

# MAINE STATE LEGISLATURE

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# 120th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2001

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Legislative Document

No. 1531

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H.P. 1134

House of Representatives, March 8, 2001

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**An Act to Enable Formation of Public Charter Schools.**

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

*Millicent M. MacFarland*

MILLICENT M. MacFARLAND, Clerk

Presented by Representative WATSON of Farmingdale.  
Cosponsored by Senator SMALL of Sagadahoc and  
Representatives: DAIGLE of Arundel, MATTHEWS of Winslow, PEAVEY of Woolwich,  
STEDMAN of Hartland, WESTON of Montville, Senator: CATHCART of Penobscot.



2 school may apply to become a charter school if the teachers and  
4 administration of that public school or the parents of children  
6 in that public school vote to apply for charter school  
8 designation. A school board of a school administrative unit, by a  
10 majority vote, may vote to apply for charter school designation  
12 through the conversion of all or some of the schools located in  
14 that administrative unit.

16 2. **New schools.** An application for a new charter school  
18 may be proposed by nonprofit, nonsectarian organizations.

### 12 §2413. Chartering authorities

14 1. **Eligible sponsors.** The organizers may apply to and the  
16 school may be granted a charter by any of the following  
18 chartering authorities:

20 A. A school board;

22 B. The office of charter schools within the department  
24 identified to oversee charter schools; or

26 C. The board of a Maine nonsectarian postsecondary  
28 institution.

30 2. **Approval by chartering authority.** The decision on a  
32 charter school application must be made within 90 days of receipt  
34 of the application.

36 3. **Oversight.** A chartering authority is responsible for  
38 the following:

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

44 B. Ensuring that each charter school to which the  
46 chartering authority has granted a charter complies with  
48 applicable laws and the charter; and

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

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

2 4. Appeal. An appeal of a denial of an application for a  
4 charter school, whether on content or process, may be made within  
90 days of the decision on the application. Appeals must be  
addressed to the state board.

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

14 **§2414. Charter school students; eligibility; application**

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

24 2. Application. Each charter school shall adopt  
application standards in accordance with the following.

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

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

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

38 **§2415. Requirements for charter schools**

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

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

50 3. Admission. A charter school shall admit students as  
provided in section 2414.

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

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

18  
20 6. State and local requirements. The charter school shall  
meet all applicable state and local health, safety and civil  
rights requirements.

22  
24 7. No discrimination. The charter school may not  
discriminate on the basis of color, sex, income level,  
26 proficiency in the English language or physical ability.

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

38 §2416. The charter agreement

40 Major issues involving the operation of the school must be  
42 considered and addressed in advance of the opening of the charter  
school and written into the charter agreement, which must be  
44 signed by the head of the school and the chartering authority.

46 1. Special education. Before a charter is granted, a  
charter school must have in place a policy to comply with the  
policies adopted by the state board and with federal regulations  
48 relating to the education of children with special needs. The  
manner in which the charter school delivers those services may be

2 innovative and integrated into its provision of services for all  
3 students.

4 2. Written agreement on issues. The head of the charter  
5 school and the chartering authority shall establish a written  
6 agreement on the following issues and incorporate the agreement  
7 into the charter:

8  
9 A. The education program, including the charter school's  
10 mission, the students to be served, the ages and grades to  
11 be included and the focus of the curriculum;

12  
13 B. The outcomes to be achieved and the method of  
14 measurement that will be used, including how the charter  
15 school will meet any state-required outcomes such as the  
16 statewide system of learning results as described in section  
17 6209;

18 C. The admission and dismissal procedures;

19  
20 D. The ways by which the charter school will achieve a  
21 racial and ethnic balance reflective of the community it  
22 serves;

23  
24 E. The manner in which the charter school will comply with  
25 state and federal requirements for the education of children  
26 with special needs, including the integration of special  
27 education services into the school's curriculum and any  
28 innovative delivery systems;

29  
30 F. The manner in which the program and financial audit will  
31 be conducted;

32  
33 G. The qualifications required of the teachers in addition  
34 to those required under section 2418;

35  
36 H. The management and administration of the charter school;  
37 and

38  
39 I. The term of the agreement.

40  
41 3. Addendum to charter. The charter school shall include  
42 as an addendum to the charter agreement a plan covering the  
43 following items, although the head of the school and the  
44 chartering authority need not reach agreement on the terms of the  
45 plan for these items:

46  
47 A. The governance structure of the charter school;

2 B. In the case of an existing school being converted to  
4 school charter status, alternative arrangements for current  
6 students who choose not to attend the charter school and for  
8 current teachers who choose not to teach in the charter  
10 school after conversion;

12 C. The learning methods to be used;

14 D. Any distinctive learning techniques to be employed;

16 E. Internal financial controls;

18 F. How the charter school will be insured;

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

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

26 **§2417. Termination of the charter agreement**

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

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

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

42 C. Violation of laws; or

44 D. Other good cause shown.

46 A termination is effective only at the end of a school year,  
48 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.

2           3. Appeal. The charter school may appeal the chartering  
3           authority's decision to terminate the agreement to the state  
4           board.

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

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

14          **§2418. Teachers**

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

18               2. Certification. The charter school staff must include  
19               teachers holding teaching certificates.

20               3. Right to organize. Teachers may choose to bargain  
21               collectively or form a professional group in accordance with the  
22               following.

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

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

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

48               5. Retirement. Charter school teachers not previously  
49               teaching in a public school district are eligible for membership  
50

2 in the Maine State Retirement System. Alternatively, the State  
4 may add to the financing of the charter school an amount equal to  
6 the employer contribution for teacher retirement so that the  
8 charter school may establish or enroll teachers in its own  
10 program.

#### 12 **§2419. Revenue provisions**

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

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

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

#### 38 **§2420. Immunity and exemption**

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

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

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

#### 42 **§2421. Leased space**

44 A school district may lease space or sell services to a  
46 charter school. A charter school may lease space or secure  
48 services from another public body, nonprofit organization,  
50 private organization or individual.

#### **§2422. Transportation**



2 students equally, though they may specialize in serving a  
particular age group, a specific geographic area or a student  
4 population with specific needs. A charter school may also  
require a demonstration of interest from students if it offers a  
6 specific curriculum or teaching methodology. Charter schools may  
not be affiliated with religious institutions and must be  
8 nonsectarian in their programs, practices and policies.

10 Charter school staff include teachers holding teaching  
certificates. Teachers in charter schools may be employees of  
the charter school and have the right to organize and bargain  
12 collectively in a separate unit; or teachers may choose to  
operate the charter school themselves as partners or members of a  
14 cooperative.

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