to ensure that the school abides by the charter contract under state law, notwithstanding the fact that the school may have made AYP.

## B. Charter Schools and the Title I Public School Choice Provisions

### **B-1. May an eligible charter school that is part of an LEA be listed as a choice option for parents who wish to transfer their child to a higher-performing school?**

Yes. LEAs should list charter schools that have not been identified for improvement, corrective action, or restructuring as choice options. Section 200.44(a)(3)(B)(ii) of the Title I regulations (67 Fed. Reg. 71710, 71724, to be codified at 34 C.F.R. pt. 200) also discusses charter schools as choice options.

### **B-2. If a charter school is its own LEA but falls within the boundaries of a larger LEA, should eligible students from the larger LEA be able to transfer to it?**

Yes. An LEA should work with charter school LEAs within its geographic boundaries to reach agreements allowing students to transfer to these schools. Also, allowing eligible students to transfer to a charter school LEA within its boundaries does not lift the requirement that the LEA provide choice options in schools that it operates.

### **B-3. Do charter schools that admit students using a lottery have to give priority to eligible students transferring under the public school choice provisions of NCLB?**

No. Nothing in the statute requires that students transferring under the Title I public school choice provisions be granted preference in these lotteries. State law determines how and if lotteries operate for oversubscribed charter schools. Also, to be an eligible charter school under the Federal charter school grants program, a charter school must use a lottery to admit students if there are more applicants than openings; however some State laws allow other methods for determining admission to oversubscribed charter schools.

### **B-4. Must parents be notified if a charter school is identified as in need of improvement, corrective action, or restructuring?**

Yes. If a charter school is identified for improvement, parents of students enrolled at the school must be notified of its status before the beginning of the school year following identification, just as parents of students enrolled in other public schools are notified. If a charter school is part of an LEA, then the LEA should notify parents of their options. If the charter school is an LEA itself, then the authorizer or the charter school itself should notify parents of the school's status and their options, including returning children to their "home" public school.

**B-5. Are charter schools that are parts of LEAs under State law, required to provide choice options and offer transportation for students to other higher-performing schools in the LEA if the charter school is identified by the State as in need of improvement, corrective action, restructuring?**

Yes, consistent with the statute, LEAs that authorize charter schools must provide choice options and offer transportation to other public schools of choice within the LEA, even if a State's charter law does not require that transportation funds be made available for charter schools.

**B-6. Are charter schools that are their own LEAs under State law required to provide choice options and offer transportation for students to other higher-performing schools in another LEA if the charter school is identified by the State as in need of improvement, corrective action, or restructuring?**

No. As noted above, if the charter school is an LEA itself, then the authorizer or the charter school itself should notify parents of the school's status and their options, including returning children to their "home" public school.

However, according to Section 200.44(h)(1) of the Title I regulations (67 Fed. Reg. 71710, 71725, to be codified at 34 C.F.R. pt. 200), if all public schools to which a student may transfer within an LEA (including charter school LEAs) are identified for school improvement, corrective action, or restructuring, the LEA must, to the extent practicable, establish a cooperative agreement with one or more other LEAs in the area. Therefore, a charter school LEA must, if it is practicable, establish such agreements with other LEAs.

Also, according to Section 200.44(h)(2) of the final Title I regulations, LEAs (including charter school LEAs) which have no eligible schools to which qualifying students may transfer, are allowed to offer supplemental educational services to parents of eligible students in the first year of school improvement.

**B-7. Are there Department resources one can use to find more information on NCLB's public school choice provisions?**

Yes. For more information please consult the Department's Title I regulations at: <http://www.ed.gov/legislation/FedRegister/finrule/2002-4/120202a.html>. You may also wish to consult the non-regulatory guidance on public school choice at: <http://www.ed.gov/offices/OESE/SASA/schoolchoiceguid.doc>

**C. Charter Schools and Supplemental Educational Services Provisions**

**C-1. Can charter schools provide supplemental educational services to students enrolled in low-performing Title I schools?**

Yes, charter schools that are not identified for improvement are eligible to become supplemental educational service providers pursuant to the Title I requirements.

**C-2. Are students who attend charter schools that are parts of LEAs under State law eligible for supplemental educational services?**

Yes. As with other public schools, if a charter school is identified as in need of improvement for two or more years, then Title I students in the school are eligible to receive supplemental educational services. The LEA must pay for such services on the same basis as it would pay for supplemental services for eligible students in any other school.

**C-3. How much must an LEA pay for supplemental educational services?**

The law establishes a combined funding requirement for choice-related transportation and supplemental educational services. Unless a lesser amount is needed to meet demand for choice-related transportation and to satisfy all requests for supplemental educational services, an LEA must spend up to an amount equal to 20 percent of its Title I, Part A allocation, before any reservations, on:

- (1) Choice-related transportation;
- (2) Supplemental educational services; or
- (3) A combination of (1) and (2).

These funds may come from Title I, other federal programs such as Title V, Part A of ESEA, funds moved into these programs under the “transferability” authorization, or State or local sources. This flexible funding approach means that the amount of funding that an LEA must devote to supplemental educational services depends in part on how much it spends on choice-related transportation.

If the cost of satisfying all requests for supplemental educational services exceeds an amount equal to 5 percent of an LEA’s Title I, Part A allocation, the LEA may not spend less than that amount on those services. An LEA may also spend an amount exceeding 20 percent of its Title I, Part A allocation if additional funds are needed to meet all demands for choice-related transportation and supplemental educational services. This funding mechanism applies to both charter schools that are parts of LEAs and charter schools that are their own LEAs under State law.

**C-4. Are there Department resources one can use to find more information on the Title I supplemental educational services provisions?**

Yes. For more information please consult the Department’s Title I regulations at: <http://www.ed.gov/legislation/FedRegister/finrule/2002-4/120202a.html>. You may also wish to consult the non-regulatory guidance on supplemental educational services at: <http://www.ed.gov/offices/OESE/SASA/suppsvcguid.doc>.

## **D. Charter Schools and Corrective Action**

### **D-1. Does NCLB give either States or authorizers the authority to reorganize a charter school's management and enforce other corrective actions?**

Yes. As with other public schools, charter schools that are unable to make AYP by the end of the second full school year after identification are placed under corrective action according to Section 1116(b)(7)(C) of ESEA. NCLB gives the appropriate entity under state law (see A-2) the responsibility to reorganize a charter school's management and enforce other corrective actions, consistent with State charter law and the State's accountability plan for its charter schools. State charter law shall determine if this requires the charter school to modify its charter contract.

### **D-2. Under the “corrective action” provisions, NCLB allows States to convert low-performing Title I schools into charter schools. How might a State explain the manner in which this provision would be implemented?**

If a State's charter school law allows public schools to convert to charter status, a State's Title I accountability plan may explain how the process of converting schools identified for corrective action to charter schools would work. The accountability plan might also identify the entities that will be expected to authorize such charters and explain whether these entities have discretion in extending the contracts for these charter schools.

## **E. Qualifications of Teachers and Paraprofessionals**

### **E-1. What qualifications do teachers in Title I charter schools have to meet under NCLB?**

Charter school teachers who teach core academic subjects must comply with any requirement in a State's charter school law regarding certification or licensure. A teacher in a charter school does not have to be licensed or certified by the State if the State's charter law does not require such licensure or certification.

However, teachers of core academic subjects in charter schools must meet the other requirements that apply to public school teachers, including holding a four-year college degree and demonstrating competence in the subject area in which they teach. According to Section 9101(11) of NCLB, the term “core academic subjects” includes English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography. For more information on the highly qualified teacher requirements, please consult the Title I regulations, Section 200.56 (67 Fed. Reg. 71710, 71730, to be codified at 34 C.F.R. pt. 200) and the Department's non-regulatory draft guidance on Title II, ESEA, Improving Teacher Quality State Grants, available at:

<http://www.ed.gov/offices/OESE/SIP/TitleIIGuidance2002.doc>.

### **E-2. When do charter school teachers have to meet these highly qualified requirements?**

Newly hired teachers of core academic subjects in Title I charter schools are teachers that are hired after the 2002-2003 school year. These teachers must meet the highly qualified teacher requirements applicable to charter school teachers before entering the classroom. Teachers of core academic subjects hired before the start of the 2002-2003 school year must meet the requirements by the end of the 2005-2006 school year. For more information on how teachers can demonstrate competence in their subject area(s), please refer to Appendix A of the Department's draft Title II non-regulatory guidance: Improving Teacher Quality State Grants, available at:

<http://www.ed.gov/offices/OESE/SIP>TitleIIGuidance2002.doc>

**E-3. What qualifications do charter school paraprofessionals have to meet?**

Paraprofessionals with instructional support duties in charter schools receiving Title I funds need to meet the same requirements as paraprofessionals in traditional Title I public schools. This requirement applies only to paid paraprofessionals and not parents or other volunteers.

According to Section 1119(c) and (d) of ESEA, paraprofessionals hired after enactment of NCLB (January 8, 2002) and working in Title I programs must complete at least two years of study at an institution of higher education, possess at least an associate's degree, or demonstrate subject matter competence through a formal State or local assessment.

**E-4. When do paraprofessionals employed prior to the enactment of NCLB need to meet these requirements?**

Paraprofessionals hired before enactment of NCLB (before January 8, 2002) and working in Title I programs must meet these same requirements by January 8, 2006. For more information, please see the draft non-regulatory guidance on paraprofessionals at:

<http://www.ed.gov/office/OESE/SASA/paraguidance.doc>

**E-5. If a charter school does not accept Title I funds, must it comply with these requirements for paraprofessionals?**

No, these requirements are applicable only to Title I schools and to paraprofessionals working in Title I programs.

**E-6. Must charter school LEAs reserve a portion of their Title I funds for professional development if they currently meet the "highly qualified" requirements for charter school teachers and the new requirements for paraprofessionals, do they still need to?**

No. Section 1119(l) of ESEA requires all LEAs, including charter school LEAs, to spend between 5 and 10 percent of their Title I allocations on professional development to help all teachers meet the new requirements by the end of the 2005-06 school year. If all teachers and paraprofessionals in a charter school LEA have met these requirements, the funds do not need to be reserved for professional development. However, even though existing staff may meet these requirements, care should be taken to ensure that all

teachers and paraprofessionals (including those who transfer in from other schools in the LEA) meet the requirements on schedule.

**E-7. Which entity is responsible for ensuring that charter schools comply with NCLB's charter school teacher quality requirements?**

Section 1111(b)(2)(K) of ESEA is clear that accountability oversight for charter schools shall be determined by individual State charter laws. The charter authorizer bears primary responsibility for holding charter schools accountable for Title I, Part A provisions (including the Part's teacher quality requirements) unless State law specifically gives the SEA direct responsibility for charter school accountability. We do not expect the LEA in which the charter school is located to be this entity, unless it is also the charter authorizer.

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# **PARTICIPATION OF CHARTER SCHOOLS IN ESEA PROGRAMS UNDER NO CHILD LEFT BEHIND**

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## **“What the Guidance Says”**

### **Title I, Part A –Grants to Local School Systems (see attached USDE guidance document)**

### **Title I – Part B-3 – Even Start Family Literacy**

**No reference**

### **Title I, Part B-1 – Reading First**

#### **H-17. Are public charter schools eligible to participate in the Reading First program?**

Yes. Under State law, public charter schools are generally either local educational agencies or public schools within an LEA. As such, public charter schools are eligible for support on the same basis as other public schools or LEAs in the State. If State law recognizes a charter school as an LEA and the charter school meets the eligibility requirements outlined in Question H-1, it may apply to its State educational agency for a subgrant as an LEA. If a charter school is a school within an LEA, it may receive funding through its LEA’s subgrant if it meets the criteria outlined in Question I-1. (See I-1 below).

#### **H-18.What are the implications of the Charter School Expansion Act of 1998 on Reading First awards?**

The Charter School Expansion Act reinforces the Department’s policy that public charter schools must be able to compete for Reading First funds on an equal footing with other public schools and local educational agencies. They may not be discriminated against in competing for funds simply because of their charter school status, nor may competitive preferences or absolute priorities be established for the purpose of excluding charter schools from competing for Reading First funds.

#### **H-19. May charter schools that are not local educational agencies apply directly to the State educational agency for Reading First subgrants?**

No. Only local educational agencies may apply directly to a State educational agency for Reading First funds. A charter school that is not an LEA under State law may not apply directly to the State for funding.

### **I-1. In which schools may a local educational agency use Reading First funds?**

A local educational agency that receives a Reading First subgrant may only distribute funds to schools within that LEA that are both:

1. Among the schools served by the LEA with the highest percentages or numbers of students in kindergarten through grade 3 reading below grade level, based on the most current data available; and
2. Identified for school improvement under Title I, Part A or have the highest percentages or numbers of children counted for allocations under section Title I, Part A.

## **Title I, Part F – Comprehensive School Reform**

### **F-17. Are public charter schools eligible to participate in the CSR program?**

If a charter school is an LEA, it may apply to the State for CSR funds on the same basis as other LEAs in the State. If a charter school is not an LEA, it may receive support only through an LEA that applies on its behalf.

### **F-18. What are the implications for CSR awards of the charter school provisions in section 5206 of the reauthorized ESEA?**

Section 5206 of the ESEA requires that public charter schools be permitted to compete for CSR funds on an equal footing with other public schools and LEAs. States may not create competitive preferences or absolute priorities for the purpose of excluding charter schools from competing for CSR funds and may not discriminate against these schools in awarding funds simply because of their charter school status. States and districts should use a clearly defined process and criteria to determine which schools--including charter schools and other public schools--are most deserving of CSR support. The criteria should distinguish among CSR applicants on the basis of a particular school's need for reform and the quality of the proposed program.

## **Title II, Part A – Improving Teacher Quality State Grants**

### **I-5. Can charter schools apply for *Improving Teacher Quality State Grants* funds?**

It depends. Those charter schools that are LEAs can apply to their SEA the same as all other LEAs are allowed to do. However, those charter schools that are *not* LEAs cannot apply directly to the SEA for these funds. They are to be treated like the other schools within their particular LEA, and can participate in program activities on the same basis as all other schools.

## **Title II, Part D – Enhancing Education Through Technology (Ed Tech) Program**

**No reference**

## **Title III, Part A – English Language Acquisition**

### **E-2. What entities are eligible to apply to an SEA for a Title III subgrant?**

LEAs may apply on their own or jointly with other LEAs. In addition, an individual LEA or a group of LEAs may apply in collaboration with a college or university, community-based organization, or a State educational agency. However, LEAs are the lead applicants for a subgrant in all cases and may, if they choose , include collaborative activities with colleges and universities and community-based organizations in their applications.

### ***E-3. Are public charter schools eligible to receive subgrants under Title III?***

A public charter school that 1) is an LEA by State law, 2) meets the definition of LEA in section 9101(6) of the No Child Left Behind Act (NCLB), and 3) meets the requirements of subpart 1 of Part A of Title III of NCLB could receive a subgrant. For subgrants awarded under section 3114(a), that would include eligibility under the formula for a subgrant of at least \$10,000; and for subgrants under 3114(d), a subgrant of sufficient size and scope to support an effective program.

A public charter school that is not an LEA would not be eligible to receive a subgrant, but the charter school may be included in its LEA's application on the same basis as other public schools in the district.

## **Title IV, Part A – Safe and Drug Free Schools and Communities**

**No reference. However, it would appear that if the charter school is among the schools in the LEA, then all the charter school would be eligible for Title IV funds and would have to meet the same requirements under Title IV as public schools.**

## **Title IV, Part B -- 21<sup>st</sup> Century Community Learning Centers**

### **F-20: Are public charter schools eligible to participate in the 21<sup>st</sup> CCLC program?**

Yes. Under State law, a public charter school is generally either an LEA or a public school within an LEA. As such, public charter schools are eligible to be considered for support on the same basis as other schools or LEAs in the State. Regardless of a charter

school's status as an LEA or a public school, it is eligible to apply for a grant because any public or private entity may apply. Even if a charter school does not apply for or receive a grant, its students may participate in 21<sup>st</sup> CCLC programs established through an application submitted by other organizations.

## **Title V, Part A -- Innovative Programs**

**No reference**

## **Title IX – General Provisions Definitions**

### **(26) LOCAL EDUCATIONAL AGENCY-**

(A) IN GENERAL- The term local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.

(B) ADMINISTRATIVE CONTROL AND DIRECTION- The term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

(C) BIA SCHOOLS- The term includes an elementary school or secondary school funded by the Bureau of Indian Affairs but only to the extent that including the school makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

(D) EDUCATIONAL SERVICE AGENCIES- The term includes educational service agencies and consortia of those agencies.

(E) STATE EDUCATIONAL AGENCY- The term includes the State educational agency in a State in which the State educational agency is the sole educational agency for all public schools.

McKinney-Vento Education for Homeless Children and Youth (McKinney-Vento)

No reference to charter schools. However, it would appear that if the charter school is among the schools in the LEA, then all the provisions regarding homeless children and youth would apply, including "school of origin" and transportation, etc.

## **ATTACHMENTS**

**I.**

### **MARYLAND PUBLIC CHARTER SCHOOL LAW (SENATE BILL 75)**

**II.**

### **SYNOPSIS OF CHARTER SCHOOL LAW**

**III.**

### **SELECTED STATE AND NATIONAL RESOURCE LISTINGS**

**IV.**

### **SAMPLE LETTER OF INTENT TO APPLY FOR A PUBLIC CHARTER SCHOOL**

# ATTACHMENT I

## SENATE BILL 75

Unofficial Copy  
F1

2003 Regular Session  
(3lr0658)

### ***ENROLLED BILL***

-- *Education, Health, and Environmental Affairs/Ways and Means* --

Introduced by **Senators Dyson, Hollinger, Colburn, DeGrange, Frosh, Giannetti, Harris, Hooper, Kittleman, Lawlah, Mooney, and Stone**

Read and Examined by Proofreaders:

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Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

---

President.

CHAPTER\_\_\_\_\_

1 AN ACT concerning

### **Public Charter School Act of 2003**

3 FOR the purpose of establishing the Maryland Public Charter School Program;  
4 adding a certain definition; establishing certain authority in certain boards;  
5 specifying certain charter school application requirements; prohibiting a ~~county~~  
6 ~~board public chartering authority~~ from granting a charter to certain schools;  
7 requiring a county board to review an application to establish a charter school  
8 and render a decision within a certain time period; establishing a certain  
9 appeals process; requiring the State Board of Education to render a certain  
10 decision within a certain time period; authorizing the State Board of Education  
11 to direct a county board to grant a charter under certain circumstances and  
12 requiring the State Board to mediate a certain decision; establishing a certain  
13 certification requirement; requiring a public charter school to comply with  
14 certain provisions of law; authorizing a public charter school to apply for a  
15 certain waiver; prohibiting the granting of a waiver from certain provisions of  
16 law; providing for certain bargaining rights for certain employees; providing for

the negotiation of certain amendments to certain collective bargaining agreements; requiring a county board to disburse a certain amount of money to a public charter school; authorizing certain boards to give educational materials, supplies, furniture, and other equipment to a public charter school; requiring county boards to develop a certain policy; establishing a certain liaison for the Program; requiring the State Department of Education to create and disseminate to each local board of education a certain model public charter school policy by a certain date; requiring the State Board of Education to submit a certain report on or before a certain date; defining certain terms; authorizing the State Board to act as the public chartering authority for restructured schools under certain circumstances; specifying certain procedures and requirements governing an application for a restructured school that seeks to become a charter school; specifying certain limitations and requirements for charter schools with regard to educational services for children with disabilities; requiring the State Board of Education to provide certain technical assistance to certain operators of charter schools; and generally relating to the Maryland Public Charter School Program.

BY repealing and reenacting, with or without amendments,  
Article - Education  
Section 6-401(e) and 6-501(g)  
Annotated Code of Maryland  
(2001 Replacement Volume and 2002 Supplement)

23 BY adding to  
24 Article - Education  
25 Section 9-101 through ~~9-106 9-109 9-110~~, inclusive, to be under the new title  
26 "Title 9. Maryland Public Charter School Program"  
27 Annotated Code of Maryland  
28 (2001 Replacement Volume and 2002 Supplement)

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
30 MARYLAND, That the Laws of Maryland read as follows:

Article - Education

32 6-401.

33     (e)     "Public school employer" means a county board of education ~~for~~, the  
34 Baltimore City Board of School Commissioners, OR A PUBLIC CHARTER SCHOOL, AS  
35 DEFINED IN TITLE 9 OF THIS ARTICLE.

36 6-501.

37 (g) (1) "Public school employer" means the county board in each county, OR  
38 A PUBLIC CHARTER SCHOOL, AS DEFINED IN TITLE 9 OF THIS ARTICLE.

1                   (2)     "Public school employer" includes the Baltimore City Board of School  
2 Commissioners.

3                   TITLE 9. MARYLAND PUBLIC CHARTER SCHOOL PROGRAM.

4 9-101.

5     (A)     THERE IS A MARYLAND PUBLIC CHARTER SCHOOL PROGRAM.

6     (B)     THE GENERAL PURPOSE OF THE PROGRAM IS TO ESTABLISH AN  
7 ALTERNATIVE MEANS WITHIN THE EXISTING PUBLIC SCHOOL SYSTEM IN ORDER TO  
8 PROVIDE INNOVATIVE LEARNING OPPORTUNITIES AND CREATIVE EDUCATIONAL  
9 APPROACHES TO IMPROVE THE EDUCATION OF STUDENTS.

10 9-102.

11     IN THIS TITLE, "PUBLIC CHARTER SCHOOL" MEANS A PUBLIC SCHOOL THAT:

12               (1)     IS NONSECTARIAN IN ALL ITS PROGRAMS, POLICIES, AND  
13 OPERATIONS;

14               (2)     IS A SCHOOL TO WHICH PARENTS CHOOSE TO SEND THEIR  
15 CHILDREN;

16               (3)     IS OPEN TO ALL STUDENTS ON A SPACE-AVAILABLE BASIS AND  
17 ADMITS STUDENTS ON A LOTTERY BASIS IF MORE STUDENTS APPLY THAN CAN BE  
18 ACCOMMODATED;

19               (4)     IS A NEW PUBLIC SCHOOL OR A CONVERSION OF AN EXISTING  
20 PUBLIC SCHOOL;

21               (5)     PROVIDES A PROGRAM OF ELEMENTARY OR SECONDARY  
22 EDUCATION OR BOTH;

23               (6)     OPERATES IN PURSUIT OF A SPECIFIC SET OF EDUCATIONAL  
24 OBJECTIVES;

25               (7)     IS TUITION-FREE;

26               (8)     IS SUBJECT TO FEDERAL AND STATE LAWS PROHIBITING  
27 DISCRIMINATION;

28               (9)     IS IN COMPLIANCE WITH ALL APPLICABLE HEALTH AND SAFETY  
29 LAWS; ~~AND~~

30               (10)    IS IN COMPLIANCE WITH THE REQUIREMENTS OF THE INDIVIDUALS  
31 WITH DISABILITIES ACT, 20 U.S.C. 1400 ET SEQ. § 9-107 OF THIS TITLE;

32               (11)    OPERATES UNDER THE SUPERVISION OF THE PUBLIC CHARTERING  
33 AUTHORITY FROM WHICH ITS CHARTER IS GRANTED AND IN ACCORDANCE WITH ITS

1 CHARTER AND, EXCEPT AS PROVIDED IN § 9-106 OF THIS SUBTITLE, THE PROVISIONS  
2 OF LAW AND REGULATION GOVERNING OTHER PUBLIC SCHOOLS;

3           (12) REQUIRES STUDENTS TO BE PHYSICALLY PRESENT ON SCHOOL  
4 PREMISES FOR A PERIOD OF TIME SUBSTANTIALLY SIMILAR TO THAT WHICH OTHER  
5 PUBLIC SCHOOL STUDENTS SPEND ON SCHOOL PREMISES; AND

6           (13) IS CREATED IN ACCORDANCE WITH THIS TITLE AND THE  
7 APPROPRIATE COUNTY BOARD POLICY.

8 9-103.

9       (A) THE PRIMARY PUBLIC CHARTERING AUTHORITY FOR THE GRANTING OF  
10 ~~CHARTERS A CHARTER~~ SHALL BE ~~THE~~ A COUNTY BOARDS BOARD OF EDUCATION.

11     (B) THE SECONDARY PUBLIC CHARTERING AUTHORITY FOR THE GRANTING  
12 ~~OF CHARTERS A CHARTER~~ SHALL BE THE STATE BOARD ACTING IN ITS APPEAL  
13 REVIEW CAPACITY *OR AS THE PUBLIC CHARTERING AUTHORITY FOR A*  
14 RESTRUCTURED SCHOOL IN ACCORDANCE WITH § 9-104(A) OF THIS SUBTITLE.

15     (C) ~~THE STATE BOARD MAY CREATE ADDITIONAL PUBLIC CHARTERING~~  
16 ~~AUTHORITIES.~~

17 9-104.

18     (A) (1) AN APPLICATION TO ESTABLISH A PUBLIC CHARTER SCHOOL SHALL  
19 BE SUBMITTED TO THE COUNTY BOARD OF THE COUNTY IN WHICH THE CHARTER  
20 SCHOOL WILL BE LOCATED.

21           (2) AN APPLICATION TO ESTABLISH A PUBLIC CHARTER SCHOOL MAY BE  
22 SUBMITTED TO A COUNTY BOARD BY:

23           (I) THE STAFF OF A PUBLIC SCHOOL;

24           (II) A PARENT OR GUARDIAN OF A STUDENT WHO ATTENDS A  
25 PUBLIC SCHOOL IN THE COUNTY;

26           (III) A NONSECTARIAN NONPROFIT ENTITY;

27           (IV) AN A NONSECTARIAN INSTITUTION OF HIGHER EDUCATION IN  
28 THE STATE; OR

29           (V) ANY COMBINATION OF PERSONS SPECIFIED IN ITEMS (I)  
30 THROUGH (IV) OF THIS PARAGRAPH.

31           (3) A ~~COUNTY BOARD~~ PUBLIC CHARTERING AUTHORITY MAY NOT  
32 GRANT A CHARTER UNDER THIS TITLE TO:

33           (I) A PRIVATE SCHOOL;

34           (II) A PAROCHIAL SCHOOL; OR

### 1 (III) A HOME SCHOOL.

(4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE COUNTY BOARD SHALL REVIEW THE APPLICATION AND RENDER A DECISION WITHIN 120 DAYS OF RECEIPT OF THE APPLICATION.

## 5 (II) FOR A RESTRUCTURED SCHOOL:

1. THE COUNTY BOARD SHALL REVIEW THE APPLICATION  
AND RENDER A DECISION WITHIN 30 DAYS OF RECEIPT OF THE APPLICATION;

8                           2. THE COUNTY BOARD MAY APPLY TO THE STATE BOARD  
9 FOR AN EXTENSION OF UP TO 15 DAYS FROM THE TIME LIMIT IMPOSED UNDER ITEM  
10 1 OF THIS SUBPARAGRAPH;

3. **IF AN EXTENSION IS NOT GRANTED, AND 30 DAYS HAVE  
ELAPSED, THE STATE BOARD MAY BECOME A CHARTERING AUTHORITY; AND**

4. IF AN EXTENSION HAS BEEN GRANTED, AND 45 DAYS HAVE ELAPSED, THE STATE BOARD MAY BECOME A CHARTERING AUTHORITY.

15 (B) (1) IF THE COUNTY BOARD DENIES AN APPLICATION TO ESTABLISH A  
16 PUBLIC CHARTER SCHOOL, THE APPLICANT MAY APPEAL THE DECISION TO THE  
17 STATE BOARD, IN ACCORDANCE WITH § 4-205(C) OF THIS ARTICLE.

18                   (2)     THE STATE BOARD SHALL RENDER A DECISION WITHIN 120 DAYS OF  
19 THE FILING OF AN APPEAL UNDER THIS SUBSECTION.

20                   (3)     **IF THE COUNTY BOARD DENIES AN APPLICATION TO ESTABLISH A**  
21 **PUBLIC CHARTER SCHOOL AND THE STATE BOARD REVERSES THE DECISION, THE**  
22 **STATE BOARD MAY DIRECT THE COUNTY BOARD TO GRANT A CHARTER AND SHALL**  
23 **MEDIATE WITH THE COUNTY BOARD AND THE APPLICANT TO IMPLEMENT THE**  
24 **CHARTER.**

25 9-105.

26 A MEMBER OF THE PROFESSIONAL STAFF OF A PUBLIC CHARTER SCHOOL  
27 SHALL HOLD THE APPROPRIATE MARYLAND CERTIFICATION.

28 9-106.

29     (A)    SUBJECT TO SUBSECTION (B) OF THIS SECTION, A PUBLIC CHARTER  
30 SCHOOL SHALL COMPLY WITH THE PROVISIONS OF LAW AND REGULATION  
31 GOVERNING OTHER PUBLIC SCHOOLS.

32     (B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A WAIVER OF THE  
33 REQUIREMENTS UNDER SUBSECTION (A) OF THIS SECTION MAY BE SOUGHT  
34 THROUGH AN APPEAL TO THE STATE BOARD.

35     (C)    A WAIVER MAY NOT BE GRANTED FROM PROVISIONS OF LAW OR  
36 REGULATION RELATING TO:

1           (1)     AUDIT REQUIREMENTS:

2           (2)     THE MEASUREMENT OF STUDENT ACADEMIC ACHIEVEMENT,  
3 INCLUDING ALL ASSESSMENTS REQUIRED FOR OTHER PUBLIC SCHOOLS AND OTHER  
4 ASSESSMENTS MUTUALLY AGREED UPON BY THE PUBLIC CHARTERING AUTHORITY  
5 AND THE SCHOOL; OR

6           (3)     THE HEALTH, SAFETY, OR CIVIL RIGHTS OF A STUDENT OR AN  
7 EMPLOYEE OF THE CHARTER SCHOOL.

8 9-107.

9           (A)     A PUBLIC CHARTERING AUTHORITY MAY NOT GRANT A CHARTER TO A  
10 PUBLIC CHARTER SCHOOL WHOSE OPERATION WOULD BE INCONSISTENT WITH ANY  
11 PUBLIC POLICY INITIATIVE, COURT ORDER, OR FEDERAL IMPROVEMENT PLAN  
12 GOVERNING SPECIAL EDUCATION THAT IS APPLICABLE TO THE STATE.

13          (B)     A PUBLIC CHARTERING AUTHORITY SHALL ENSURE THAT THE  
14 AUTHORIZING PROCESS FOR A PUBLIC CHARTER SCHOOL AND THE CHARTER  
15 APPLICATION ADDRESS THE ROLES AND RESPONSIBILITIES OF THE COUNTY BOARD  
16 AND THE APPLICANTS AND OPERATORS OF THE PUBLIC CHARTER SCHOOL WITH  
17 RESPECT TO CHILDREN WITH DISABILITIES.

18          (C)     THE PUBLIC CHARTERING AUTHORITY SHALL ENSURE THAT, PRIOR TO  
19 OPENING A PUBLIC CHARTER SCHOOL, THE OPERATORS OF THE SCHOOL ARE  
20 INFORMED OF THE HUMAN, FISCAL, AND ORGANIZATIONAL CAPACITY NEEDED TO  
21 FULFILL THE SCHOOL'S RESPONSIBILITIES RELATED TO CHILDREN WITH  
22 DISABILITIES.

23          (D)     THE STATE BOARD SHALL PROVIDE TECHNICAL ASSISTANCE TO THE  
24 OPERATORS OF A PUBLIC CHARTER SCHOOL TO HELP THE SCHOOL MEET THE  
25 REQUIREMENTS OF FEDERAL AND STATE LAWS, INCLUDING 20 U.S.C. § 1400, ET SEQ.  
26 AND § 504 OF THE REHABILITATION ACT OF 1973, 29 U.S.C. § 794.

27 9-107. 9-108.

28          (A)     EMPLOYEES OF A PUBLIC CHARTER SCHOOL:

29           (1)     ARE PUBLIC SCHOOL EMPLOYEES, AS DEFINED IN §§ 6-401(D) AND  
30 6-501(F) OF THIS ARTICLE;

31           (2)     ARE EMPLOYEES OF A PUBLIC SCHOOL EMPLOYER, AS DEFINED IN §§  
32 6-401(E) AND 6-501(G) OF THIS ARTICLE, IN THE COUNTY IN WHICH THE PUBLIC  
33 CHARTER SCHOOL IS LOCATED; AND

34           (3)     SHALL HAVE THE RIGHTS GRANTED UNDER TITLE 6, SUBTITLES 4  
35 AND 5 OF THIS ARTICLE.

36          (B)     IF A COLLECTIVE BARGAINING AGREEMENT UNDER TITLE 6, SUBTITLE 4  
37 OR 5 OF THIS ARTICLE IS ALREADY IN EXISTENCE IN THE COUNTY WHERE A PUBLIC

1 CHARTER SCHOOL IS LOCATED, THE EMPLOYEE ORGANIZATION AND THE PUBLIC  
2 CHARTER SCHOOL MAY MUTUALLY AGREE TO NEGOTIATE AMENDMENTS TO THE  
3 EXISTING AGREEMENT TO ADDRESS THE NEEDS OF THE PARTICULAR PUBLIC  
4 CHARTER SCHOOL.

5 9-108. 9-109.

6 (A) A COUNTY BOARD SHALL DISBURSE TO A PUBLIC CHARTER SCHOOL AN  
7 AMOUNT OF COUNTY, STATE, AND FEDERAL MONEY FOR ELEMENTARY, MIDDLE, AND  
8 SECONDARY STUDENTS THAT IS COMMENSURATE WITH THE AMOUNT DISBURSED  
9 TO OTHER PUBLIC SCHOOLS IN THE LOCAL JURISDICTION.

10 (B) THE STATE BOARD OR THE COUNTY BOARD MAY GIVE SURPLUS  
11 EDUCATIONAL MATERIALS, SUPPLIES, FURNITURE, AND OTHER EQUIPMENT TO A  
12 PUBLIC CHARTER SCHOOL.

13 9-109. 9-110.

14 (A) (1) EACH COUNTY BOARD SHALL DEVELOP A PUBLIC CHARTER SCHOOL  
15 POLICY AND SUBMIT IT TO THE STATE BOARD.

16 (2) THE POLICY REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION  
17 SHALL INCLUDE GUIDELINES AND PROCEDURES REGARDING:

18 (I) EVALUATION OF PUBLIC CHARTER SCHOOLS;

19 (II) REVOCATION OF A CHARTER;

20 (III) REPORTING REQUIREMENTS; AND

21 (IV) FINANCIAL, PROGRAMMATIC, OR COMPLIANCE AUDITS OF  
22 PUBLIC CHARTER SCHOOLS.

23 (B) THE DEPARTMENT SHALL DESIGNATE A STAFF PERSON TO FUNCTION AS  
24 A CONTACT PERSON FOR THE MARYLAND PUBLIC CHARTER SCHOOL PROGRAM.

25 SECTION 2. AND BE IT FURTHER ENACTED, That the State Department  
of Education shall create and disseminate to each local board of education model  
public charter school policy language which can be used to create a public charter  
school policy as required by this Act. Each local board of education shall submit its  
public charter school policy to the State Board of Education by November 1, 2003.

30 SECTION 3. AND BE IT FURTHER ENACTED, That on or before October 1,  
31 2006, based on information gathered from each local board of education, the Board of  
School Commissioners of Baltimore City, and the public, the State Board of Education  
shall submit to the General Assembly, in accordance with § 2-1246 of the State  
Government Article, a report including an evaluation of the public charter school  
program. The report shall address the advisability of the continuation, modification,  
36 expansion, or termination of the program.

**SENATE BILL 75**

1       SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 ~~October~~ July 1, 2003.

## **ATTACHMENT II**

### **Maryland Public Charter School Program (SB 75 of 2003) Title 6**

<b>STATUTE</b>	<b>DEFINITION</b>
§ 6-401(e)	Public school employer means a county board of education, the Baltimore City Board of School Commissioners
§ 6-501(g)(1) § 6-501 (g)(2)	Public school employer means the county board in each county Includes the Baltimore City Board of School Commissioners

### **Maryland Public Charter School Program Title 9**

<b>STATUTE</b>	<b>DEFINITION</b>
§ 9-101 (A)(B)	There is a Maryland Public Charter School Program. The general purpose of the program is to establish an alternative means within the existing public school system in order to provide innovative learning opportunities and creative educational approaches to improve the education of students.
§ 9-102(1-13)	<ol style="list-style-type: none"><li>1. In this title “Public Charter School” means a public school that: Is nonsectarian in all its programs, policies, and operations;</li><li>2. Is a school to which parents choose to send their children;</li><li>3. Is open to all students on a space available basis and admits students on a lottery basis if more students apply than can be accommodated;</li><li>4. Is a new public school or a conversion of an existing public school;</li><li>5. Provides a program of elementary or secondary education or both;</li><li>6. Operates in pursuit of a specific set of educational objectives;</li><li>7. Is tuition free;</li><li>8. Is subject to Federal and State laws prohibiting discrimination;</li><li>9. Is in compliance with all applicable health and safety laws;</li><li>10. Is in compliance with § 9-107 of this title;</li><li>11. Operates under the supervision of the public chartering authority from which its charter is granted and in accordance with its charter and, except as provided in § 9-106, the provisions of law and regulation governing other public schools;</li><li>12. Requires students to be physically present on school premises for a period of time substantially similar to that which other public school students spend on school premises; and</li><li>13. Is created in accordance with this title and the appropriate county board policy.</li></ol>

## *Primary Chartering Authority*

§ 9-103 (A)	The primary public chartering authority for the granting of a charter shall be a county board of education.
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## *Secondary Chartering Authority*

§ 9-103 (B)	The secondary public chartering authority for the granting of a charter shall be the state board acting in its appeal review capacity or as the public chartering authority for a restructured school in accordance with § 9-104 (A) of this subtitle.
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## *Application Process*

§ 9-104 (A)(1)	An application to establish a public charter school shall be submitted to the county board of the county in which the charter school will be located.
§ 9-104 (A)(2)(I-IV)	An application to establish a public charter school may be submitted to a county board by: I. The staff of a public school; II. A parent or guardian of a student who attends a public school in the county; III. A nonsectarian nonprofit entity; IV. A nonsectarian institution of higher education in the State; or V. Any combination of persons specified in items (1) through (IV).
§ 9-104 (A)(3)(I-III)	A public chartering authority may not grant a charter under this title to: I A private school; II A parochial school; or III A home school.
§ 9-104 (A)(4) (I)(II)(1-4)	(I) Except as provided in subparagraph (II) of the paragraph, the county board shall review the application and render a decision within 120 days of receipt of the application. (II) For a restructured school: 1. The county board shall review the application and render a decision within 30 days of receipt of the application; 2. The county board may apply to the State Board for an extension of up to 15 days from the time limit imposed under item I of this subparagraph; 3. If an extension is not granted, and 30 days have elapsed, the State Board may become a chartering authority; and 4. If an extension has been granted, and 45 days have elapsed, the State Board may become a chartering authority.
§ 9-104 (B)(1)	If the county board denies an application to establish a public

	charter school, the applicant may appeal the decision to the State Board, in accordance with §4-205(C) of this article.
§ 9-104 (B)(2)	The State Board shall render a decision within 120 days of the filing of an appeal under this subsection.
§ 9-104 (B)(3)	If the county board denies an application to establish a public charter school and the State Board reverses the decision, the State Board may direct the county board to grant a charter and shall mediate with the county board and the applicant to implement the charter.

### *Professional Staff*

§ 9-105	A member of the professional staff of a public charter school shall hold the appropriate Maryland Certification.
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### *Compliance of Law and Regulation*

§ 9-106 (A)	Subject to subsection (B) of this section, a public charter school shall comply with the provisions of law and regulation governing other public schools.
§ 9-106 (B)	Subject to subsection (C) of this section, a waiver of the requirements under subsection (A) of this section may be sought through an appeal to the State Board.
§ 9-106 (C)(1-3)	A waiver may not be granted from provisions of law or regulation relating to: (1) audit requirements; (2) the measurement of student academic achievement, including all assessments required for other public schools and other assessments mutually agreed upon by the public chartering authority and the school, or (3) the health, safety, or civil rights of a student or an employee of the charter school.

### *Special Education*

§ 9-107 (A)	A public chartering authority may not grant a charter to a public charter school whose operation would be inconsistent with any public policy initiative, court order, or Federal Improvement Plan governing special education that is applicable to the State.
§ 9-107 (B)	A public chartering authority shall ensure that the authorizing process for a public charter school and the charter application address the roles and responsibilities of the county board and the applicants and operators of the public charter school with respect to children with disabilities.
§ 9-107 (C)	The public chartering authority shall ensure that, prior to opening a public charter school, the operators of the school are informed of the human, fiscal, and organization capacity needed to fulfill

	the school's responsibilities related to children with disabilities.
§ 9-107 (D)	The State Board shall provide technical assistance to the operators of a public charter school to help the school meet the requirements of Federal and State laws, including 20 U.S.C. § 1400, Et Seq. And § 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794.

### *Employees/Collective Bargaining*

§ 9-108 (A)	<p>Employees of a public charter school:</p> <ol style="list-style-type: none"> <li>1. Are public school employees, as defined in §§ 6-401(D) and 6-501(F) of this article;</li> <li>2. Are employees of a public school employer, as defined in §§ 6-401(E) and 6-501(G) of this article, in the county in which the public charter school is located; and</li> <li>3. Shall have the rights granted under Title 6, Subtitles 4 and 5 of this article.</li> </ol>
§ 9-108 (B)	If a collective bargaining agreement under Title 6, subtitle 4 or 5 of this article is already in existence in the county where a public charter school is located, the employee organization and the public charter school may mutually agree to negotiate amendments to the existing agreement to address the needs of the particular public charter school.

### *Funding*

§ 9-109 (A)	A county board shall disburse to a public charter school, an amount of county, state, and federal money for elementary, middle, and secondary students that is commensurate with the amount disbursed to other public schools in the local jurisdiction.
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### *Educational Materials*

§ 9-109 (B)	The State Board or the county board may give surplus educational materials, supplies, furniture, and other equipment to a public charter school.
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### *Policy Guidelines*

§ 9-110 (A)(1)	Each county board shall develop a public charter school policy and submit it to the State Board.
§ 9-109 (A)(2)	The policy required under paragraph (1) of this subsection shall include guidelines and procedures regarding: <ul style="list-style-type: none"> <li>I       Evaluation of public charter schools;</li> <li>II      Revocation of a Charter;</li> <li>III     Reporting Requirements; and</li> </ul>

	<b>IV</b> Financial, programmatic, or compliance audits of public charter schools.
§ 9-109 (B)	The Department shall designate a staff person to function as a contact person for the Maryland Public Charter School Program.
SECTION 2	The State Department of Education shall create and disseminate to each local board of education model public charter school policy language, which can be used to create a public charter school policy as required by this Act. Each local board of education shall submit its public charter school policy to the State Board of Education by November 1, 2003.

### *Evaluation of Program*

SECTION 3	That on or before October 1, 2006, based on information gathered from each local board of education, the Board of School Commissioners of Baltimore City, and the public, the State Board of Education shall submit to the General Assembly, in accordance with §2-1246 of the State Government Article, a report including an evaluation of the public charter school program. The report shall address the advisability of the continuation, modification, expansion, or termination of the program.
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### *Effective Date*

SECTION 4	This Act shall take effect July 1, 2003.
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## **ATTACHMENT III**

### **LIST OF SOME CHARTER SCHOOL RESOURCES ON WEB**

Maryland State Department of Education – [www.msde.state.md.us](http://www.msde.state.md.us)

Maryland Charter School Network – [mcsn@comcast.net](mailto:mcsn@comcast.net)

U.S. Charter Schools – [www.uscharterschools.org](http://www.uscharterschools.org)

Charter Friends National Network – [www.charterfriends.org](http://www.charterfriends.org)

Education Week: Charter Schools – [www.edweek.org](http://www.edweek.org)

National Center for Policy Analysis: Idea House – [www.ncpa.org](http://www.ncpa.org)

National Association of Charter School Authorizers – [www.charterauthorizers.org](http://www.charterauthorizers.org)

The Center for Education Reform – [www.edreform.com](http://www.edreform.com)

National Education Association – [www.nea.org](http://www.nea.org)

Maryland State Department of Education – [www.msde.state.md.us](http://www.msde.state.md.us)

Maryland General Assembly – [www.mlis.state.md.us](http://www.mlis.state.md.us)

Charter Schools Development Center – [www.cacharterschools.org](http://www.cacharterschools.org)

U.S. Department of Education – [www.ed.gov/](http://www.ed.gov/)

## **ATTACHMENT IV**

### **Sample Notice of Intent to Submit an Application To Establish a Public Charter School in Maryland**

The undersigned individual/organization is considering the possibility of submitting an application to establish a public charter school in Maryland. We wish to participate in all forums and receive all information provided to potential applicants by the State of Maryland.

Entity Interested in Applying: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Name of Contact Person: \_\_\_\_\_

Daytime Telephone \_\_\_\_\_ FAX \_\_\_\_\_

You are invited to provide a one-paragraph description of the public charter school you are interested in establishing.

Please complete and mail this form to the following address:

Filing of this Notice of Intent is entirely voluntary and does not obligate a potential applicant in any way.

# ACKNOWLEDGEMENTS

The following individuals and organizations have been instrumental in the development of the Maryland Public Charter Schools Model Policy and Resources Guide.

## **Charter School Representatives of Local School Systems**

Allegany County Board of Education – Sheree Witt  
Anne Arundel County Public Schools – Dr. Jose Torres  
Baltimore City Public Schools – Dr. Cynthia Janssen, Dawanna Sterrette, David Stone  
Baltimore County Public Schools – Phyllis Bailey, George Poff  
Calvert County Public Schools – Jack Smith  
Caroline County Public Schools – Dr. Edward Shirley  
Carroll County Public Schools – Stephen Guthrie  
Cecil County Public Schools – Dr. Carl Roberts  
Charles County Public Schools – Eric Schwartz  
Dorchester County Board of Education – Andre Mayes  
Frederick County Board of Education – Dr. Michele Krantz  
Garrett County Board of Education – Dr. Brenda McCartney  
Harford County Public Schools – Jacqueline Haas, Kathy Carmello  
Howard County Public Schools – Dr. Kimberly Statham  
Kent County Public Schools – Dr. Joan Buffone  
Montgomery County Public Public Schools – Charla Levine  
Prince George's County Public Schools – Shauna Garlington  
Queen Anne's County Board of Education – Dr. Bernice Hammond  
Somerset County Public Schools – Bill Cain  
St. Mary's County Public Schools – Dr. Lorraine Fulton  
Talbot County Public Schools – Lynne Duncan  
Washington County Board of Education – Roger Giles  
Wicomico County Board of Education – Thomas Field  
Worcester County Board of Education – Ed Barber

## **Community Organizations/Charter School Operators**

Pamela Arrington – Coppin State College  
Dr. David Buchanan – Salisbury University  
Anne Buttenheim – Monocacy Valley Montessori Charter School  
Andrew Carrington – University of Maryland, Eastern Shore  
Barbara Davidson – Hire Standards  
Suzanna Duvall – Education Resource Center  
Joni Gardner – Maryland Charter School Network  
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Amanda Myers – Maryland Disability Law Center  
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Jorge Ribas – Jiame Escalante Project  
Andy Smarick – Charter School Leadership Council  
Anna Varghese – Center for Education Reform  
Patricia Welch – Morgan State University

**Maryland Association of Boards of Education Public Charter School Policy Workgroup**

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Jamie Cannon – Frederick County Public Schools  
Kathy Carmello – Harford County Public Schools  
Sharon Cox – Montgomery County Public Schools  
Karen Dates – Maryland State Department of Education  
Judy Donaldson – Baltimore City Public Schools  
Shauna Garlington – Prince George’s County Public Schools  
Allan Gorsuch – Eastern Shore of Maryland Education Consortium  
Stephen Guthrie – Carroll County Public Schools  
John Hayden – Baltimore County Public Schools  
Robert Leib – Anne Arundel County Public Schools  
James Lupis – Public School Superintendents Association of Maryland  
George Margolies – Montgomery County Public Schools  
Linda Nabb – Dorchester County Public Schools  
Pat O’Neill – Montgomery County Public Schools  
George Poff – Baltimore County Public Schools  
Eric Schwartz – Charles County Public Schools  
Carl Smith – Maryland Association of Boards of Education  
Renee Spence – Maryland State Department of Education  
Richard Steinke – Maryland State Department of Education  
Dawanna Sterrette – Baltimore City Public Schools  
Tammy Turner – Washington County Public Schools  
John Wolums – Maryland Association of Boards of Education

**Maryland State Department of Education Public Charter School Workgroup**

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Carol Ann Baglin – Division of Special Education/Early Intervention Services  
Pam Brown – Office of the Deputy State Superintendent for Instruction and Academic Acceleration  
Linda Bluth -- Division of Special Education/Early Intervention Services  
JoAnne Carter – Division of Student and School Services  
Mary Clapsaddle – Division of Business Services  
Robert Crawford – Audit Office  
Karen Dates – Office of the State Superintendent  
Frank Edgerton – Division of Instruction  
Anita Finn – Division of Business Services  
Ronn Friend – Division of Student and School Services  
Cathy Jurist -- Division of Special Education/Early Intervention Services  
Lawrence Leak – Division of Certification and Accreditation  
Katharine Oliver – Division of Career Technology and Adult Learning  
Richard Romer – Office of the State Superintendent  
Renee Spence – Office of the State Superintendent  
Richard Steinke -- Office of the Deputy State Superintendent for Instruction and Academic Acceleration

**Office of the Attorney General**

Valerie Cloutier – Office of Legal Counsel  
Dana Murray -- Office of Legal Counsel



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