

(F)(2) Ensuring successful conditions for high-performing charter schools and other innovative schools (40 points)

The extent to which—

- (i) The State has a charter school law that does not prohibit or effectively inhibit increasing the number of high-performing charter schools (as defined in this notice) in the State, measured (as set forth in *Appendix B*) by the percentage of total schools in the State that are allowed to be charter schools or otherwise restrict student enrollment in charter schools;
- (ii) The State has laws, statutes, regulations, or guidelines regarding how charter school authorizers approve, monitor, hold accountable, reauthorize, and close charter schools; in particular, whether authorizers require that student achievement (as defined in this notice) be one significant factor, among others, in authorization or renewal; encourage charter schools that serve student populations that are similar to local district student populations, especially relative to high-need students (as defined in this notice); and have closed or not renewed ineffective charter schools;
- (iii) The State’s charter schools receive (as set forth in *Appendix B*) equitable funding compared to traditional public schools, and a commensurate share of local, State, and Federal revenues;
- (iv) The State provides charter schools with funding for facilities (for leasing facilities, purchasing facilities, or making tenant improvements), assistance with facilities acquisition, access to public facilities, the ability to share in bonds and mill levies, or other supports; and the extent to which the State does not impose any facility-related requirements on charter schools that are stricter than those applied to traditional public schools; and
- (v) The State enables LEAs to operate innovative, autonomous public schools (as defined in this notice) other than charter schools.

In the text box below, the State shall describe its current status in meeting the criterion. The narrative or attachments shall also include, at a minimum, the evidence listed below, and how each piece of evidence demonstrates the State’s success in meeting the criterion. The narrative and attachments may also include any additional information the State believes will be helpful to peer reviewers. For attachments included in the Appendix, note in the narrative the location where the attachments can be found.

Evidence for (F)(2)(i):

- A description of the State’s applicable laws, statutes, regulations, or other relevant legal documents.
- The number of charter schools allowed under State law and the percentage this represents of the total number of schools in the State.
- The number and types of charter schools currently operating in the State.

Evidence for (F)(2)(ii):

- A description of the State’s approach to charter school accountability and authorization, and a description of the State’s applicable laws, statutes, regulations, or other relevant legal documents.
- For each of the last five years:
 - The number of charter school applications made in the State.
 - The number of charter school applications approved.
 - The number of charter school applications denied and reasons for the denials

- (academic, financial, low enrollment, other).
- The number of charter schools closed (including charter schools that were not reauthorized to operate).

Evidence for (F)(2)(iii):

- A description of the State’s applicable statutes, regulations, or other relevant legal documents.
- A description of the State’s approach to charter school funding, the amount of funding passed through to charter schools per student, and how those amounts compare with traditional public school per-student funding allocations.

Evidence for (F)(2)(iv):

- A description of the State’s applicable statutes, regulations, or other relevant legal documents.
- A description of the statewide facilities supports provided to charter schools, if any.

Evidence for (F)(2)(v):

- A description of how the State enables LEAs to operate innovative, autonomous public schools (as defined in this notice) other than charter schools.

Recommended maximum response length: Six pages

(F)(2)(i) The State has a charter school law that does not prohibit or effectively inhibit increasing the number of high-performing charter schools (as defined in this notice) in the State, measured (as set forth in Appendix B) by the percentage of total schools in the State that are allowed to be charter schools or otherwise restrict student enrollment in charter schools. Includes evidence (F)(2)(i).

Since 1999, Arkansas has supported the innovations and options charter schools can offer.³⁵ State law currently provides for three types of charter schools: open-enrollment public charter schools; conversion public charter schools; and limited public charter schools.

An *open-enrollment* public charter school is a public school sponsored and operated by an eligible entity³⁶ that operates under the terms of a charter granted by the State Board of Education.³⁷ The

³⁵ The Arkansas General Assembly authorized establishing public charter schools in 1999. See generally the “Arkansas Charter School Act of 1999,” codified at *Ark. Code Ann. § 6-23-101* et seq. The documentation can be found in *Appendix F-2*.

³⁶ An “eligible entity” authorized to apply for an open-enrollment charter may be a public institution of higher education; a private nonsectarian institution of higher education; a governmental entity; or an organization that is nonsectarian in its program, admissions policies, employment practices and operations and has applied for tax exempt status under § 501(c)(3) of the federal Internal Revenue Code of 1986. *Ark. Code Ann. § 6-23-103(4)*.

³⁷ *Ark. Code Ann. § 6-23-103(8)*. An “open-enrollment public charter school” under Arkansas law is a local educational agency under the federal Elementary and Secondary Education Act of 1965, 20 U.S.C. § 7801, and the

school can enroll students who live in any Arkansas school district. A *conversion* charter school is an existing public school converted to operate under the terms of a charter approved by the local and state boards of education. A *limited* charter school is also a public school that has local and state board approval to operate as a charter that will specifically accommodate alternative staffing and compensation programs. Such programs are designed to enhance the performance of both students and teachers while also improving employee's salaries, opportunities, and incentives.

Students living in a school district can attend its charters, and certain laws can allow children living outside the district to enroll in them, too. By contrast, open-enrollment schools aren't sponsored by a school district and can draw students from anywhere in the state. Thus, Arkansas's public charter schools are serving 11,065 students this year.

For all three types of charters, the contract is defined as a performance-based agreement between the State Board of Education and an approved applicant. It exempts the school from those state and local rules, regulations, policies, and procedures that have been specified in the contract.

School districts can operate both conversion and limited charter schools. As with other schools in the district, the charters may be subject to the customary control of the local school board and district administrators. Otherwise, the chartered campuses operate free from the otherwise-applicable limitations as specified by the charter contract.

Arkansas law doesn't limit or "cap" the number of conversion or limited public charters that can operate in the state, although the law currently contemplates no more than 24 open-enrollment charters. But that number isn't an inflexible boundary. Let's look at the history of this apparent limitation and how it operates in practice.

Since the launch of charter schools in Arkansas, our legislators have steadily raised the limit on open-enrollment charters as this category has grown. Initially cautious about how well charter schools would serve children, Act 890 of 1999 provided for just 12 open-enrollment schools. Of that number, no more than three could open in any one of the state's four congressional districts. Within six years, the General Assembly doubled the 12 permitted charters to 24 and eased restrictions on the number

term possesses the same meaning as given the term "charter school" in the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 7221i. See *Ark. Code Ann. § 6-23-103(8)(A)(iii) and (B)*.

within any particular congressional district. (*Act 2005 of 2005, §8.*) Two years later, legislators no longer restricted the number of open-enrollment charters that could operate within any single congressional district. (*Act 736 of 2007, §15.*)

Presently, 18 open-enrollment charters grace the state, and no open-enrollment application has been denied by the 24-charter curb. One could anticipate that our legislature's past performance portends that of the future: As the number of open-enrollment charters edges up to 24, one can expect legislators (who've grown more confident in the efficacy of high-performing charters) will be inclined to expand or altogether eliminate the 24-school maximum.

Consider this, too: The cap doesn't equate to only 24 campuses with open-enrollment charters. Act 2005 of the same year allows any charter sponsor with a state-approved open-enrollment contract to petition the state board at any time to establish more of those schools at other locations. Such licenses can be approved if the original school has demonstrated gains in student achievement; hasn't been subject to any state disciplinary action or slipped into school improvement, academic, or fiscal distress; and has avoided the charter's probation, revocation, or suspension for cause. *Ark. Code Ann. §§ 6-23-304(c)(2), (d)(3).*

Thus, those who already hold open-enrollment charters have a means for replicating their schools elsewhere without that expansion counting against the open-enrollment ceiling of 24. Last fall, a highly successful open-enrollment charter was licensed to launch its twin in the 2010-11 school year. That KIPP charter school (Knowledge is Power Program Delta College Preparatory Open-Enrollment Charter School) will replicate itself in another depressed area of the state. KIPP is discussed further in the following section.

In sum, Arkansas law provides for 24 open-enrollment charters but doesn't limit the number of licenses that allow for duplicating high-performing open-enrollment charters. Nor does the state restrict the number of conversion or limited charter schools a district can establish. As school reform continues to strengthen, conversion charters are a viable and appealing option, and LEAs are ripe for choosing to pursue reform through the charter gateway. New charter school contracts for the coming school year are finalized, so two more open-enrollment and two additional conversion charters will join the ranks. As a result, Arkansas school districts and other sponsors will host 19 charters with open enrollments, 1 licensed charter campus, 13 conversion charters, and no limited charters as yet.

(F)(2)(ii) The State has laws, statutes, regulations, or guidelines regarding how charter school authorizers approve, monitor, hold accountable, reauthorize, and close charter schools; in particular, whether authorizers require that student achievement (as defined in this notice) be one significant factor, among others, in authorization or renewal; encourage charter schools that serve student populations that are similar to local district student populations, especially relative to high-need students (as defined in this notice); and have closed or not renewed ineffective charter schools. Includes evidence (F)(2)(ii).

The state's laws governing public charter schools are all aimed at opening various pathways for our children to travel toward success in school and beyond. Goals for charter schools include boosting the rate and level of students' learning, opening up opportunities for all youngsters (especially low-achieving subgroups), encouraging innovative teaching, fostering top-notch professional development for staff, broadening choices for public schooling, and holding schools accountable for doing their job to meet achievement standards. *Ark. Code Ann. § 6-23-102.*

State statute requires that those eligible to establish a charter school follow a prescribed application process. Applications are performance-based contract proposals reviewed first by the local school board. After gaining that initial approval, the application proceeds to the state board for final authorization. If denied at the local level, an applicant has the right to a hearing about the matter before the state board. *Ark. Code Ann. § 6-23-302 (d).*

The law encourages charters to serve children similar to those enrolled in the local schools, especially students with high needs. Thus, the state board can give preference to an open-enrollment charter that's to be located in a school district where the percentage of students qualifying for free- or reduced-price lunches is above the state average. Preference also can be extended to a charter proposed within a district classified as in academic distress or some form of school improvement or fiscal distress. *Ark. Code Ann. 6-23-304 (b).* All charter school applications must lay out a definitive plan for improving student achievement, along with performance-based objectives and criteria for the length of the contract. Also, they must describe how they'll involve parents, students, and community stakeholders in helping the school reach its goals. *Ark. Code Ann. 6-23-202 and 6-23-304.*

The emphasis on charter schools' service to high-need children is well established in our education ethic. In 2005, the General Assembly singled out the KIPP open-enrollment charter school (established in 2002), recognizing it as an effective model for reversing the low achievement that too often hobbles the stride of economically disadvantaged, racial, and ethnic subgroups. The school has

not only expanded opportunities for all students, using innovative ideas and techniques to boost achievement, but has placed particular emphasis on superior learning experiences for children previously identified as low-achieving. As noted earlier, KIPP's success opened the way for other schools to pursue licensed expansion for open-enrollment charters that elevate learning for all children along with their high-need classmates.

Because all of our charters are public schools, we monitor and evaluate them to be sure they're fulfilling their charge for students, staff, parents, and the community alike. That means the schools are subject to strict fiscal oversight and reporting requirements, both to the state and to the public. Charter schools must meet all state standards and report their students' adequate yearly progress. They have to maintain a comprehensive school improvement plan, establish a curriculum that aligns with the state frameworks, use the Arkansas Public School Computer Network (APSCN) for routine operations and reports, and participate in the state-mandated testing program. Charter schools are also monitored by various federal programs for compliance and reporting.

When a charter is initially approved, the contract spans five years and is subject to renewal. Our oversight processes aim to catch budding problems before they fully blossom. If monitoring reveals fiscal mismanagement, failure to follow laws and regulations, or falling short of academic performance criteria, the state board may place a charter school on probation, modify the contract or deny its renewal, or revoke the charter altogether and close the school. The state board can renew a charter's contract, extending it from one to five years, depending on the school's past performance. *Ark. Code Ann. § 6-23-307.*

This school year, our Commissioner of Education established a Charter School Review Council, charged with overseeing and guiding schools as they implement their charters—and with ensuring that diligent monitoring and evaluation promotes their progress.

To telegraph the importance Arkansas places on interweaving high-achieving charters into the education tapestry, the commissioner himself is heading the council, along with his senior ADE colleagues. Scrutinizing each new charter application in depth, the reviewers can pinpoint strengths and uncover weaknesses before passing the application on to the state's Board of Education. The council is both an initial and a continuing problem-prevention checkpoint, as it also regularly tracks how well each charter school is living up to its promises. For all schools, and particularly for our

bellwether charter schools, the focus is always better outcomes for kids. Together, the commissioner, council, and state board are tightening their grip on the lens to keep that focus sharp.

The table below shows charter school patterns for the five years since the 2004-05 school year.

| YEAR | Number of charter school applications in Arkansas | Number of charter school applications approved | Number of charter school applications denied and reasons for the denials (academic, financial, low enrollment, other) * | Number of charter schools closed or not reauthorized.** |
|----------------|--|--|--|---|
| 2004-05 | 5 open enrollment and 2 conversion applications were submitted. | 1 open enrollment and 1 conversion applications were approved. | 4 open enrollment and 1 conversion applications were denied. | 0 open enrollment and 0 conversion charter schools were closed. |
| 2005-06 | 2 open enrollment and 0 conversion applications were submitted. | 0 open enrollment and 0 conversion applications were approved. | 2 open enrollment and 0 conversion applications were denied. | 2 open enrollment and 2 conversion charter schools were closed. |
| 2006-07 | 13 open enrollment and 2 conversion applications were submitted. | 6 open enrollment and 2 conversion applications were approved. | 7 open enrollment and 0 conversion applications were denied. | 2 open enrollment and 0 conversion charter schools were closed. |
| 2007-08 | 13 open enrollment and 1 conversion applications were submitted. | 7 open enrollment and 0 conversion applications were approved. | 6 open enrollment and 1 conversion applications were denied. | 1 open enrollment and 1 conversion charter schools were closed. |
| 2008-09 | 8 open enrollment and 2 conversion applications were submitted. | 4 open enrollment and 2 conversion applications were approved. | 4 open enrollment and 0 conversion applications were denied. | 1 open enrollment and 0 conversion charter schools were closed. |
| 2009-10 | 8 open enrollment and 4 conversion applications were submitted. | 2 open enrollment and 2 conversion applications were approved. | 6 open enrollment and 2 conversion applications were denied. | 1 open enrollment and 0 conversion charter schools were closed. |

*Reasons for denials include: lack of confidence that the charter will address needs of underserved students; lack of a sound management plan; no evidence of additional educational opportunity; potential negative impact on desegregation efforts in the local district; lack of availability of students; not meeting the definition of a charter school; potential negative impact of the charter school on a newly consolidated district; inadequate facilities; violation of state's limit of 500 students in virtual learning; lack of 501 (c) (3) status; application withdrawn.

**Charter schools have been closed or contracts not renewed for failure to meet accountability for state standards; financial insufficiency; loss of student enrollment; and merger with another charter school.

(F)(2)(iii) The state’s charter schools receive (as set forth in Appendix B) equitable funding compared to traditional public schools, and a commensurate share of local, State, and Federal revenues. Includes evidence (F)(2)(iii).

We fund our charter schools as we do all other public schools, according to the per-pupil allocations of the state's funding formula (*Ark. Code Ann. §§ 6-23-103, 6-23-501 and 6-23-502*), along with federal aid, grants, and private donations. State law also adds support for open-enrollment charters in the form of funding commensurate with the school's current-year enrollment; dispersing funds in twelve equal installments to forestall cash-flow dips; and the right to receive gifts and grants from private sources. *Ark. Code Ann. § 6-23-501.*

As discussed earlier in the section, court rulings and state law mandate an adequate and equitable education for all children, and our state's funding formula undergirds that imperative. All Arkansas public schools, including charters, receive “foundation funding,” which is a per-pupil amount of money that is adjusted annually in relation to state revenues and the enduring force of the adequacy mandates. Beyond the financial floor and depending on certain variables, all public schools and charters are eligible for special categories of funds. These include compensation for enrollment growth or loss of student membership, professional development, and special categories of children as explained in *(F)(1)* above, such as those learning English, those who qualify for free or reduced-price meals under the National School Lunch Act (NSLA), and students in alternative learning environments.

(F)(2)(iv) The State provides charter schools with funding for facilities (for leasing facilities, purchasing facilities, or making tenant improvements), assistance with facilities acquisition, access to public facilities, the ability to share in bonds and mill levies, or other supports; and the extent to which the State does not impose any facility-related requirements on charter schools that are stricter than those applied to traditional public schools. Includes evidence (F)(2)(iv).

Like the other schools in the host district, conversion and limited public charter schools are supported by their local LEA's funding, which includes bonds and mill levies in relation to school facilities. But, because open-enrollment charter schools don't collect local property taxes, they don't receive funding for facilities locally or from the state. However, the law allows facilities to be offered to open-enrollment schools through the right of first refusal to buy or lease closed or unused portions of

public school buildings and other facilities. Further safeguards prevent the district from leasing or selling property for more than fair market value. The restriction also applies to properties taken by eminent domain. *Ark. Code Ann. 6-23-501(d)*.

Our open-enrollment charters often choose to do business with local and national financial institutions that specialize in obtaining funding for education facilities. In this way, an open-enrollment entity can apply for bond sources such as qualified school construction bonds (QSCBs) that yield a tax incentive to lenders; they can also access financing through conduit bonds guaranteed by municipal agencies.

Charters schools have the benefits of significant autonomy, so they tailor their contracts to their goals and means for meeting them. The schools are diverse in their student population, as well as all aspects of design and practice: education offerings and methodologies; class size; hiring practices, salary scales, and compensation differentiation; board policies and management practices; annual budgets; location in the state and community; and facilities. As a matter of fact, charter schools enjoy great flexibility in the type of facilities they can occupy and operate, well beyond that of traditional schools (although leniency never applies to health and safety regulations, ADA compliance, and accommodations for special education needs).

At the same time, charter schools are fellow travelers, not pariahs. For example, charter boards belong to the Arkansas School Boards Association. Throughout the year, together with school board members from across the state, they fulfill the requisite annual training hours that keep them current on legal developments, their governance role, and all aspects of effective boardmanship.

(F)(2)(v) The State enables LEAs to operate innovative, autonomous public schools (as defined in this notice) other than charter schools. Includes evidence (F)(2)(v).

Currently, state statutes give LEAs the ability to operate only a “traditional” school or a conversion or limited charter school. However, charters can embrace a break-the-mold approach to schooling, trying out new methodologies, promoting non-traditional experiences, and experimenting with environments that enliven learning. These schools can test their theories, adjust their models, and prove their merits, then export those innovations to other schools, traditional or charter, where the fit is customized to their own operation.

As noted earlier, the KIPP open-enrollment charter has proven that its innovative methods work, and the school is expanding its outreach into a new area of the state via the licensing option. The sponsors of LISA Academy, a highly successful open-enrollment charter in Little Rock, successfully petitioned for another charter contract to found a second LISA Academy in a different part of the greater metropolitan area. Thus, the original school's successful practices are being replicated for the benefit of still more communities. Carried by winds of change, charter school seeds are steadily spreading across the state where they are taking root and bearing fruit to nurture new generations of children.

(F)(3) Demonstrating other significant reform conditions (5 points)

The extent to which the State, in addition to information provided under other State Reform Conditions Criteria, has created, through law, regulation, or policy, other conditions favorable to education reform or innovation that have increased student achievement or graduation rates, narrowed achievement gaps, or resulted in other important outcomes.

In the text box below, the State shall describe its current status in meeting the criterion. The narrative or attachments shall also include, at a minimum, the evidence listed below, and how each piece of evidence demonstrates the State's success in meeting the criterion. The narrative and attachments may also include any additional information the State believes will be helpful to peer reviewers. For attachments included in the Appendix, note in the narrative the location where the attachments can be found.

Evidence for (F)(3):

- A description of the State's other applicable key education laws, statutes, regulations, or relevant legal documents.

Recommended maximum response length: Two pages

In this section, we describe two particular manifestations of our conviction that a transformational education system must constantly adapt and grow, not just as a learning organization, but as an organization that *keeps on learning*, right along with its students.

As an example of our journey to that understanding, we offer profiles of two distinctly different schools. They are ground-breakers for us, made possible by our forward-thinking legislature that has laid a broad foundation for school reform that keeps getting stronger and better. The success of these schools has been not only a beacon to follow, but a vital lesson to learn: We *can* and *do* break out of the box. Together, we're accomplishing so much more than we ever thought possible to promote positive learning environments that are making such a difference for our children—and for those who work on their behalf.

Arkansas Virtual High School Many of our high-school-age youngsters encounter barriers to completing or even continuing their high school education. Some attempt to juggle a school schedule and a job, and others are tethered by family responsibilities as they care for siblings or parents their own children. Some need to make up credits for graduation or are transitioning between school districts and face scheduling conflicts. Others are enrolled in homebound programs or want to take a course not offered on their school campus. Helping youngsters hurdle over those barriers is a job our educators take to heart.