

# ORIGINAL FLORIDA CHARTER SCHOOL STATUTES – EFFECTIVE JULY 1, 1996

## TITLE XVI. EDUCATION CHAPTER 228. PUBLIC EDUCATION: GENERAL PROVISIONS

### 228.056. Charter schools

(1) **Authorization.**--The creation of charter schools is hereby authorized. Charter schools shall be part of the state's program of public education. A charter school may be formed by creating a new school or converting an existing public school to charter status.

(2) **Purpose.**--The purpose of charter schools shall be to:

(a) Improve student learning.

(b) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as academically low achieving.

(c) Encourage the use of different and innovative learning methods.

(d) Increase choice of learning opportunities for students.

(e) Establish a new form of accountability for schools.

(f) Require the measurement of learning outcomes and create innovative measurement tools.

(g) Make the school the unit for improvement.

(h) Create new professional opportunities for teachers, including the opportunity to own the learning program at the school site.

(3) **Proposal.**--A proposal for a new charter school may be made by an individual, teachers, parents, a group of individuals, or a legal entity organized under the laws of this state. The principal, teachers, parents, and/or the school advisory council at an existing public school shall submit any proposal for converting the school to a charter school. An application submitted proposing to convert an existing public school to a charter school shall demonstrate the support of at least 50 percent of the teachers employed at the school and 50 percent of the parents whose children are enrolled at the school. A private school, parochial school, or home education program shall not be eligible for charter school status.

(4) **Sponsor.**--A district school board may sponsor a charter school in the county over which the board has jurisdiction.

(a) A district school board shall receive and review all applications for a charter school. A district school board must by a majority vote approve or deny an application no later than 60 days after the application is received. Upon approval of a charter application, the initial startup must be consistent with the beginning of the public school calendar for the district in which the charter is granted.

(b) An applicant may appeal any denial of that person's application to the State Board of Education no later than 30 days after the district school board's decision. The state board must by majority vote accept or reject the decision of the district school board no later than 30 days after an appeal is filed. The state

board shall remand the application to the district school board with its written recommendation that the district board approve or deny the application consistent with the state board's decision. The decision of the State Board of Education is not subject to the provisions of the Administrative Procedure Act, chapter 120.

(c) The district school board must act upon the recommendation of the State Board of Education within 30 days after it is received. The district board may fail to act in accordance with the recommendation of the state board only for good cause. Good cause for failing to act in accordance with the state board's recommendation arises only if the district school board determines by competent substantial evidence that approving the state board's recommendation would be contrary to law or contrary to the best interests of the pupils or the community. The district school board must articulate in written findings the specific reasons based upon good cause supporting its failure to act in accordance with the state board's recommendation. The district board's action on the state board's recommendation is a final action subject to judicial review.

(d) The Department of Education may provide technical assistance to an applicant upon written request.

(e) Paragraph (a) notwithstanding, a state university may grant a charter to a developmental research school created under s. 228.053. In considering such charter, the state university must consult with the district school board of the county in which the developmental research school is located. The decision of a state university may be appealed pursuant to the procedure established in this subsection.

(f) The terms and conditions for the operation of a charter school shall be set forth by the sponsor and the applicant in a written contractual agreement. This contract shall constitute the school's charter.

(g) The sponsor shall monitor and review the charter school in its progress towards the goals established in the charter.

(h) The sponsor shall monitor the revenues and expenditures of the charter school.

**(5) Number of schools.--**The number of existing public schools which may convert to charter schools is limited to no more than seven in each school district that has 100,000 or more students, no more than five charter schools in each school district that has 50,000 to 99,999 students, and no more than three charter schools in each school district that has fewer than 50,000 students. The number of newly created charter schools shall be limited to no more than seven charter schools in each school district that has 100,000 or more students, no more than five charter schools in each school district that has 50,000 to 99,999 students, and no more than three charter schools in each school district that has fewer than 50,000 students. Notwithstanding any limitation in this section on the number of charter schools authorized for a district, any school board shall have the right to request an increase in the number of charter schools located within its district from the State Board of Education.

**(6) Eligible students.--**

(a) A charter school shall be open to any student residing in the school district in which the charter school is located. When a public school converts to charter status, enrollment preference shall be given to students who would have otherwise attended that public school. A charter school may give enrollment preference to a sibling of a student enrolled in the charter school.

(b) The charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In such case, all applicants shall have an equal chance of being admitted through a random selection process.

(c) A charter school may limit the enrollment process only to target the following student populations:

1. Students within specific age groups or grade levels.

2. Students considered at risk of academic failure. Such students shall include those with scores in the lower quartile on the reading and mathematics sections of norm-referenced tests; a grade point average of 2.0 or below for grades 9 through 12; and/or a writing score on Florida Writes of 2 or below.

(d) A student may withdraw from a charter school at any time and enroll in another public school as determined by school board policy.

(e) Students with handicapping conditions and students served in English for Speakers of Other Languages programs shall have an equal opportunity of being selected for enrollment in a charter school.

**(7) Legal entity.--**A charter school shall organize as a nonprofit organization. As such, the charter school may be either a private or a public employer. As a public employer, a charter school may participate in the Florida Retirement System upon application and approval as a "covered group" under s. 121.021(34). If a charter school participates in the Florida Retirement System, the charter school employees shall be compulsory members of the Florida Retirement System. As either a private or a public employer, a charter school may contract for services with an individual or group of individuals who are organized as a partnership or a cooperative. Individuals or groups of individuals who contract their services to the charter school are not public employees.

**(8) Requirements.--**

(a) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations.

(b) A charter school shall admit students as provided in subsection (6).

(c) A charter school shall be accountable to its sponsor for performance as provided in subsection (9).

(d) A charter school shall not charge tuition or fees, except those fees normally charged by other public schools.

(e) A charter school shall meet all applicable state and local health, safety, and civil rights requirements.

(f) A charter school shall not violate the antidiscrimination provisions of s. 228.2001.

(g) A charter school shall be subject to an annual financial audit in a manner similar to that of a school district.

(h) No organization shall hold more than one elementary, one middle, and one high school charter contract in a school district and no more than 15 charters statewide.

**(9) Charter.--**The major issues involving the operation of a charter school shall be considered in advance and written into the charter. The charter shall be signed by the governing body of the charter school and the sponsor, following a public hearing to ensure community input.

(a) The charter shall address, and criteria for approval of the charter shall be based on:

1. The school's mission, the students to be served, and the ages and grades to be included.
  2. The focus of the curriculum, the instructional methods to be used, and any distinctive instructional techniques to be employed.
  3. The current baseline standard of achievement and the outcomes to be achieved and the method of measurement that will be used.
  4. The methods used to identify the educational strengths and needs of students and how well educational goals and performance standards are met by students attending the charter school. Students in charter schools shall, at a minimum, participate in the statewide assessment program.
  5. In secondary charter schools, a method for determining that a student has satisfied the requirements for graduation in s. 232.246.
  6. A method for resolving conflicts between the governing body of the charter school and the sponsor.
  7. The admissions procedures and dismissal procedures.
  8. The ways by which the school will achieve a racial/ethnic balance reflective of the community it serves.
  9. The financial and administrative management of the school.
  10. The manner in which the school will be insured, including whether or not the school will be required to have liability insurance, and, if so, the terms and conditions thereof and the amounts of coverage.
  11. The term of the charter, not to exceed 3 years, which shall provide for cancellation of the charter if insufficient progress has been made in attaining the student achievement objectives of the charter and if it is not likely that such objectives can be achieved before expiration of the charter.
  12. The facilities to be used and their location.
  13. The qualifications to be required of the teachers.
  14. The governance structure of the school, including the status of the charter school as a public or private employer as required in subsection (7).
  15. A timetable for implementing the charter which addresses the implementation of each element thereof and the date by which the charter shall be awarded in order to meet this timetable.
  16. In the case of an existing public school being converted to charter status, alternative arrangements for current students who choose not to attend the charter school and for current teachers who choose not to teach in the charter school after conversion in accordance with the existing collective bargaining agreement or school board policy in the absence of a collective bargaining agreement.
- (b) A charter may be renewed in increments of 1, 2, or 3 school years by a mutual agreement of the parties.

(c) A charter may be modified during its initial term or any renewal term upon the recommendation of the sponsor and the approval of both parties to the agreement.

(d) The governing body of the charter school shall make annual progress reports to its sponsor, the State Board of Education, the Commissioner of Education, the President of the Senate, and the Speaker of the House of Representatives. The report shall contain at least the following information:

1. The charter school's progress towards achieving the goals outlined in its charter.
2. The information required in the annual school report pursuant to s. 229.592.
3. Financial records of the charter school, including revenues and expenditures.
4. Salary and benefit levels of charter school employees.

(e) A sponsor shall ensure that the charter is innovative and consistent with the state education goals established by s. 229.591.

(f) Upon receipt of the annual report required by paragraph (d), the sponsor shall provide to the State Board of Education, the Commissioner of Education, the President of the Senate, and the Speaker of the House of Representatives an analysis and comparison of the overall performance of charter school students, to include all students whose scores are counted as part of the norm-referenced assessment tests, versus comparable public school students in the district as determined by norm-referenced assessment tests currently administered in the school district, and, as appropriate, the Florida Writes Assessment Test, Grade Ten Assessment Test, and the High School Competency Test.

**(10) Causes for nonrenewal or termination.--**

(a) At the end of the term of a charter, the sponsor may choose not to renew the charter for any of the following grounds:

1. Failure to meet the requirements for student performance stated in the charter.
2. Failure to meet generally accepted standards of fiscal management.
3. Violation of law.
4. Other good cause shown.

(b) During the term of a charter, the sponsor may terminate the charter for any of the grounds listed in paragraph (a).

(c) At least 90 days prior to renewing or terminating a charter, the sponsor shall notify the governing body of the school of the proposed action in writing. The notice shall state in reasonable detail the grounds for the proposed action and stipulate that the school's governing body may, within 14 days after receiving the notice, request an informal hearing before the sponsor. The sponsor shall conduct the informal hearing within 30 days after receiving a written request. The charter school's governing body may, within 14 days after receiving the sponsor's decision to terminate or refuse to renew the charter, appeal the decision pursuant to the procedure established in subsection (4).

(d) A charter may be terminated immediately if the sponsor determines that good cause has been shown

or if the health, safety, or welfare of the students is threatened. The school district in which the charter school is located shall assume operation of the school under these circumstances.

(e) When a charter is not renewed or is terminated, the school shall be dissolved under the provisions of law under which the school was organized, and any unencumbered funds from the charter school shall revert to the district school board. In the event a charter school is dissolved or is otherwise terminated, all district school board property and improvements, furnishings, and equipment purchased with public funds shall automatically revert to full ownership by the district school board.

(f) If a charter is not renewed or is terminated, the governing body of the school is responsible for all debts of the charter school. The district may not assume the debt from any contract for services made between the governing body of the school and a third party, except for a debt that is previously detailed and agreed upon in writing by both the district and the governing body of the school and that may not reasonably be assumed to have been satisfied by the district.

(g) If a charter is not renewed or is terminated, a student who attended the school may apply to, and shall be enrolled in, another public school. Normal application deadlines shall be disregarded under such circumstances.

**(11) Exemption from statutes.--**A charter school shall operate in accordance with its charter and shall be exempt from all statutes of the Florida School Code, except those pertaining to civil rights and student health, safety, and welfare, or as otherwise required by this section. A charter school shall not be exempt from the following statutes: chapter 119, relating to public records, and s. 286.011, relating to public meetings and records, public inspection, and penalties.

**(12) Employees of charter schools.--**

(a) A charter school shall select its own employees.

(b) Charter school employees shall have the option to bargain collectively. Employees may collectively bargain as a separate unit or as part of the existing district collective bargaining unit as determined by the structure of the charter school.

(c) The teachers at a charter school may choose to be part of a professional group that subcontracts with the charter school to operate the instructional program under the auspices of a partnership or cooperative that they collectively own. Under this arrangement, the teachers would not be public employees.

(d) Employees of a school district may take leave to accept employment in a charter school upon the approval of the district school board. While on leave, the employee may retain seniority accrued in that school district and may continue to be covered by the benefit programs of that school district, if the charter school and the district school board agree to this arrangement and its financing.

(e) Teachers employed by or under contract to a charter school shall be certified as required by chapter 231. A charter school may employ or contract with skilled selected noncertified personnel to provide instructional services or to assist instructional staff members as teacher aides in the same manner as defined in chapter 231. A charter school may not employ an individual to provide instructional services or to serve as a teacher aide if the individual's certification or licensure as an educator is suspended or revoked by this or any other state. The qualifications of teachers shall be disclosed to parents.

(f) A charter school shall employ or contract with employees who have been fingerprinted as provided in

s. 231.02.

**(13) Revenue.**--Students enrolled in a charter school, regardless of the sponsorship, shall be funded as if they are in a basic program or a special program, the same as students enrolled in other public schools in the school district. Funding for a chartered developmental research school shall be as provided in s. 228.053(9).

(a) Each charter school shall report its student enrollment to the district school board as required in s. 236.081, and in accordance with the definitions in s. 236.013. The district school board shall include each charter school's enrollment in the district's report of student enrollment.

(b) The basis for the agreement for funding students enrolled in a charter school shall be the sum of the school district's operating funds from the Florida Education Finance Program as provided in s. 236.081, and the General Appropriations Act, including gross state and local funds, discretionary lottery funds, and funds from the school district's current operating discretionary millage levy; divided by total funded weighted full-time equivalent students in the school district; multiplied by the weighted full-time equivalent students for the charter school. Charter schools whose students or programs meet the eligibility criteria in law shall be entitled to their proportionate share of categorical program funds included in the total funds available in the Florida Education Finance Program by the Legislature, including transportation. Total funding for each charter school will be recalculated during the year to reflect the revised calculations under the Florida Education Finance Program by the state and the actual weighted full-time equivalent students reported by the charter school during the full-time equivalent student survey periods designated by the Commissioner of Education.

(c) Transportation of charter school students shall be provided by the charter school consistent with the requirements of chapter 234. The governing body of the charter school may provide transportation through an agreement or contract with the district school board, a private provider, or parents. The charter school shall ensure that transportation is not a barrier to equal access for all students residing within a reasonable distance of the charter school as determined in its charter.

(d) If the district school board is providing programs or services to students funded by federal funds, any eligible students enrolled in charter schools in the school district shall be provided federal funds for the same level of service provided students in the schools operated by the district school board.

(e) Any administrative fee charged by the school district relating to a charter school shall be limited to no more than the actual cost of administering the contract between the charter school and the school district or 5 percent of the available funds as defined in paragraph (b), whichever is the lesser amount.

(f) School boards shall make every effort to ensure that charter schools receive timely and efficient reimbursement. The payment shall be issued no later than 30 working days after receipt of an invoice. If a warrant for payment of an invoice is not issued within 30 working days after receipt by the district school board, the school district shall pay to the charter school, in addition to the amount of the invoice, interest at a rate of 1 percent per month calculated on a daily basis on the unpaid balance from the expiration of the 30-day period until such time as the warrant is issued.

**(14) Immunity.**--For the purposes of tort liability, the governing body and employees of a charter school shall be governed by s. 768.28.

**(15) Length of school year.**--A charter school shall provide instruction for at least the number of days required by law for other public schools, and may provide instruction for additional days.

**(16) Facilities.--**A charter school shall utilize facilities which comply with the State Uniform Building Code for Public Educational Facilities Construction adopted pursuant to s. 235.26 or with applicable state minimum building codes pursuant to chapter 553 and state minimum fire protection codes pursuant to s. 633.025, as adopted by the authority in whose jurisdiction the facility is located.

**(17) Initial costs.--**A sponsor may approve a charter for a charter school before the applicant has secured space, equipment, or personnel, if the applicant indicates approval is necessary for it to raise working capital.

**(18) Information.--**The Department of Education shall provide information to the public, directly and through sponsors, both on how to form and operate a charter school and on how to enroll in charter schools once they are created. This information shall include a standard application format which shall include the information specified in subsection (9). This application format may be used by chartering entities.

**(19) General authority.--**A charter school shall not levy taxes or issue bonds secured by tax revenues.

**(20) Review.--**The Legislature shall review the operation of charter schools during the 2000 Regular Session of the Legislature.