

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 2027

H.P. 1420

House of Representatives, March 24, 1999

An Act to Enable the Formation of Public Charter Schools.

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

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative POWERS of Rockport.
Cosponsored by Senator LONGLEY of Waldo and
Senator AMERO of Cumberland,
Representatives: BAKER of Bangor, STEDMAN of Hartland, WATSON of Farmingdale,
Senators: BERUBE of Androscoggin, CATHCART of Penobscot, SMALL of Sagadahoc.

2 in that public school vote to apply for charter school
3 designation. A school board of a school administrative unit, by a
4 majority vote, may vote to apply for charter school designation
5 through the conversion of all or some of the schools located in
6 that administrative unit.

7 2. New schools. An application for a new charter school
8 may be proposed by nonprofit, nonsectarian organizations.

10 **§2413. Chartering authorities**

12 1. Eligible sponsors. The organizers may apply to and the
13 school may be granted a charter by any of the following:

14 A. A school board;

15 B. The Office of Charter Schools within the department
16 identified to oversee charter schools; or

17 C. The board of a Maine nonsectarian postsecondary
18 institution.

19 2. Approval by chartering authority. A proposal for a
20 charter school may be approved by the head or by a majority vote
21 of the governing body of the sponsor to which the application is
22 made. The decision on a charter school application must be made
23 within 90 days of receipt of the application.

24 3. Oversight. A chartering authority is responsible for
25 the following:

26 A. Monitoring the operations of each charter school to
27 which the chartering authority has granted a charter;

28 B. Ensuring that each charter school to which the
29 chartering authority has granted a charter complies with
30 applicable laws and the charter; and

31 C. Monitoring the progress of each charter school to which
32 the chartering authority has granted a charter in meeting
33 student academic expectations specified in the charter.

34 The chartering authority may require a charter school to which
35 the chartering authority has granted a charter to produce any
36 book, record, paper or document if the chartering authority
37 determines that those materials are necessary for the chartering
38 authority to carry out its functions under this chapter.

39 4. Appeal. An appeal of a denial of an application for a
40 charter school, whether on content or process, may be made within
41 90 days of the decision on the application. Appeals must be
42 addressed to the Office of Charter Schools or, if the initial
43 decision is made by the Office of Charter Schools, to the
44 Office of Charter Schools.

2 application is to the Office of Charter Schools, then appeal may
3 be made to the state board.

4 5. Number of schools. The number of charter schools
5 approved must be geographically distributed throughout the
6 State. In the first year of implementation, up to 5 new schools,
7 not exceeding a total enrollment of 200 students, may be
8 approved. There is no limitation on the number of existing
9 schools that may convert to charter schools.

10 **§2414. Charter school students; eligibility; application**

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13 1. Eligibility. Any student residing in this State is
14 eligible to apply to a charter school. The school shall enroll
15 an applicant who submits a timely application, unless the number
16 of applications exceeds the capacity of a program, class, grade
17 level or building. In that case, applicants must be chosen for
18 acceptance in a manner that guarantees each applicant an equal
19 chance of being admitted.

20
21 2. Application. Each charter school shall adopt
22 application standards in accordance with the following.

23 A. The standards may not include requirements regarding
24 previous academic achievement, intellectual aptitude or
25 curricular and extra-curricular ability.

26
27 B. The standards may not result in denial of admission for
28 any physical or mental disability, handicap or condition.

29
30 C. The standards may include a demonstration of a student's
31 interest in the specific curriculum or teaching methodology
32 offered by the charter school.

33
34 **§2415. Requirements for charter schools**

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37 1. Organization. A charter school shall organize under one
38 of the forms of organization available under the laws of the
39 State for a nonprofit corporation or a financially autonomous
40 cooperative.

41
42 2. Nonsectarian. A charter school may not be affiliated
43 with a private sectarian school or religious institution. The
44 school must be nonsectarian in its programs, admission policies,
45 employment practices and all other operations.

46
47 3. Admission. A charter school shall admit students as
48 provided in section 2414.

49
50 4. Accountability. A charter school is accountable to its
51 chartering authority for its performance as provided in the
52 charter agreement pursuant to section 2416.

2 5. Tuition. The charter school may not charge tuition or
3 fees beyond those allowed in a regular public
4 kindergarten-to-grade-12 program. However, a charter school
5 offering a residential component may charge a fee for room and
6 board. A student may apply for and be granted a waiver for room
7 and board expenses if the student and the student's parents or
8 guardian meet financial guidelines established by the
9 department. Each charter school offering a residential component
10 shall establish and maintain a fund capable of paying the room
11 and board expenses for 1/4 of its enrolled students. If
12 additional funds are required to pay expenses for additional
13 students, the fee for students paying room and board must be
14 increased accordingly.

15 6. State and local requirements. The charter school shall
16 meet all applicable state and local health, safety and civil
17 rights requirements.

18 7. No discrimination. The charter school may not
19 discriminate on the basis of color, sex, income level,
20 proficiency in the English language or physical ability.

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

31 §2416. The charter agreement

32 Major issues involving the operation of the school must be
33 considered and addressed in advance of the opening of the charter
34 school and written into the charter agreement, which must be
35 signed by the head of the school and the chartering authority.

36 1. Special Education. Before a charter is granted, a
37 charter school must have in place a policy to comply with the
38 policies adopted by the state board and with federal regulations
39 relating to the education of children with special needs. The
40 manner in which the charter school delivers those services may be
41 innovative and integrated into its provision of services for all
42 students.

43 2. Written agreement on issues. The head of the charter
44 school and the chartering authority shall establish a written
45 agreement on the following issues and incorporate the agreement
46 into the charter:

- 2 A. The education program, including the charter school's
4 mission, the students to be served, the ages and grades to
 be included and the focus of the curriculum;
- 6 B. The outcomes to be achieved and the method of
8 measurement that will be used, including how the charter
 school will meet any state-required outcomes such as the
10 system of learning results;
- 12 C. The admission and dismissal procedures;
- 14 D. The ways by which the charter school will achieve a
 racial and ethnic balance reflective of the community it
16 serves;
- 18 E. The manner in which the charter school will comply with
20 state and federal requirements for the education of children
 with special needs, including the integration of special
22 education services into the school's curriculum and any
 innovative delivery systems;
- 24 F. The manner in which the program and financial audit will
 be conducted;
- 26 G. The qualifications required of the teachers in addition
 to those required under section 2418;
- 28 H. The management and administration of the charter school;
30 and
- 32 I. The term of the agreement.
- 34 3. Addendum to charter. The charter school shall include
36 as an addendum to the charter document a plan covering the
 following items, although the head of the school and the
38 chartering authority need not reach agreement on the terms of the
 plan for these items:
- 40 A. The governance structure of the charter school;
- 42 B. In the case of an existing school being converted to
44 school charter status, alternative arrangements for current
 students who choose not to attend the charter school and for
46 current teachers who choose not to teach in the charter
 school after conversion;
- 48 C. The learning methods to be used;
- 50 D. Any distinctive learning techniques to be employed;
- 52 E. Internal financial controls;

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F. How the charter school will be insured;

G. The facilities to be used and their location; and

H. The arrangements for covering teachers and other staff for health, retirement and other employee benefits.

§2417. Termination of the charter agreement

1. Termination. During the term of the charter agreement or at the end of the term, the chartering authority may act to terminate the agreement on any of the following grounds:

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

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

C. Violation of laws; or

D. Other good cause shown.

A termination is effective only at the end of a school year, unless continued operation of the charter school presents a clear and immediate threat to health and safety.

2. Notice of termination. At least 60 days before terminating a charter agreement, the chartering authority shall notify the board of directors of the charter school of the proposed action in writing. The notice must state the grounds for the proposed action in reasonable detail and that the charter school's board of directors may request in writing an informal hearing before the chartering authority within 14 days of receiving the notice.

3. Appeal. The charter school may appeal the chartering authority's decision to terminate the agreement to the Office of Charter Schools or, if the decision to terminate is made by the Office of Charter Schools, then appeal may be made to the state board.

4. Dissolution of charter school. When an agreement is terminated, the charter school must be dissolved as provided by state law governing nonprofit organizations.

5. Disposition of students upon dissolution. If an agreement is terminated, a student who attended the charter school may apply to and must be enrolled in another school.

§2418. Teachers

2 1. Selection. The charter school shall select its teachers.

4 2. Certification. The charter school staff must include
6 teachers holding teaching certificates.

8 3. Right to organize. Teachers may choose to bargain
10 collectively or form a professional group in accordance with the
12 following.

14 A. Teachers who are employees of the charter school have
16 the same rights as teachers in public education to organize
18 and bargain collectively. Bargaining units at the charter
20 school must be separate from other bargaining units, such as
22 a district bargaining unit. Staff at existing schools
24 converting to charter school status may continue to receive
26 perquisites or benefits granted by the district as specified
28 in a charter, without regard to potential conflict with
30 existing collective bargaining agreements.

32 B. A teacher may choose to be part of a professional group
34 that operates the instructional program under an agreement
36 with the charter school, forming a partnership or producer
38 cooperative that the teachers collectively own.

40 4. Leave; seniority. Teachers leaving a current position
42 in a noncharter public school to teach in a charter school may
44 take leave to teach. While on leave, they retain their seniority
46 position and continue to be covered by the benefit programs of
48 the district in which they had been working. A school district
50 shall grant service credit to those teachers for teaching
 experience at a charter school, as long as their service at a
 charter school is reasonably comparable to service in the
 district.

5. Retirement. Charter school teachers not previously
 teaching in a public school district are eligible for membership
 in the Maine State Retirement System. Alternatively, the State
 may add to the financing of the charter school an amount equal to
 the employer contribution for teacher retirement so that the
 charter school may establish or enroll teachers in its own
 program.

44 **§2419. Revenue provisions**

46 1. State funding. For new schools to be granted charters,
48 the State shall pay directly to the charter school the average
50 amount per pupil spent statewide for operating purposes. For
 existing public schools converting to charter schools, funding
 will continue to be according to chapters 606 and 606-A.

2 2. Other sources of funding. A charter school may receive
3 other state and federal aid, grants and revenue as though it were
4 a school administrative unit. The charter school may receive
5 gifts and grants from private sources in whatever manner is
6 available to school administrative units.

7 3. General authority. A charter school may not levy taxes
8 or issue bonds secured by tax revenues.

10 **§2420. Immunity and exemption**

12 1. Exemption from state law. Except as provided in this
13 chapter, a charter school is exempt from all laws and rules
14 applicable to a school board or school district, although it may
15 elect to comply with applicable laws or rules.

16 2. Liability. The charter school may sue and be sued,
17 however, the chartering authority of a charter school, members of
18 the board of the chartering authority in their official capacity
19 and employees of a chartering authority are immune from civil or
20 criminal liability with respect to all activities related to a
21 charter school.

22 3. Categorical education funding. Charter schools are
23 exempt from the restrictions normally associated with any
24 state-funded categorical education funding program.

26 **§2421. Leased space**

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

31 **§2422. Transportation**

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

42 **§2423. Initial Costs**

43 A chartering authority may authorize a charter school before
44 the applicant has secured space, equipment or personnel if the

2 applicant indicates authorizations necessary for it to raise
3 working capital.

4 **§2424. Information**

6 The department shall disseminate information to the public
7 directly and through chartering authorities on how to form and
8 operate a charter school and on how to enroll in charter schools
9 once they are created.

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

20 **SUMMARY**

21
22 This bill allows certain educational bodies to approve the
23 establishment of charter schools, a new type of public school, to
24 be a part of the State's program of public education.

25
26 Charter schools may be existing public schools or school
27 units, new schools or existing nonprofit, nonsectarian schools
28 that convert to charter status. Sponsors may include a local
29 school board, the board of a Maine postsecondary institution or
30 an identified governmental entity charged with approving and
31 overseeing charter schools.

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

42
43 Charter school staff include teachers holding teaching
44 certificates. Teachers in charter schools may be employees of
45 the charter school and have the right to organize and bargain
46 collectively in a separate unit; or teachers may choose to
47 operate the charter school themselves, as partners or members of
48 a cooperative.

49
50 Funding for charter schools is paid directly by the State in
51 an amount equal to the average amount per pupil spent statewide.
52

2 Approved special education costs incurred beyond that amount are
paid by the student's resident school administrative unit.

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