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194-B:1. Definitions. In this chapter:

I. "Average cost per pupil" means the total of education expenditures in a particular district and at the elementary, middle/junior, and high school levels, less tuition, transportation, capital outlays, and net debt service, as compiled by the department of education. Kindergarten cost shall be calculated at 1/2 the cost of elementary school.

II. "Board of trustees" means the governing body of a charter school authorized by the state board of education to supervise and control the charter school.

III. "Charter school" means an open enrollment public school, operated independent of any school board and managed by a board of trustees. A charter school shall operate as a nonprofit secular organization under a charter granted by the state board and in conformance with this chapter.

IV. "Charter conversion school" means a public school which has been authorized to become a charter school. That school continues to be managed by the school board until and unless fully authorized to become a charter school in accordance with the provisions of RSA 194-B:3.

V. "Host school district" means the school district in which the charter school is physically located.

VI. "Open enrollment public school" or "open enrollment school" means any public school which, in addition to providing educational services to pupils residing within its attendance area or district, chooses to accept pupils from other attendance areas within its district and from outside its district.

VII. "Parent" means a parent, guardian, or other person or entity having legal custody of a child.

VIII. "Pupil" means any child who is eligible for attendance in public schools in New Hampshire, and who lives with a parent.

IX. "Receiving district" means the school district to which a pupil is sent to attend a charter or open enrollment school.

X. "Resident district" means the school district in which the pupil resides.

XI. "School board" means the district school board.

XII. "Sending district" means the school district in which the pupil resides.

XIII. "State board" means the state board of education.

XIV. "Teacher" means any individual providing or capable of providing direct instructional services to pupils.

Source. 1995, 260:6, eff. July 1, 1995.

194-B:1-a. Statement of Purpose.

It is the purpose of this chapter to:

I. Promote and encourage the establishment and operation of charter and open enrollment schools in New Hampshire.

II. Encourage school districts to allow public charter and open enrollment schools.

III. Encourage the establishment of public charter schools with specific or focused curriculum, instruction, methods, or target pupil groups.

IV. Improve pupil learning and increase opportunities for learning.

V. Exempt charter schools from state statutes and rules, other than where specified, to provide innovative learning and teaching in a unique environment.

VI. Enhance professional opportunities for teachers.

VII. Establish results-driven accountability for public charter schools and require the measurement of learning.

VIII. Make school improvement a focus at the school level.

Source. 1997, 334:1, eff. June 23, 1997.

194-B:2. Open Enrollment and Charter Schools; Establishment; Parental Choice; Admission.

I. Any school district legislative body may vote to designate one or more of its schools as an open enrollment school.

II. Open enrollment schools which are not charter schools shall operate under the same laws, rules, and policies as any other public school, except as provided in this chapter.

III. No public school, except a charter school, shall be required to be an open enrollment school.

IV. A school district may predetermine the number of pupils residing outside an open enrollment school's district or attendance area it deems appropriate to accept.

V. Applications may be made on behalf of eligible pupils to more than one charter or open enrollment school within the state.

VI. Every open enrollment or charter school shall make available information about its curriculum and policies to all persons, and parents and pupils considering enrollment in that school.

VII. There shall be no application fee for pupil admission to any charter school or open enrollment school.

VIII. A pupil who meets the admission requirements of an open enrollment or charter school, and who is a resident of the district where the school is located, shall be given absolute admission preference over a nonresident pupil. Once admitted and unless expelled, open enrollment and charter school pupils need not reapply for admission for subsequent years.

IX. Attendance at a charter school for the purposes of transportation shall not constitute assignment under the provisions of RSA 189:6 and RSA 189:8. Pupils who reside in the school district in which the open enrollment or charter school is located shall be provided transportation to that school by the district on the same terms and conditions as provided for in RSA 189:6 and RSA 189:8 and that transportation is provided to pupils attending other public schools within that district. However, any added costs for such transportation services shall be borne by the charter school. For the purposes of open enrollment, neither the sending nor the receiving school district shall be obligated to provide transportation services for pupils attending an open enrollment school outside the pupil's resident district.

Source. 1995, 260:6, eff. July 1, 1995.

194-B:3. Charter Schools; Establishment; Application; Amendment; Procedure.

I. (a) Except as expressly provided in this chapter, including but not limited to RSA 194-B:8, charter schools shall be fully exempt from state laws and rules which otherwise apply to public or nonpublic schools, or local school boards or districts. Notwithstanding the foregoing, charter schools shall have all the rights and privileges of other public schools.

(b) A charter school's board of trustees shall have full authority to determine the charter school's organization, methods, and goals.

II. Except as expressly provided in this chapter, the duty and role of the local school board relative to the establishment of a charter school shall be to approve or disapprove the proposed charter school application based upon whether or not the proposed application contains in specific detail the following required elements:

(a) Educational mission.

(b) Governance and organizational structure and plan.

(c) Methods by which trustees and their terms are determined.

(d) General description and proposed or potential location of facilities to be used, if such information is available.

(e) Maximum number, grade or age levels, and, as applicable, other information about pupils to be served.

(f) Curriculum.

(g) Academic and other learning goals and objectives.

(h) Achievement tests to be used to measure pupil academic and other goal achievement including, but not limited to, objective and age-appropriate measures of literacy and numeracy skills, including spelling, reading, expository writing, history, geography, science, and mathematics.

(i) For schools offering high school grade levels, graduation requirements sufficient to ensure that the school has provided an adequate education for its pupils.

- (j) Staffing overview, including qualifications sought for professionals and paraprofessionals.
- (k) Personnel compensation plan, including provisions for leaves and other benefits, if any.
- (l) Pupil transportation plan, including reasonable provision from the charter school's own resources for transportation of pupils residing outside the district in which the charter school is physically located.
- (m) Statement of assurances related to nondiscrimination according to relevant state and federal laws.
- (n) Method of coordinating with a pupil's local education agency (LEA) responsible for matters pertaining to any required special education programs or services including method of compliance with all federal and state laws pertaining to educationally disabled pupils.
- (o) Admission procedures.
- (p) Philosophy of pupil governance and discipline, and age-appropriate due process procedures to be used for disciplinary matters including suspension and expulsion.
- (q) Method of administering fiscal accounts and reporting, including a provision requiring fiscal audits and reports to be performed by an independent certified public accountant.
- (r) Annual budget, including all sources of funding.
- (s) School calendar arrangement and the number and duration of days pupils are to be served pursuant to RSA 194-B:8, III.
- (t) Provision for providing continuing evidence of adequate insurance coverage.
- (u) Identity of consultants to be used for various services, if known.
- (v) Philosophy of parent involvement and related plans and procedures.
- (w) A plan to develop and disseminate information to assist parents and pupils with decision-making about their choice of school.
- (x) A global hold-harmless clause which states:

The charter school, its successors and assigns, covenants and agrees at all times to indemnify and hold harmless the (school district), any other school district which sends its students to the charter school, and their school boards, officers, directors, agents, employees, all funding districts and sources, and their successors and assigns, (the "indemnified parties") from any and all claims, demands, actions and causes of action, whether in law or in equity, and all damages, costs, losses, and expenses, including but not limited to reasonable attorneys' fees and legal costs, for any action or inaction of the charter school, its board, officers, employees, agents, representatives, contractors, guests and invitees, or pupils.
- (y) Severability provisions and statement of assurance that any provision of the charter school contract found by competent authority to be contrary to applicable law, rule, or regulation shall not be enforceable.
- (z) Provision for dissolution of the charter school including disposition of its assets or amendment of its program plan.
 - (aa) In the case of the conversion of a public school to a charter conversion school, provision for alternative arrangements for pupils who choose not to attend and teachers who choose not to teach at the charter school.

(bb) A plan for the education of the school's pupils after the charter school may cease operation.

(cc) In addition to an application, each charter school applicant, in consultation with the local school board, shall prepare a proposed contract. The contract shall include, but shall not be limited to, the following elements:

(1) Purpose.

(2) Written policies.

(3) Authority of trustees.

(4) Reporting, fiscal accounting and fiscal audits to be performed by a certified public accountant.

(5) Contract agreements.

(6) Indemnification.

(7) Secular orientation.

(8) Non-discrimination.

(9) Health and safety.

(10) Enrollment.

(11) Attendance.

(12) Availability of services.

(13) Assessment of pupils.

(14) Tuition and funding.

(15) Property ownership.

(16) Records.

(17) Severability in accordance with subparagraph (y) above.

(18) Assignment of contract.

(19) Insurance.

(20) Revocation.

(21) Amendment.

(22) Renewal.

(23) Entire agreement.

(24) Location, which shall be identified prior to submission to the legislative body.

III. (a) Applications for approval of a charter school shall not be submitted to the school board until the provisions of RSA 194-B:4, I(d)(1) have been adopted by the school district legislative body.

(b) Proposed applications and contracts to establish a charter school shall be presented by July 1 of the year preceding intended operation of the charter school by its prospective board of trustees to the school board of the district in which the charter school intends to be located.

(c) By September 15 of the given year, the school board shall have completed its review of the proposed application and shall have granted or denied its approval. In its review the school board shall grant or deny the proposed application, using as its criteria whether or not the proposed application and contract contain and address the elements required under RSA 194-B:3, II. The school board reserves the right to suggest amendments or additions to the proposed application as it deems necessary to assure its completeness and compliance with this chapter. The school board shall forward the proposed application and contract, along with its approval or denial and a written statement specifying any areas deemed deficient, to the state board and to the applicant's prospective board of trustees.

(d) By December 31 of the given year, the state board shall have reviewed the proposed application and shall grant or deny the proposed application, using as its criteria whether or not the proposed application contains and addresses the elements required under RSA 194-B:3, II. The state board reserves the right to suggest amendments or additions to the proposed application as it deems necessary to assure its completeness and compliance with this chapter. Application disapprovals shall include a written statement specifying areas deemed deficient. The state board shall promptly notify the prospective board of trustees and the school board of its decision in writing. For any applicant charter school whose proposed application is deemed complete and is approved by the state board, the state board shall issue a charter enabling the formation and operation of the charter school.

(e) The state board shall submit 2 copies of the approved contract to the clerk of the school district who shall make the contract available for inspection by the voters of the school district. The school board shall submit a warrant article to the school district legislative body for ratification or denial without amendment. The ratification question shall be placed on the warrant of the next special or annual school district meeting and shall take the following form:

"Shall the district raise and appropriate the necessary funds and ratify the proposed contract between the _____ charter school and the _____ school district, for a period of 5 years for initial adoption or for a period of 7 years for renewal, with a first year annual appropriation of \$_____ per student not to exceed \$_____ which shall be approved by the voters in the district operating budget? The first year total financial impact of a 'yes' vote on this question is estimated by the school board at \$_____.

_____ YES _____ NO"

In districts without annual meetings, the legislative body shall have final authority to ratify or deny the state board approved contract. A ratified contract grants final authority for the charter school to operate for the life of its contract and to receive school district funds.

(f) The school's contract shall become effective July 1 immediately following ratification by the legislative body. Upon approval by the legislative body, contracts shall be for a 5-year term beginning on July 1 immediately following ratification by the legislative body.

IV. (a) The charter school's prospective board of trustees may appeal a denial by a school board under RSA 194-B:3, III(c) to the state board by September 30 of the given year.

(b) The state board shall conduct a review of the proposed charter school application, using review standards as specified under RSA 194-B:3, II. The state board shall be authorized to suggest amendments or additions to the proposed application to both parties including, but not limited to,

deficiencies identified by the local school board and the trustees, as the state board deems necessary to assure its completeness and compliance with this chapter. Application disapprovals by the state board shall include a written statement specifying areas deemed deficient or in the case of approval on appeal, the reasons for such action to both parties. The state board shall promptly notify the prospective board of trustees and the school board of its decision in writing.

(c) For any applicant charter school whose entire proposal is complete and is approved by the state board on appeal from denial by a school board, the state board shall issue a charter enabling the formation and operation of the charter school.

(d) To complete the process by which an applicant charter school may be approved on appeal from a school board denial, RSA 194-B:3, III(e), (f) and (g) must also be followed.

V. Persons or entities eligible to submit an application to establish a charter school shall include:

(a) A nonprofit organization including, but not limited to, a college, university, museum, service club, or similar entity.

(b) A group of 2 or more New Hampshire certified teachers.

(c) A group of 10 or more parents.

VI. (a) Any existing public school may by a vote of the school board become a charter conversion school, provided that, in addition to all other requirements of this chapter for establishment of a charter school:

(1) A majority of its prospective teachers vote by ballot to approve such conversion in a district with more than one school, or 2/3 of the teachers so vote in a single school district.

(2) The school superintendent and principal both provide their approval in writing.

(b) All pupils attending a school which successfully converts to charter status shall be eligible for admission to such charter school.

VII. Neither a school board nor the state board shall accept an application to form a charter school from state approved nonpublic schools, including those which may reorganize in any form.

VIII. Home education programs established pursuant to RSA 193-A shall not be eligible to be a charter school.

IX. A charter school which has not initiated operation within 2 years of the issuance of its charter shall submit a progress report to the state board and school board. The state board may withdraw its approved charter if substantial progress has not been made toward opening the charter school.

X. A school's charter may be renewed in the same manner that a new charter school is formed, except that:

(a) A school's renewal term shall be for a period of 7 years.

(b) The adoption provisions of RSA 194-B:4 are not required.

XI. (a) A charter grantee may apply to the school board for amendment to its application and contract, which shall be granted or denied within 30 days at the school board's discretion. The school board shall notify the school in writing of the decision to grant or deny the proposed amendment, providing reasons for the decision. An approved amended contract shall be promptly signed by the school board within one month of approval.

(b) A charter grantee may appeal the denial of a proposed application and contract amendment to the state board. The state board shall review the proposed amendment and within 30 days shall notify the school and the school board in writing of the decision to grant or deny the amendment, providing reasons for the decision.

(c) Within one month of receipt of a notice of approval from the state board on appeal from a school board denial, the school board shall promptly execute the proposed amended contract.

(d) When executed by the school board, an appealed amended application and contract shall be submitted promptly to the school district legislative body for subsequent ratification or denial without amendment, which decision shall be final. The ratification question shall be placed on the warrant of the next special or annual school district meeting. In districts without annual meetings, the legislative body shall have final authority to ratify or deny the proposed amended application and contract.

XII. For specific periods of time and for good cause shown, a school board and the state board may waive any deadlines applying in this section to their respective actions. A school board and the state board may provide technical assistance to improve a charter school's application or to speed the approval process. An applicant whose proposed application is not approved by a school board or by the state board shall be granted the opportunity to present a revised application for reconsideration.

XIII. The board of trustees of a charter school may acquire real property by lease, purchase, lease with purchase option, gift, or otherwise at any time prior to receiving a charter.

Source. 1995, 260:6, eff. July 1, 1995. 1997, 334:2-9, eff. June 23, 1997. 1998, 268:1, eff. Jan. 1, 1999. 1999, 101:1-5, eff. Aug. 2, 1999

194-B:4. Charter Schools and Open Enrollment Schools; Procedure for Adoption and Rescission; Limitations.

I. Any school district may adopt the provisions of RSA 194-B, to adopt a charter and open enrollment school program, in the following manner:

(a) The question shall be placed on the warrant of a special or annual school district meeting which body shall have final authority to adopt the provisions of this chapter.

(b) (1) In districts without annual meetings, the legislative body of the school district shall consider and act upon the question in accordance with their current procedures. To the extent and if permitted by local ordinance, upon submission to the legislative body within 60 days of the legislative body's vote of a petition signed by 100 or by 2 percent, whichever is less, of the registered voters, the legislative body shall place the question on the official ballot for any regular election otherwise in accordance with their current procedures for passage of referenda.

(2) The school district legislative body shall hold a public hearing on the question at least 15 days but not more than 30 days before the question is to be voted on. Notice of the hearing shall be posted in at least 2 public places in the municipality and published in a newspaper of general circulation at least 7 days before the hearing.

(3) In the event that the referendum is nonbinding, the question shall be returned for reconsideration to the legislative body which shall have final authority to adopt the provisions of this chapter.

(4) In the event that the referendum is binding, the public vote shall be the final and binding authority to adopt the provisions of this chapter.

(c) (1) In adopting the provisions of RSA 194-B, a school district shall impose limitations on the number of its resident pupils who may attend charter or open enrollment schools located inside and

outside the school district. These limitations shall be represented as any percentage between zero and 100 percent of the school district's current pupil enrollment.

(2) In school districts with annual meetings, where no limitation question receives a majority vote, the limitations applying to the district shall be zero. Where 2 or more conflicting adoption and/or limitation questions receive a majority vote, that combination of adoption and limitation provisions receiving a majority vote granting greatest latitude of parental choice shall apply.

(d) The wording of the required adoption and limitation questions shall be either or both:

- (1) (A) "Shall we adopt the provisions of RSA 194-B, regarding charter and open enrollment schools?"; and
(B) "Shall no more than (any whole number from 0 to 100) percent of the district's current pupil enrollment be eligible for tuition to attend charter and open enrollment schools located outside the school district?"; and
(C) "Shall no more than (any whole number from 0 to 100) percent of the district's current pupil enrollment be eligible for tuition to attend charter and open enrollment schools located inside the school district?"; or

(2) (A) "Shall we adopt the provisions of RSA 194-B, regarding open enrollment schools?";
and

- (B) "Shall no more than (any whole number from 0 to 100) percent of the district's current pupil enrollment be eligible for tuition to attend open enrollment schools located outside the school district?"; and
(C) "Shall no more than (any whole number from 0 to 100) percent of the district's current pupil enrollment be eligible for tuition to attend open enrollment schools located inside the school district?"

(e) For all limitation questions, the school board shall propose a percentage limitation number. The number may also be proposed by petition. To change limitation percentages, a district need only act upon the relevant limitation questions. Where no limitations are to be changed, no limitation questions shall be presented to the voters.

(f) Adoption and limitation actions shall become effective on July 1 immediately following the action to adopt or limit.

II. (a) A school district which has adopted any provisions of RSA 194-B may rescind its action or modify the limitations imposed in the manner described in paragraph I. The wording of the questions in subparagraph I (d) shall be the same, except that the word "adopt" shall be changed to "rescind."

(b) If a majority of those voting vote to rescind the provisions of RSA 194-B or to reduce the percentages of pupils eligible to attend open enrollment or charter schools, then as of July 1 next following the action taken:

(1) The resident district shall make alternate arrangements in accordance with RSA 189:1-a for the education of any pupil enrolled at a charter school.

(2) If the percentage of pupils eligible for tuition to attend open enrollment schools in other districts is reduced, a resident pupil enrolled at a school outside the district shall continue to be eligible for tuition for the period necessary to complete the highest grade level offered by the school.

(3) If the percentage of pupils eligible for tuition to attend open enrollment schools in the resident district is reduced, the resident district shall make alternate arrangements in accordance with RSA 189:1-a for the education of any affected pupil.

(c) If a host district rescinds its vote enabling the operation of a charter school located in that district, the charter school may retain its physical location and may continue to receive students and tuition from other districts if any sending district agrees to assume the responsibilities of the host district within 18 months of the effective date of the rescission.

III. The provisions of RSA 194-B:3 shall apply to the establishment of each individual charter school.

IV. Upon approval by each of the district's legislative bodies and after a public hearing, 2 or more school districts may consolidate otherwise eligible resident pupils into one applicant pool for the purposes of an admissions lottery for designated charter or open enrollment schools.

V. A charter school may be physically located outside the district establishing it, but shall be deemed within the school district for purposes of RSA 194-B:4, I(d).

Source. 1995, 260:6, eff. July 1, 1995. 1997, 334:10, 11, eff. June 23, 1997. 1998, 268:5, eff. July 1, 1998.

194-B:5. Charter Schools; Authority and Duties of Board of Trustees.

I. Unless otherwise provided in this chapter, the board of trustees of a charter school, upon issuance of its charter, shall have general supervisory control and authority over the operations of the charter school.

II. No greater than 25 percent of the membership of a school board, or one member, whichever number is greater, may simultaneously serve as members of the board of trustees of a charter or charter conversion school. No greater than 25 percent of the membership of the board of trustees of a charter or charter conversion school, or one member, whichever is greater, may simultaneously serve as members of any school board. A charter school board of trustees shall include no fewer than 25 percent or 2 parents of pupils attending the charter school, whichever is greater. Teachers of a charter school may serve on its board of trustees.

III. An established charter school shall be a corporation with authority necessary or desirable to carry out its charter program including, but not limited to, the following:

(a) To adopt a name and corporate seal, provided that any name selected shall include the words "charter school."

(b) To sue and be sued, but only to the same extent and upon the same conditions that a town can be sued.

(c) To acquire real property from public or private sources by lease, by lease with an option to purchase, or by gift for use as a school facility, provided that such acquisition is consistent with established school purposes.

(d) To receive and disburse funds for school purposes.

(e) To make contracts and leases for the procurement of services, equipment, and supplies, provided that:

(1) If the board of trustees intends to procure substantially all educational services under contract with another person or entity, the terms of such a contract shall be provided in an addendum in the school's contract.

(2) The state board and the school board shall not approve any such contract terms, the purpose or effect of which is to avoid the prohibition in this chapter against charter school status for nonpublic schools.

(f) To incur temporary debt in anticipation of receipt of funds.

(g) To solicit, accept, manage, and use any grants or gifts, provided that such activities are consistent with established school purposes.

(h) To have such other powers that are available to a business corporation formed under RSA 293-A and that are not inconsistent with this chapter.

IV. The board of trustees shall report to the school board at least quarterly for public information purposes only, regarding the progress of the charter school's achievement of its stated goals. The charter school shall solicit advice from the school board. The school board and the charter school shall adopt mutually acceptable content requirements for the quarterly report which shall include, but not be limited to, a financial statement. During the pilot program in RSA 194-B:20, the school board shall forward the trustees' reports with its evaluation to the state board and the legislative oversight committee.

V. A charter school and the host school district are encouraged to enter into mutually advantageous contractual relationships resulting in the sharing of transportation, instructional, athletic, maintenance, and other services and facilities.

Source. 1995, 260:6, eff. July 1, 1995. 1998, 268:2, eff. July 1, 1998.

194-B:6. Charter Schools; Liability.

No host, sending, or receiving district shall be held liable for damages in an action to recover for: (a) bodily injury, personal injury, or property damage as defined in RSA 507-B:1, or (b) for failure to educate pupils, where such actions arise out of the establishment or operation of a charter school.

Source. 1995, 260:6, eff. July 1, 1995. 1998, 268:3, eff. July 1, 1998.

194-B:7. Charter Schools; Secular or Nonsecular Determination.

For purposes of determining whether a proposed charter school is a prohibited religious school, the following 3-part test set forth by the United States Supreme Court shall be used.

I. The school shall have a secular purpose.

II. The school's "primary effect" shall neither advance nor prohibit religion.

III. The school shall not foster "excessive entanglement" between the school and religion.

Source. 1995, 260:6, eff. July 1, 1995.

194-B:8. Charter Schools; Requirements; Options.

I. A charter school shall not discriminate nor violate individual civil rights in any manner prohibited by law. A charter school shall not discriminate against any educationally disabled pupil.

II. A charter school shall comply with all applicable state and federal health and safety laws, rules, and regulations.

III. Charter schools shall provide instruction for at least the number of days required by state law. A charter school shall comply with compulsory attendance laws as provided in RSA 189:1, 189:1-a, and 193:1. Innovative scheduling resulting in at least that number of attendance hours required under RSA 189:1, 189:1-a, and 193:1 and current state board attendance rules shall be encouraged.

IV. A charter school providing the only available public education services at a specific grade level in a school district shall offer those educational services to all resident pupils of that grade level.

V. At least annually and near the end of each school year, a charter school shall evaluate the educational progress of each pupil, as specified in RSA 194-B:3, II(h). Such evaluation shall include, but not be limited to, the New Hampshire statewide education improvement and assessment program, as provided in RSA 193-C. The cost of the state assessment program shall be borne by the state.

VI. A charter school may be located in part of an existing public school building, in space provided on a private work site, in a public building, or any other suitable location. A charter school may own, lease, or rent its own space, or utilize space based on other innovative arrangements.

VII. (a) A charter school may contract for services with any private or public entity including, but not limited to, private and public schools or districts, except for teaching services which may not be obtained from a nonpublic school.

(b) All contracted services shall be defined by purchase order or written contract in advance of such service being provided.

(c) Any contractor shall provide proof of adequate professional liability insurance.

(d) Subcontracts for teaching services with nonpublic schools are prohibited.

Source. 1995, 260:6, eff. July 1, 1995.

194-B:9. Charter and Open Enrollment Schools; Pupil Selection; Enrollment; Separation.

I. Except as provided for under RSA 194-B:8, IV:

(a) Charter schools may set maximum enrollment as they deem appropriate.

(b) Charter schools may limit enrollment to specific grade or age levels, pupil needs, or areas of academic focus including, but not limited to, at-risk pupils, vocational education pupils, mathematics, science, the arts, history, or languages.

(c)(1) Charter schools may select pupils on the basis of aptitude, academic achievement, or need, provided that such selection is directly related to the academic goals of the school.

(2) If the number of otherwise eligible applicants to a particular charter or open enrollment school exceeds that school's maximum published enrollment, that school shall use lottery selection as a basis for admission.

(3) If the number of otherwise eligible applicants to charter or open enrollment schools located inside and outside the school district exceeds that district's published maximum percentage of pupils authorized to attend such schools, the district shall use lottery selection as a basis for pupil eligibility, and in accordance with RSA 194-B:2, VIII.

II. A pupil may withdraw from a charter school at any time and enroll in a public school where the pupil resides, except that no pupil shall change schools more than once each school year. That pupil's local school board may waive this limitation after a hearing.

III. A pupil may be suspended or expelled from a charter school based on criteria determined by the board of trustees consistent with the advice of the principal and teachers and in conformance with RSA 193:13. No public school shall be obligated to enroll an expelled pupil.

IV. For the purpose of this chapter, any resident pupil enrolled in a charter school is to be considered reassigned to the charter school for purposes of school attendance.

V. For districts having enabled only the open enrollment provisions of this chapter, the school board shall have the authority to establish rules to implement open enrollment.

Source. 1995, 260:6, eff. July 1, 1995. 1997, 334:12, 13, eff. June 23, 1997.

194-B:10. Charter Schools; Reporting Requirements.

I. Each charter school shall provide one copy of its annual report to the state board and to its local school board. This report shall also be available to any person who expressly requests it.

II. A charter school shall provide at its own expense an annual financial audit and report to the state board and the school board complying with any current format and content requirements imposed upon a public school. The report shall include the number of pupils served by the school and their respective tuition rates and a discussion of progress made towards the achievement of the school's academic and other goals set forth in its charter.

III. To ensure compliance with its application and contract and applicable law, a charter school shall be subject to a first year and periodic subsequent program audits by the department of education or its agent.

IV. A summary version of any annual and periodic reports required in this chapter shall be provided to the parent or guardian of each pupil enrolled at a charter school and shall be made available to the legislative body.

V. A representative of a charter school shall attend and be prepared to report at and answer questions during relevant portions of the annual school district budget process.

Source. 1995, 260:6, eff. July 1, 1995. 1997, 334:14, eff. June 23, 1997.

194-B:11. Charter and Open Enrollment Schools; Funding.

Charter and open enrollment schools shall be funded as follows:

I. There shall be no tuition charge for any pupil attending an open enrollment or charter conversion school located in that pupil's resident district. Funding limitations in this chapter shall not be applicable to charter conversion or open enrollment schools located in a pupil's resident district. For any other charter or open enrollment school, the pupil's resident district shall pay to such school an amount equal to not less than 80 percent of that district's average cost per pupil as determined by the department of education using the most recent available data as reported by the district to the department. Tuition amounts shall be prorated on a per diem basis for pupils attending a school for less than a full school year. To the extent permitted by law, funding for a pupil attending a charter or open enrollment school shall be paid on the same time schedule as the resident district, or on such other terms as the school and the funding source may find mutually acceptable.

II. A school district lacking a meaningful basis to determine average expenditure per pupil may use statewide average figures as determined by the department of education for the purposes of this chapter.

III. In accordance with current department of education standards, the funding and educational decision-making process for educationally handicapped pupils attending a charter or open enrollment school shall be the responsibility of the local education agency (LEA) and shall retain all current options available to the parent and to the LEA.

IV. Any federal or other funding available in any year to a sending district shall, to the extent and in a manner acceptable to the funding source, be directed to a charter or open enrollment school in a receiving district on an eligible per pupil basis. This funding shall include, but not be limited to, funding under federal Chapters I and II of Title II, and Drug-Free Schools, in whatever form the funding is available in any year.

V. (a) A sending district may provide funds, services, equipment, materials or personnel to a charter or open enrollment school, in addition to the amounts specified in this section in accordance with the policies of the sending school district.

(b) A charter or open enrollment school may accept pupils at tuition rates at less than the amounts established by this chapter.

(c) A charter school, other than a charter conversion school, shall accept an otherwise eligible out-of-district pupil regardless of that pupil's sending district's tuition amount.

VI. A charter or open enrollment school may receive financial aid, private gifts, grants, or revenue as if it were a school district. A charter school shall not be compelled to accept funding from any source.

VII. No school building aid under RSA 198:15-a through 15-h shall be awarded to a charter school for the purpose of acquiring land or buildings, or for constructing, reconstructing, or improving the charter school, unless the building is owned by the school district, under lease to the charter school, and such lease does not include an option to purchase the building. A charter conversion school shall be eligible for school building aid.

VIII. For the purposes of determining the per-pupil portion of foundation aid, all resident pupils shall be counted, regardless of which public school they may attend.

Source. 1995, 260:6, eff. July 1, 1995. 1997, 334:15, eff. June 23, 1997. 1998, 268:4, eff. July 1, 1998.

194-B:12. Charter and Open Enrollment Schools; Budgets.

That portion of a school district's estimated expenditures on charter and open enrollment school tuition shall be shown as a separate line item in a school district's budget.

Source. 1995, 260:6, eff. July 1, 1995.

194-B:13. Charter Schools; Operations; Curriculum.

I. A charter school shall operate in accordance with its charter.

II. The internal form of governance of a charter school shall be determined by the school's charter.

III. The board of trustees, in consultation with teachers and the principal, shall determine the charter school's curriculum and develop the school's annual budget.

IV. The board of trustees shall be considered the public employer for the purpose of collective bargaining.

Source. 1995, 260:6, eff. July 1, 1995.

194-B:14. Charter Schools; Employees.

I. Employees of charter schools shall be considered public employees for the purpose of collective bargaining.

II. (a) Any teacher may choose to be an employee of a charter school, in which case such teacher shall have the rights of a teacher in public education to join or organize collective bargaining units.

(b) Bargaining units at a charter school shall be separate from other bargaining units.

(c) No charter school teacher shall be a member of more than one bargaining unit.

(d) A teacher who serves as a member of the board of trustees of a charter school in which that teacher is an employee may not participate in or vote as a member of the board on collective bargaining matters.

(e) A teacher in a charter school shall have withdrawn from any bargaining unit with which that teacher may have been previously affiliated.

III. A charter school may choose to participate in the state teacher retirement system, and service in a charter school shall be deemed creditable service under RSA 100-A:4.

IV. The teaching staff of a charter school shall consist of a minimum of 50 percent of teachers either New Hampshire certified or having at least 3 years of teaching experience.

Source. 1995, 260:6, eff. July 1, 1995.

194-B:15. Charter Schools; Grievance Procedure.

I. Individuals or groups may complain to a charter school's board of trustees concerning any claimed violation of the provisions of the school's application and contract.

II. If, after presenting their complaint to the trustees, the individuals or groups believe their complaint has not been adequately addressed, they may submit their complaint to the school board, which shall investigate such complaint and make a determination. School board decisions with respect to grievances may be appealed to the state board.

Source. 1995, 260:6, eff. July 1, 1995. 1997, 334:16, eff. June 23, 1997.

194-B:16. Charter Revocation; Probation.

I. Written petition to the state board to revoke a school's charter may be requested by the parent of any pupil currently attending that charter school, or by the school board of a host or receiving school district.

II. After reasonable notice has been provided to all affected parties, the state board may revoke a school's charter prior to the expiration of its term under the following circumstances:

(a) The school commits a material violation of any of the conditions, standards, or procedures set forth in its charter application and contract.

(b) The school fails to meet generally accepted standards for fiscal management.

(c) The school significantly violates the law.

(d) The school makes a material misrepresentation in its application or contract application.

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(e) The school becomes insolvent or financially unstable.

III. Before revoking a school's charter, the state board shall consult with the school board and the board of trustees on the development and implementation of a remedial plan.

IV. The state board may place a charter school on probationary status for up to one year to allow the implementation of a remedial plan, after which, if the plan is unsuccessful, the charter shall be revoked.

V. Nothing contained in this section shall prevent the state board from immediately revoking a school's charter in circumstances posing extraordinary risk of harm to pupils.

VI. By the end of its final contract year, the charter school shall meet or exceed the objective academic test results or standards and goals as set forth in its application. If the school does not meet these results or standards and goals, it shall not be eligible for renewal of its charter.

VII. If a school's charter expires or is revoked, the school shall be dissolved under the provisions of its charter application and contract. If the contract provisions are silent or ambiguous as to disposition of any asset of the school, such asset shall revert to the school district in which the charter school is located at no cost to that district, subject to the school district's acceptance of the asset. Under no circumstances shall the school district be liable for any obligations of the dissolved charter school.

VIII. If a school's charter expires or is revoked, the parent of a pupil attending that school may apply to any other charter or open enrollment school eligible to receive tuition under the provisions of this chapter adopted by the school district. The pupil's sending district shall not be relieved of its obligation to educate that pupil in accordance with the district's policies.

Source. 1995, 260:6, eff. July 1, 1995. 1997, 334:17-19, eff. June 23, 1997.

194-B:17. State Board; Duties.

I. The state board of education shall establish guidelines and criteria consistent with this chapter to be used by applicants in drafting a charter school contract and by school boards to determine whether or not an applicant's charter school contract proposal conforms with the intent of this chapter.

II. The state board shall publish sample charter school contract agreements. There shall be no requirement that any of the terms and conditions of such sample agreements be adopted by any charter school, other than as specified in this chapter.

III. The state board shall disseminate information to the public on ways to form, convert, and operate a charter school.

IV. The state board shall promulgate uniform statewide annual deadlines and procedures for pupil enrollment applications and school and parental enrollment decisions for charter and open enrollment schools.

V. The state board shall develop procedures and guidelines for revocation and renewal of a school's charter.

VI. The state board shall convene one or more working committees to study and make recommendations regarding the implementation and effectiveness of charter and open enrollment schools. The recommendations shall be provided to the legislative oversight committee in RSA 194-B:21.

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- VII. The state board shall ensure, through its process of granting new charter school charters, that, on a statewide basis, the operation of charter schools does not result in illegal discrimination against any category of pupils.

Source. 1995, 260:6, eff. July 1, 1995.

194-B:18. State Board Rulemaking Authority.

The state board shall be authorized to adopt rules, under RSA 541-A, to permit administration of the provisions of this chapter.

Source. 1995, 260:6, eff. July 1, 1995.

194-B:19. Provisions Controlling; Voting.

I. The provisions of this chapter shall be controlling over any other contradictory or inconsistent provisions of law.

II. All votes and decisions in this chapter shall be determined by majority, unless otherwise specified.

Source. 1995, 260:6, eff. July 1, 1995.

194-B:20. Pilot Program.

I. Prior to January 1, 1997, the state board shall grant no more than 5 charter school applications. During calendar year 1997 and each calendar year thereafter, no more than 10 charter school applications shall be granted by the state board.

II. The state board, using its own discretion, shall approve charter school applications so as to ensure as diverse as practical a range of charter schools. The state board shall set its annual application deadline for charter schools consistent with the application and approval deadlines in RSA 194-B:3.

Source. 1995, 260:6, eff. July 1, 1995. 1997, 334:20, eff. June 23, 1997. 1999, 192:1, eff. Sept. 4, 1999.

194-B:21. Oversight Committee; Report.

I. There is hereby established a joint legislative oversight committee. The committee shall jointly meet at least once a year and shall monitor the effect of this chapter, make recommendations for any legislative changes with respect thereto, and make recommendations to the legislature to reduce the scope of, ease the administration of, simplify the compliance with, and, where appropriate, recommend to the legislature elimination of regulations and reduction of the amount of paperwork required in connection with all public education and the state's regulation thereof. The committee shall include 3 senators appointed by the president of the senate, 3 members of the house appointed by the speaker of the house, and one member of the state board appointed by the chairperson of the state board who shall serve as a nonvoting member in an advisory capacity.

II. The committee shall submit a written report of its findings and recommendations to the president of the senate, the speaker of the house, and the chairpersons of the house and senate education committees on November 1 of each year, except for the year 2000, when the report shall be submitted on July 1.

Source. 1995, 260:6, eff. July 1, 1995.

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194-B:22. Severability.

If any provision of this chapter, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of the chapter which can be given effect without the invalid provisions or applications and to this end the provisions of this chapter are severable.

Source. 1995, 260:6, eff. July 1, 1995.