

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1391

S.P. 461

In Senate, March 19, 2003

An Act To Approve Public Charter Schools in Maine

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 WESTON of Waldo.
Cosponsored by Representative SUSLOVIC of Portland and
Senators: GILMAN of Cumberland, NASS of York, Representatives: DUGAY of Cherryfield,
LEDWIN of Holden, McKENNEY of Cumberland, MURPHY of Kennebunk, PIOTTI of
Unity, ROSEN of Bucksport.

2 **Be it enacted by the People of the State of Maine as follows:**

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
8 unit" means the state-approved unit of school administration and
10 includes a municipal school unit, school administrative district,
12 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,
16 c. 693, §§5 and 8, are amended to read:

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

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

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

26 **18. Charter schools.** Charter schools.

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

30 **CHAPTER 112**

32 **CHARTER SCHOOLS**

34 **§2411. Charter schools authorized; program established**

36 Charter schools may be established as public schools
38 pursuant to this chapter to provide varied learning environments
and expand existing efforts to support student learning by
40 providing different, often small, learning settings.

42 The charter school program is established to provide
incentives to teachers and community members to establish new
44 kinds of public schools and to seek to improve student
achievement through the use of different and innovative learning
46 methods.

48 Charter schools must meet the goals of the comprehensive
statewide learning results system and must use a comprehensive
set of assessments appropriate to the mission and curriculum of

2 each charter school. Although independent in governance, charter
3 schools are public schools and may work in cooperation with
4 noncharter public schools to improve student achievement.
5 Charter schools may provide alternative public school options for
6 children in so-called priority schools.

8 **§2412. Organizers; eligibility for application**

10 The following entities, referred to in this chapter as
11 "organizers," may apply for charter school status.

12 1. Existing schools. An existing noncharter public school
13 may apply to become a charter school if 60% or more of the
14 full-time teachers and administrators of that noncharter public
15 school and 60% or more of the parents of children in that
16 noncharter public school vote to apply for charter school
17 status. A school board of a school administrative unit, by a
18 majority vote, may vote to apply for charter school designation
19 through the conversion of all or some of the schools located in
20 that administrative unit.

22 2. New schools. An application for a new charter school
23 may be proposed by a nonprofit, nonsectarian organization. An
24 existing nonprofit, nonsectarian school may apply to eligible
25 chartering authorities under section 2413 to become a charter
26 school.

28 **§2413. Chartering authorities**

30 1. Eligible chartering authorities. The organizers may
31 apply to and the school may be granted a charter by a chartering
32 authority that is:

34 A. A local school board; or

36 B. A nonsectarian, 4-year postsecondary institution.

38 For purposes of this chapter, "chartering authority" means one of
39 the entities in paragraphs A and B.

40 2. Approval by chartering authority. A proposal for a
41 charter school must be approved by an eligible chartering
42 authority. A charter must be approved for 15-year terms, with a
43 major review for compliance with the terms of the charter at
44 least once every 5 years. A charter may be approved for a school
45 beginning with one or more grades from preschool to high school,
46 including alternative secondary programs for students requiring
47 basic literacy training up to 21 years of age. A local school
48 board may approve the conversion of an existing noncharter public
49 school to a charter school only in its own jurisdiction.
50

2 **3. Oversight.** A chartering authority is responsible for:

4 **A. Establishing a process for receiving and reviewing**
6 **applications for public charter schools on an annual or**
8 **semiannual basis, taking into account the deadlines required**
10 **by the United States Department of Education for**
12 **applications for the federal charter school grant program.**
14 **A decision on a charter school application must be made**
16 **within 90 days of receipt of the application and conveyed in**
18 **writing to the applicant. A decision may grant approval or**
20 **conditional approval, request resubmission or reject the**
22 **application and must include written reasons for the**
24 **decisions;**

26 **B. Monitoring the operations of each charter school to**
28 **which the chartering authority has granted a charter,**
30 **including an annual site visit and requiring an annual**
32 **report, periodic financial reports and periodic enrollment**
34 **reports;**

36 **C. Ensuring that each charter school to which the**
38 **chartering authority has granted a charter complies with**
40 **applicable laws and the charter;**

42 **D. Monitoring the progress of each charter school to which**
44 **the chartering authority has granted a charter in meeting**
46 **student academic expectations specified in the charter; and**

48 **E. Placing a charter school on probation if there is**
50 **evidence that the school is not performing according to its**
 charter. A school must be given 30 days' notice before
 being placed on probation, and the chartering authority
 shall hold a public hearing within 30 days of placing a
 school on probation.

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 the chartering authority
 determines necessary for carrying out its functions under this
 chapter.

4. Number and distribution of public schools. Chartering
 authorities are encouraged to ensure that charter schools are
 distributed throughout the State.

5. Initial phase. The charter school program established
 in section 2411 begins with a 2-year initial phase.

A. During the initial phase the following limits apply:

2 (1) No more than 2 postsecondary institutions may
3 register pursuant to paragraph B each year to become
4 chartering authorities;

5 (2) Each postsecondary chartering authority registered
6 pursuant to paragraph B may approve no more than 2
7 charter schools per year;

8 (3) Each local school board acting as a chartering
9 authority may approve no more than 2 charter schools
10 per year; and

11 (4) No more than 10 charter schools statewide may be
12 approved per year during the initial phase.

13 B. To enforce the limits set out in paragraph A, the state
14 board shall:

15 (1) Register the postsecondary chartering authorities
16 in the order they submit letters of intent to become
17 chartering authorities until November 1st of each year;
18 and

19 (2) Register the charters granted by all chartering
20 authorities in the order they are approved. By
21 December 10th of each year, chartering authorities
22 shall inform the state board of charters they have
23 granted that calendar year. Once the cap of 10
24 charters per year is reached, the state board may not
25 consider further registrations.

26 6. Phase 2. Phase 2 of the charter school program,
27 established in section 2411, follows the initial phase described
28 in subsection 5.

29 A. During phase 2 the following limits apply:

30 (1) Each postsecondary chartering authority registered
31 pursuant to paragraph B may approve no more than 5
32 charter schools each calendar year; and

33 (2) No more than 20 charter schools may be approved
34 statewide each calendar year.

35 B. To enforce the limits set out in paragraph A, the state
36 board shall:

37 (1) Register all new postsecondary chartering
38 authorities in the order they submit letters of intent

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

to become chartering authorities until November 1st of each year; and

(2) Register the charters granted by all chartering authorities on a chronological basis. By December 10th of each year, chartering authorities shall inform the state board of charters they have granted that calendar year. Once the cap of 20 charters per year is reached, the state board may not consider further registrations.

§2414. Charter school students; eligibility; application

1. Eligibility. Any student residing in this State is eligible to apply to a charter school. The school shall enroll an applicant who submits an application prior to deadline, unless the number of applications exceeds the capacity of a program, grade level or building. In that case, applicants must be chosen through a lottery that ensures random selection.

2. Application. Each charter school shall adopt an application process in accordance with this subsection.

A. The application process may not include requirements regarding previous academic achievement, intellectual aptitude, sexual orientation or curricular or extracurricular ability. Existing noncharter public schools that convert to charter schools may give preference to previously enrolled students.

B. Applicant selection may give preference to siblings of students already enrolled in the charter school, to children of the organizers, staff and teachers of the newly formed charter school and to children of employees of the companies that sponsor work site charter schools, except that the number of students enrolled under preferences allowed by this paragraph may not exceed 20% of the total number of students.

C. Applicants may not be denied admission on the basis of any physical or mental disability, handicap or condition.

D. A local school board acting as a chartering authority may require a charter school that it approves to give admission preference to children of residents in that school administrative unit. Postsecondary chartering authorities may approve a geographic preference if the preference is proposed in the charter application and the charter states that no more than 50% of the students may be enrolled under the geographical preference provision.

§2415. Requirements for charter schools

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

1. Organization. A charter school shall organize under one of the forms of organization available under the laws of the State for a nonprofit corporation or a financially autonomous cooperative. The governing board of trustees is responsible for the operation of the charter school, including, but not limited to, its finances; the hiring of the principal, teachers and staff; and the academic and extracurricular programs. A charter school may secure services from another public body, nonprofit organization, private organization or individual, but a charter school may not contract with a for-profit education management organization for whole-school management services.

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

3. Homeschool; Internet. Charter schools may not be used as a method of providing education or generating revenue for students who are being homeschooled. Charter schools may not offer programs of study that require or permit students to take more than 25% of their studies on-line.

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

5. Accountability. A charter school is accountable to its chartering authority for its performance as provided in the charter agreement pursuant to section 2416. Charter schools must work to achieve the comprehensive statewide learning results and administer state assessments or equivalent assessments required of public schools as part of state academic standards. These assessments must be commensurate with the charter school's mission and objectives.

6. Tuition. A charter school may not charge tuition or fees beyond those allowed in a regular public kindergarten to grade 12 program, except that a charter school offering a residential component may charge a fee for room and board and, if a fee is charged, shall offer assistance to families needing scholarships for room and board fees.

7. State and local requirements. A charter school shall meet all applicable state and local health, safety and civil rights requirements.

8. No discrimination. A charter school may not discriminate on the basis of color, race, national origin,

2 religion, sex, income level, proficiency in the English language
3 or physical ability.

4 9. Finances. A charter school's board of trustees, not the
5 director or chief financial officer of the charter school, shall
6 contract for an annual financial audit by a certified public
7 accountant in accordance with generally accepted accounting
8 principles. The audit must examine the validity and integrity of
9 data reported to the State for revenue purposes, including the
10 enrollment and internal controls of the charter school.

11 10. Conflicts of interest. Charter school boards of
12 trustees are governed by this subsection.

13 A. A member of a charter school board of trustees may not
14 serve as a member of the board of directors or as an
15 employee or agent of or a contractor with a for-profit
16 entity with whom the charter school contracts, directly or
17 indirectly, for professional services, goods or facilities.

18 B. A member of a charter school board of trustees that
19 serves as a member of a board of trustees or an employee or
20 agent of or a contractor with a nonprofit entity with whom
21 the charter school contracts, directly or indirectly, for
22 professional services, goods or facilities, shall disclose
23 all potential conflicts to the chartering authority.

24 C. This subsection does not prohibit payment of
25 compensation to a member of the charter school's board of
26 trustees who is a teacher:

27 (1) Who is employed by the charter school; or

28 (2) Who provides services to the charter school
29 through a cooperative.

30 **§2416. The charter agreement**

31 Major issues involving the operation of a charter school
32 must be considered and addressed in advance of the opening of the
33 charter school and written into the charter agreement, which must
34 be signed by the charter school's board of trustees and the
35 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

2 innovative, and its services may be integrated into the services
3 provided for all students.

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

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

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

18 C. Procedures for the admission and dismissal of students;

19
20 D. The ways by which the charter school will try to achieve
21 a 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 delivery of appropriate
27 special education services and any innovative delivery
28 systems;

29
30 F. The manner in which financial audits will be conducted;

31
32 G. The qualifications required of the teachers in addition
33 to those required under section 2418; and

34
35 H. The management and administration of the charter school.

36
37 3. Addendum to charter. The charter school shall include
38 as an addendum to the charter document a plan covering the
39 following items before the school begins operating:

40
41 A. The governance structure of the charter school;

42
43 B. In the case of an existing noncharter public school
44 converting to a charter school, alternative arrangements for
45 current students who choose not to attend the charter school
46 and for current teachers who choose not to teach in the
47 charter school after conversion;

48
49 C. The learning methods to be used;

50

2 D. Any distinctive learning techniques to be employed;

4 E. Internal financial controls;

6 F. How the charter school will be insured;

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

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

12 §2417. Review, renewal or termination of the charter agreement

14 1. Major review. At least once every 5 years, the
16 chartering authority shall conduct a major review of the
18 operations and achievements of each of its charter schools. At
20 least 6 months prior to the date of such a review, the chartering
22 authority shall inform the charter school of the timing, format
24 and elements to be included in such review.

26 2. Renewal. At least 6 months prior to the end of the
28 15-year term of a charter school, the chartering authority shall
30 begin a review process with the charter school to determine if
32 the contract will be renewed. The renewal process must include
34 at least one public hearing.

36 3. Termination. During the term of the charter agreement,
38 during a major review pursuant to subsection 1 or at the end of
40 the 15-year term, the chartering authority may act to terminate
42 the agreement on any of the following grounds:

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

48 B. Failure to meet generally accepted standards of fiscal
50 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 of students or
 personnel.

4. Notice of termination. At least 60 days before
 terminating a charter, the chartering authority shall notify the
 board of trustees of the charter school of the proposed action in
 writing. The notice must state the grounds for the proposed

2 action in reasonable detail and that the charter school board of
3 trustees may request in writing an informal hearing before the
4 chartering authority within 14 days of receiving the notice.

5 5. Appeal. The charter school may appeal the chartering
6 authority's decision to terminate the charter to the state board.

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

10 7. Disposition of students upon dissolution. If an
11 agreement is terminated, the charter school staff shall assist
12 its students to find other appropriate education placements.

13 **§2418. Teachers**

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

15 2. Certification. The charter school staff must include at
16 least one teacher holding an appropriate teaching certificate.

17 3. Right to organize. Teachers may choose to bargain
18 collectively or form a professional group in accordance with this
19 subsection.

20 A. Teachers who are employees of the charter school have
21 the same rights as other teachers in public education to
22 organize and bargain collectively. Bargaining units at the
23 charter school must be separate from other bargaining units,
24 such as a district bargaining unit. Staff at noncharter
25 public schools converting to charter schools have a right to
26 employment benefits as stated in applicable collective
27 bargaining agreements or they may vote to be represented in
28 alternative ways.

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

33 4. Leave; seniority. Teachers in a noncharter public
34 school may take leave to teach in a charter school. A school
35 district must grant service credit to those teachers for teaching
36 experience at a charter school, as long as their service at a
37 charter school is reasonably comparable to service in their
38 noncharter public school. Any such teacher may apply for a leave
39 of absence in renewable one-year terms, up to a maximum of 2
40 years.

2 5. Retirement. A charter school may establish a retirement
4 plan or plans for employees. Teachers enrolled in the Maine
6 State Retirement System who take leave to teach in a charter
8 school may continue their participation in the Maine State
10 Retirement System while on such leave. If a charter school
12 chooses to set up a plan with the Maine State Retirement System,
14 the charter school may establish a participating local district
16 plan with the Maine State Retirement System.

10 §2419. Revenue provisions

12 1. Operating funds. All state and local operating funds
14 follow each child to the charter school the child attends. For
16 each charter school student, the school administrative unit in
18 which the student resides must forward the per-pupil allocation
20 to the charter school attended by the student as follows.

18 A. The per-pupil allocation amounts must be the same
20 average amounts as for students attending noncharter public
22 schools used in estimating state payments to the noncharter
24 public schools for the current fiscal year.

22 B. For each fiscal year, which runs from July 1st to June
24 30th, allocations must be made in 4 quarterly payments on
26 September 1st, December 1st, March 1st and June 1st.

26 C. The September payment must be based on the number of
28 students enrolled or anticipated to be enrolled in the
30 charter school at the opening of school for that school year.

30 D. If the number of students calculated under paragraph C
32 is higher or lower than the number of students in the
34 following February of the school year, adjustments are to be
36 made in the March payment, with 50% of the annual per pupil
38 allocation to be added for additional students or subtracted
40 if the total number of students is lower.

38 2. Program funds. Public charter schools are entitled to
40 receive state program funds on a per-pupil basis, on the same
42 schedule as listed in subsection 1, for transportation,
44 vocational education and special education. Public charter
46 schools may contract or cooperate with district public schools
48 for such services.

44 3. Special education. Unusually high special education
46 needs for charter school students should be negotiated between
48 the charter school and the district school of residence, as is
50 the current practice among noncharter public schools. Charter
52 schools may apply to a state hardship fund for high special
54 education expenses on the same basis as district schools.

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

8 5. No taxing or bonding authority. A charter school may
10 not levy taxes or issue bonds secured by tax revenues.

12 6. Impact Aid Fund for small school administrative units.
14 The department shall establish the Impact Aid Fund to which
16 school administrative units with fewer than 600 students may
18 apply for financial assistance. Applications must demonstrate
20 how a school administrative unit has suffered financially by the
22 location of a public charter school nearby, and request a
24 specific sum based on the number of students previously enrolled
 in the district's schools who have transferred to charter
 schools. The department is authorized to contribute \$50,000 per
 year to an account that supports this fund for the first 5 years
 of the charter school program established in section 2411.
 Interest on unused funds accrues to the fund. The distribution
 of and continued need for this fund must be reviewed by the
 commissioner at least once every 4 years.

26 7. Facilities. Public charter schools must be afforded
28 preference in access to surplus public space as it becomes
30 available from the State or any political subdivision of the
 State.

32 In addition to federal grants for start-up costs and
34 renovation of facilities, charter schools have access to the
 Maine state school construction fund on the same basis as
 noncharter public schools

36 §2420. Immunity and exemption

38 1. Exemption from state and local education law and rules.
40 Except as provided in this chapter and its charter, a charter
42 school is exempt from all statutes and rules applicable to a
44 school, a board or a school district, although it may elect to
 comply with one or more provisions of statutes or rules. School
 administrative units may not interpret this subsection to reduce
 their obligation to provide education for their residents.

46 2. Liability. The charter school may sue and be sued,
48 except that the chartering authority of a charter school, members
 of the governing board of the chartering authority in their
 official capacity and employees of a chartering authority are

2 immune from civil or criminal liability with respect to all
3 activities related to a charter school.

4 3. Categorical education funding. A charter school is
5 exempt from the restrictions normally associated with any
6 state-funded categorical education funding program.

8 **§2421. Leased space**

10 A school administrative unit may lease space or sell
11 services to a charter school. A charter school may lease space
12 from another public body, nonprofit organization, private
13 organization or individual.

14 **§2422. Transportation**

16 A charter school is entitled to receive a per-pupil
17 allocation for transportation costs as part of its program
18 funds. A charter school shall offer transportation, whether
19 through agreements with local school districts or other
20 arrangements.

22 **§2423. Initial costs**

24 A chartering authority may authorize a charter school before
25 the applicant has secured space, equipment or personnel if the
26 applicant indicates authorization is necessary for it to raise
27 working capital.

30 **§2424. Information**

32 The department shall disseminate information to the public
33 directly and through chartering authorities on how to form and
34 operate a charter school and on how to enroll in charter schools
35 once they are created.

36 **§2425. Charter school fund**

38 The department shall establish a fund to obtain resources to
39 support activities related to developing an effective charter
40 school program in the State. Activities may include, but are not
41 limited to, supporting the Impact Aid Fund established in section
42 2419, subsection 6, maintaining charter school offices within the
43 state board and the department, assisting charter schools to
44 acquire and renovate facilities, planning grants for potential
45 organizers and planning grants for chartering authorities.

48 1. Fund established. Money in the fund established
49 pursuant to this section may be from any lawful public or private

2 source. The fund must be established within 3 months of the
3 effective date of this section.

4 2. Directors. There must be at least 7 directors of the
5 fund, including members of the public and representatives from
6 appropriate state agencies. The Governor shall appoint 3
7 directors, the department shall appoint 3 directors and the state
8 board shall appoint one director. Directors serve at the
9 pleasure of their respective appointing authority.

10 **Sec. 5. Maine State Retirement System.** The Maine State
11 Retirement System shall review the laws governing participating
12 local districts' retirement plans and shall submit emergency
13 legislation no later than November 28, 2003 to the Second Regular
14 Session of the 121st Legislature to propose changes necessary to
15 fully implement this Act.

16 **Sec. 6. Review.** The Commissioner of Education, with
17 assistance from the State Board of Education, shall conduct a
18 review of charter schools, created under the Maine Revised
19 Statutes, Title 20-A, chapter 112, 4 years after the effective
20 date of this Act. The commissioner shall submit a report and any
21 recommendations to the joint standing committee of the
22 Legislature having jurisdiction over education and cultural
23 affairs by December 15th of the following year.

24 SUMMARY

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

28 Charter schools may be existing public schools or school
29 units, new schools or existing nonprofit, nonsectarian schools
30 that convert to charter status. A chartering authority may be a
31 local school board or nonsectarian, 4-year postsecondary
32 institution.

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 not be
38 affiliated with a religious institution and must be nonsectarian
39 in its programs, practices and policies.

40 Charter school staff must include at least one teacher
41 holding an appropriate teaching certificate. Teachers in charter
42 schools are employees of the charter school and have the right to
43

2 organize and bargain collectively in a separate unit; or teachers
may choose to operate the charter school themselves as partners
or members of a cooperative.

4
6 Charter schools will be funded by per-pupil allocations from
state and local sources. The state and local per-pupil payments
will be sent to each charter school or other public school chosen
8 for each child. Both operating and program funds will follow
each child to the public school chosen.

10