

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1996

Legislative Document

No. 1685

S.P. 559

In Senate, March 27, 1996

An Act to Encourage the Development of Charter Schools.

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator CATHCART of Penobscot.
Cosponsored by Representative BARTH of Bethel.

me it enacted by the People of the State of Maine as follows:

2
4 **Sec. 1. 20-A MRSA §1, sub-§26**, as corrected by RR 1993, c. 1, §44, is amended to read:

6 **26. School administrative unit.** "School administrative unit" means the state-approved unit of school administration and includes a municipal school unit, school administrative district, community school district, charter school or any other municipal or quasi-municipal corporation responsible for operating or constructing public schools, except that it does not include an applied technology region.

14 **Sec. 2. 20-A MRSA §202, sub-§§16 and 17**, as enacted by PL 1981, c. 693, §§5 and 8, are amended to read:

16 **16. Other entities.** Other entities authorized by the Legislature; and

20 **17. Other bureaus.** Any other bureau the commissioner establishes; and

22 **Sec. 3. 20-A MRSA §202, §18** is enacted to read:

24 **18. Charter schools.** Any charter schools.

26 **Sec. 4. 20-A MRSA c. 112** is enacted to read:

28 CHAPTER 112

30 CHARTER SCHOOLS

32 §2401. Purpose

34 Charter schools may be established pursuant to this chapter to provide a learning environment that improves student achievement and encourages the use of different and innovative learning methods. Charter schools provide additional academic choices for parents and students and create new professional opportunities for teachers, including the opportunity to control the learning program at the charter school.

42 §2402. Organizers; eligibility for application

44 The following persons, referred to in this chapter as "organizers," may make application for charter school status.

48 1. Existing schools. An existing public school may apply to become a charter school if the teachers and administration of

2 that public school or the parents of children in that public
3 school vote to apply for charter school designation.

4 2. New schools. In addition to the applicants permitted
5 for existing schools, as specified in subsection 1, an
6 application for a new charter school may be proposed by community
7 organizations, including, but not limited to, community colleges,
8 hospitals, zoos or museums.

10 A school board of a school administrative unit, by a
11 majority vote, may vote to apply for charter school designation
12 through the conversion of all or some of the schools located in
13 that administrative unit. The number of charter schools is not
14 limited.

16 **§2403. Sponsors**

18 1. Eligible sponsors. The organizers may apply to and the
19 charter school may be sponsored by any of the following:

20 A. The board of a school district;

22 B. The state board;

24 C. A new state body created to sponsor or oversee charter
25 schools; or

28 D. The board of a public postsecondary institution of
29 learning.

30 2. Approval by sponsor. A proposal for a charter school may
31 be approved by a majority vote of the sponsoring board to which
32 the application is made.

34 **§2404. Charter school students; eligibility; application**

36 1. Eligibility. Any student residing in this State is
37 eligible to apply to a charter school. The school shall enroll
38 an applicant who submits a timely application, unless the number
39 of applications exceeds the capacity of a program, class, grade
40 level or building. In that case, applicants must be chosen for
41 acceptance in a manner that guarantees each applicant an equal
42 chance of being admitted. Eligibility may also be limited if the
43 charter school chooses to specialize in:

46 A. Students within a certain age group or grade level;

48 B. Residents of a specific geographic area, as long as the
49 school reflects the racial and ethnic diversity of that area;
50

2 C. Students considered "at risk" or with specific needs; or

4 D. Specific curriculum or teaching methodology.

6 2. Application. Each charter school shall adopt application standards.

8 A. Standards may not include previous academic achievement, intellectual aptitude, curricular or extra-curricular ability.

10 B. Standards for rejection may not include any physical or mental handicapping condition.

12 C. Standards may include a demonstration of a student's interest in the specific curriculum or teaching methodology offered by the charter school.

14 3. Standards for continued enrollment. A student must meet any standards adopted by a charter school to remain enrolled in that school. If a student fails to meet those standards and after due process, the student shall reenroll in the student's former school or any other school of the student's choosing for which the student is eligible.

16 §2405. Requirements for charter schools

18 1. Organization. A charter school shall organize under one of the forms of organization available under the laws of the State, including, but not limited to, a nonprofit corporation, a cooperative or a partnership.

20 2. Nonsectarian. A charter school may not be affiliated with a nonpublic sectarian school or religious institution. The charter school must be nonsectarian in its programs, admission policies, employment practices and all other operations.

22 3. Admission. A charter school shall admit students as provided in section 2404.

24 4. Accountability. A charter school is accountable to the department for its performance as provided in the charter document pursuant to section 2406.

26 5. Tuition. The school may not charge tuition or fees beyond those allowed in a regular public kindergarten to grade 12 program. However, a school offering a residential component may charge a fee for room and board. A student may apply for and be granted a waiver for room and board expenses if the student and the student's parents meet financial guidelines established by

2 the State. Each school offering a residential component shall
3 establish and maintain a fund capable of paying the room and
4 board expenses for 1/4 of their enrolled students. If additional
5 funds are required to pay expenses for additional students, the
6 fee for boarding students must be increased accordingly.

7 6. State and local requirements. The school shall meet all
8 applicable state and local health, safety and civil rights
9 requirements.

10 7. No discrimination. Except as provided in section 2404,
11 the school may not discriminate on the basis of color, sex,
12 income level, proficiency in the English language or physical
13 ability.

14 8. Finances. A charter school may conform to the uniform
15 financial accounting and reporting standards and processes that
16 govern school administrative units generally. The governing
17 entity, not the director or chief financial officer, of the
18 charter school must contract for an annual financial audit by a
19 certified public accountant in accordance with generally accepted
20 accounting principles. The audit must also examine the validity
21 and integrity of data reported to the State for revenue purposes
22 including average daily attendance and enrollment and internal
23 controls of the charter school.

24 §2406. The charter document
25

26 Major issues involving the operation of the school must be
27 considered and developed in advance of the opening of this
28 charter school and written into the charter document, which must
29 be signed by the school and the sponsor.

30 1. Written agreement on issues. The school and the sponsor
31 must come to a written agreement on the following issues:

32 A. The education program, including the school's mission,
33 the students to be served, the ages and grades to be
34 included and the focus of the curriculum;

35 B. The outcomes to be achieved and the method of
36 measurement that will be used, including how the school will
37 meet any state-required outcomes;

38 C. The admissions and dismissal procedures;

39 D. The ways by which the school will achieve a racial and
40 ethnic balance reflective of the community it serves;
41

2 E. The manner in which the program and fiscal audit will be
3 conducted;

4 F. The term of the agreement; and

6 G. The qualifications required of the teachers.

8 2. Addendum to charter. The school shall include as an
9 addendum to the charter document a plan covering the following
10 terms, although the school and the sponsor need not reach
11 agreement on the terms of the plan for these items:

12 A. The governance structure of the school;

14 B. The management and administration of the school;

16 C. In the case of an existing school being converted to
18 charter status, alternative arrangements for current
19 students who choose not to attend the school and for current
20 teachers who choose not to teach in the school after
21 conversion;

22 D. The learning methods to be used;

24 E. Any distinctive learning techniques to be employed;

26 F. Internal financial controls;

28 G. How the school will be insured;

30 H. The facilities to be used and their location; and

32 I. The arrangements for covering teachers and other staff
33 for health, retirement and other benefits.

36 §2407. Nonrenewal or termination of the charter agreement

38 1. Nonrenewal or termination. During the term of the
39 charter agreement or at the end of the term, the sponsor may
40 choose to terminate or not to renew the agreement on any of the
41 following grounds:

42 A. Failure to meet the requirements for student performance
43 stated in the agreement;

46 B. Failure to meet generally accepted standards of fiscal
47 management;

48 C. Violation of law; and
50

2 D. Other good cause shown.

4 A termination may be effective only at the conclusion of a school
6 year, unless continued operation of the school presents a clear
8 and immediate threat to health and safety.

10 2. Notice of termination or nonrenewal. At least 60 days
12 before not renewing or terminating a contract, the sponsor shall
14 notify the board of directors of the school of the proposed
16 action in writing. The notice must state the grounds for the
18 proposed action in reasonable detail and that the school's board
20 of directors may request in writing an informal hearing before
22 the sponsor within 14 days of receiving the notice.

24 3. Appeal. The school may appeal the sponsor's decision to
26 terminate or not renew the agreement to the state board.

28 4. Dissolution of charter school. When an agreement is not
30 renewed or is terminated, the school must be dissolved as
32 provided by state law governing nonprofit organizations.

34 5. Disposition of students upon dissolution. If an
36 agreement is not renewed or is terminated, a student who attended
38 the school may apply to and must be enrolled in another public
40 school.

42 **§2408. Teachers**

44 1. Selection. The charter school shall select its teachers
46 and the teachers may select the school.

48 2. Ratio. The charter school staff must include teachers
50 holding teaching certificates at a minimum ratio of one certified
52 teacher for each 60 students enrolled in the school.

54 3. Right to organize. Teachers may choose to bargain
56 collectively or form a professional group.

58 A. Teachers who are employees of the school have the same
60 rights as teachers in public education to organize and
62 bargain collectively. Bargaining units at the school must
64 be separate from other bargaining units, such as a district
66 bargaining unit. Staff at existing schools converting to
68 charter school status may continue to receive perquisites or
70 benefits granted by the district as specified in a charter,
72 without regard to potential conflict with existing
74 collective bargaining agreements.

76 B. A teacher may choose to be part of a professional group
78 that operates the instructional program under an agreement

2 with the school, forming a partnership or producer
3 cooperative that the teachers collectively own.

4 4. Leave; seniority. Teachers leaving a current position
5 in a public school district to teach in a charter school may take
6 leave to teach. While on leave, they retain their seniority
7 position and continue to be covered by the benefit programs of
8 the district in which they had been working. A school district
9 must also grant service credit to those teachers for teaching
10 experience at a charter school, as long as their service at a
11 charter school is reasonably comparable to service in the
12 district.

13 5. Retirement. Teachers not previously teaching in a
14 public school district may be made eligible for the state teacher
15 retirement program. Alternatively, the State may add to the
16 financing of the school an amount equal to the employer
17 contribution for teacher retirement so that the school may
18 establish or enroll teachers in its own program.

19 §2409. Revenue provisions

20 1. State funding. The State shall provide the charter
21 school with the full amount of revenue for each student that
22 would be available if the student were enrolled in a public
23 school. The State shall pay directly to the school the average
24 amount per pupil spent statewide for operating purposes.

25 2. Other sources of funding. A charter school may receive
26 other state and federal aids, grants and revenue as though it
27 were a district. The school may receive gifts and grants from
28 private sources in whatever manner is available to districts.

29 3. Special education. Special education is an obligation
30 of the district of residence of the pupil. The cost to a charter
31 school to educate a student with special needs is limited to the
32 state average tuition for elementary or secondary students as
33 appropriate. The resident unit must pay approved special
34 education costs in excess of the state average tuition. A
35 representative of the resident unit with authorization to
36 obligate the resident unit's fiscal resources and ensure
37 provision of special education and supportive services must
38 participate in the student's pupil evaluation team meetings and
39 development of the student's individualized education plan.

40 4. General authority. A charter school may not levy taxes
41 or issue bonds secured by tax revenues.

2 **§2410. Immunity and exemption**

4 1. Exemption from state law. Except as provided in this
6 section, a charter school is exempt from all statutes and rules
applicable to a school board or school district, although it may
elect to comply with one or more provisions of statutes or rules.

8 2. Liability. The charter school may sue and be sued,
10 however the sponsor of a charter school, members of the board of
12 the sponsor organization in their official capacity and employees
of a sponsor are immune from civil or criminal liability with
respect to all activities related to a charter school they
approve or sponsor.

14 3. Categorical education funding. Charter schools are
16 exempt from the restrictions normally associated with any
18 state-funded categorical education funding programs.

20 **§2411. Length of school year**

22 The charter school shall provide instruction for at least
the minimum number of days required by state law.

24 **§2412. Leased space**

26 A school district may lease space or sell services to a
28 charter school. A charter school may lease space or secure
services from another public body, nonprofit organization or
private organization or individual.

30 **§2413. Transportation**

32 Transportation for students residing in the district in
34 which the charter school is located must be provided by that
36 district. Students living outside the district in which the
charter school is located are eligible for transportation to and
38 from the border of their district of residence. Districts may
provide transportation for nonresident students. A charter
40 school, at its option, may receive a proportionate share of any
state or local transportation funds and arrange for its own
transportation service.

42 **§2414. Initial costs**

44 A sponsor may authorize a school before the applicant has
46 secured space, equipment or personnel if the applicant indicates
authorization is necessary for the applicant to raise working
48 capital.

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§2415. Information

The department shall disseminate information to the public directly and through sponsors on how to form and operate a charter school and on how to enroll in charter schools once they are created.

8 **Sec. 5. Review.** The Commissioner of Education, with
10 assistance from the State Board of Education, shall conduct a
12 review of charter schools created under the Maine Revised
14 Statutes, Title 20-A, chapter 112 3 years after the effective
16 date of this Act. The commissioner shall submit a report and any
18 recommendations to the joint standing committee of the
Legislature having jurisdiction over education and cultural
affairs by December 15th of the following year.

20
SUMMARY

This bill allows certain public bodies to approve the establishment of charter schools, a new type of public school, to be a part of the State's program of public education.

24 Charter schools may be new schools or they may be existing
26 schools that have converted to charter status. Sponsors may
28 include a local school board, the State Board of Education, a new
state board formed expressly to approve and oversee charter
schools or the board of a public postsecondary institution.

30 Charter schools also offer students and parents a choice of
32 public schools. Charter schools are open to all students
34 equally, though they may specialize in serving a particular age
group, a specific geographic area or a student population with
36 specific needs. A charter school may also require a
demonstration of interest from students if it offers a specific
38 curriculum or teaching methodology. Because they are public
schools, charter schools may not be affiliated with nonpublic or
40 religious institutions and must be nonsectarian in their
programs, practices and policies.

42 Teachers in a charter school may or may not be certified,
44 but a minimum of one teacher for each 60 students enrolled must
hold state certification. Teachers in charter schools may be
46 employees of the charter school, and have the right to organize
and bargain collectively in a separate unit; or teachers may
48 choose to operate the charter school themselves, as partners or
members of a cooperative.

2 Funding for charter schools will be paid directly by the
State in an amount equal to the average amount per pupil spent
4 statewide. Approved special education costs incurred beyond that
amount will be paid by the student's resident school
administrative unit.