

(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.

(F)(2) Ensuring successful conditions for high-performing charter schools and other innovative schools: Colorado is a national leader in terms of fostering a vibrant, high-quality charter school sector. Colorado’s charter school law ranks fifth in the country according to the National Alliance for Public Charter Schools’ recent report; *How State Charter Laws Rank Against The New Model Public Charter School Law* (which assesses the strengths of each state’s charter school law against the 20 essential components

of a strong law contained in the new model public charter school law released by the Alliance in June 2009). One of the first states to adopt legislation that authorized the creation of charter schools in 1992, Colorado has improved upon the strength of this legislation multiple times. A copy of Colorado’s Charter Schools Act is attached to this application as Exhibit VI.F(2)i-1.

(F)(2)(i) Cap on charter schools/enrollment: The Charter Schools Act places no limits on the number of charter schools in the State or the number of students who may attend charter schools (Exhibit VI.F(2)i-1). In fact, the Act expressly prohibits LEAs from placing moratoria on the number of charter schools in their LEAs and provides that authorizers may not place limits on enrollment at a specific school, except that a charter school and its authorizer may agree upon limits that are necessary to achieve the school’s mission and goals or to stay within the school’s physical capacity. As a result, 100 percent of the schools in the state may be charter schools, and 100 percent of students in Colorado may attend charter schools (see Exhibit VI.F(2)i-1 for CRS 22-30.5-109). Enrollment in charter schools has steadily increased each year, with approximately 66,000 students (approximately eight percent of the State’s total public school enrollment) currently enrolled in the more than 150 charter schools across the state. Furthermore, Colorado has actively sought federal funds for charter schools and applies for Federal Charter School Grants to ensure sufficient start-up funds for new charter schools. The State has garnered a total of \$65 million in Federal Charter School Funds since 1998 and has used these funds to award grants to 178 charter schools cumulatively since 2004. The following tables demonstrate the total number of charter schools in Colorado broken out by authorizer type and school reform model:

**(F)(2)(i) Table 1
Number of Currently Operating Colorado Charter Schools by Authorizer Type, 2009**

Authorizer Type	Number of Charter Schools
Charter School Institute	23
All other LEAs	130
TOTAL	153

(F)(2)(i) Table 2
Number of Currently Operating Colorado Charter Schools by School Reform Model, 2009

Recognized School Reform Model	Number of Charter Schools
Core Knowledge (K-8)	49
Expeditionary Learning Outward Bound (K-12)	4
Montessori (PreK-6)	4
Coalition of Essential Schools (K-12)	2
Edison Project (K-12)	2
Montessori (PreK-8)	2
Direct Instruction (K-6)	1
Paideia (K-12)	1
Success for All (PreK-6)	1
Other	27
No School Reform Model Noted	60
TOTAL	153

(F)(2)(ii) Standards for charter school authorizing: Under the Charter Schools Act, a charter school may be authorized by an LEA, by the State Charter School Institute, or by the State as a result of a turnaround process. Each of these is discussed in turn. Until recently, charter authorizing practices were left largely to local development efforts. However, in the last few years, several important efforts have been underway to improve the quality and ease of authorizing and overseeing charter schools. For example, in 2004, a partnership between CDE, the Colorado League of Charter Schools, LEA charter school liaisons, and the Charter School Institute resulted in a recommended common charter school application and rubric (see Exhibit VI.F(2)i-2). Improvements in authorizing practices have led to fewer appeals from the denial of charter applications. Colorado recently was one of six states selected by the National Governors Association to receive a grant to improve state support for quality authorizing practices.

Any person or entity may apply to open a charter school. The application itself must include a mission statement, goals and objectives with respect to student performance; evidence of adequate public support; a research-based educational program; the process by which the school will collect and analyze longitudinal student data; procedures for corrective action in the event student learning goals are not met; a proposed budget and other evidence that the plan for the school is financially sound; a description of proposed governance and operation; the relationship between the charter school and its employees; employment policies; a transportation plan; an enrollment policy; and a dispute resolution process (see Exhibit VI.F(2)i-1 for CRS 22-30.5-106). A charter school application is considered at a public hearing of the local board of education, and the board may approve or deny the application. If the application is denied, the applicant may appeal to the Colorado State Board of Education, which may reverse the local board's decision if it finds the decision was contrary to the best interests of students, the school, the LEA, or the community.

If an application is approved, the applicant and the LEA negotiate final terms of the contract, which is based on the application. Contracts must include the following provisions: identification of LEA policies from which the school is released; the manner in which the LEA intends to support any start-up and long-term facility needs; the process by which the charter school's construction needs may be placed on the LEA's next ballot issue; required financial reporting (including annual governmental audits); any provisions for LEA transportation of charter students; and any state statutes and regulations to be waived. The LEA then submits a waiver request to the State Board of Education for waiver of the pertinent state statutes and regulations (see Exhibit VI.F(2)i-1 for CRS 22-30.5-106).

The LEA is responsible for holding its charter schools accountable for local and state performance expectations consistent with Colorado's Education Accountability Act of 2009 and for reporting information on its charter schools to the State. Charter schools may apply for renewal of their contracts, and the renewal application must contain information about the progress of the school on its goals and objectives with respect to student and operational performance. The LEA may revoke or non-renew a contract with a charter school if the school committed a material violation of its contract; failed to make reasonable progress towards its goals for student performance; failed to meet generally accepted standards of fiscal management; or violated any provision of applicable law

(see Exhibit VI.F(2)i-1 for CRS 22-30.5-110). There are currently 130 charter schools in Colorado operating under a charter with an LEA (see Exhibit VI.F(2)i-4).

Part 5 of the Charter School Act (CRS 22-30.5-501 et seq. in Exhibit VI.F(2)-i-1), passed in 2004, governs charter schools authorized by the State’s Charter School Institute. A charter school applicant may apply for authorization from the Charter School Institute unless the LEA in which the charter school is located has applied for and has received exclusive chartering authority from the State Board of Education, based on a showing that the LEA has a pattern of providing fair and equitable treatment to its charter schools (CRS 22-30.5-504 in Exhibit VI.F(2)-1). The Charter School Institute is governed by a nine-member board selected for their experience and expertise in matters related to charter schools. By statute, the Institute is charged to serve as a model of best practices in charter school authorizing and oversight (CRS 22-30.5-505 in Exhibit VI.F(2)i-1). There are currently 23 charter schools operating under a charter with the Charter School Institute (see Exhibit VI.F(2)i-4).

Part 3 of the Charter School Act (22-30.5-301 et seq. in Exhibit VI.F(2)i-1) governs the formation of independent charter schools that may be created as part of a strategy to turn around a persistently lowest performing school. This statute has been infrequently invoked, but recently was incorporated into the school restructuring choices available under the Education Accountability Act of 2009.

(F)(2)(ii) Table 1 below shows the number of charter school applications made, approved, and denied in Colorado in the last five years, and the number of charter schools that have been closed in the last five years. These numbers show that Colorado authorizers welcome high-quality applications, but will deny applications or close schools that are not performing academically or financially.

**(F)(2)(ii) Table 1
Charter School Applications and Closures in Colorado, 2006-2010**

	2010	2009	2008	2007	2006
Number of charter school applications made	36	27	27	16	33

Number of charter school applications approved	16	12	13	14	15
Number of charter school applications denied	10	4	8	1	11
Number of charter schools closed	N/A	3	1	4	1

(F)(2)(iii) Charter school funding and share of funds: Charter schools in Colorado receive 100 percent of LEA per-pupil operating revenues under the state School Finance Act. The authorizer may choose to retain up to five percent of these funds for the charter school’s share of central administrative overhead costs and must provide an accounting for all such funds withheld. The authorizer must refund any of these funds not actually used for central overhead costs. (For LEAs with fewer than 500 students, the LEA may retain up to 15 percent.) Charter schools opened in SY 2004-2005 or later in LEAs that have retained exclusive chartering authority and have 40 percent or greater at-risk students receive additional funds through the alternate at-risk funding calculation. This formula gives charter schools a proportionate share of the at-risk funds provided to the LEA through the School Finance Act.

Unless the school and the LEA specify otherwise, the LEA provides federally required educational services (see 22-30.5-112 in Exhibit VI.F(2)i-1). The charter school and the LEA may also negotiate for the LEA to provide other services to the school, such as transportation, custodial services, food services, and the like. The amounts to be paid for these services are to be calculated based either on (1) the LEA-wide per-pupil cost, multiplied by the number of students in the charter school; (2) the actual cost; or (3) a single set fee negotiated by the parties for a bundle of services (22-30.5-112.1 in Exhibit VI.F(2)i-1). The LEA may withhold agreed-upon funds for these purposes. At the close of the fiscal year, the LEA provides an itemized accounting of other services provided to the charter school for which the parties had not negotiated a specific amount (CRS 22-30.5-112 in Exhibit VI.F(2)i-1). LEAs must direct a proportionate share of federal and state categorical aid programs to charters (except for federally required education services that the parties agree will be provided by the LEA). See Exhibit VI.F(2)i-1 for CRS 22-30.5-112(3).

The CDE has made clear to participating LEAs that they must equitably share funding obtained from RttT with the charter schools they authorize. This would include allocation of Teach For America corps members, 50 of whom are expected to be placed in high poverty charter schools during the grant period.

(F)(2)(iv) Facilities funding for charter schools: Although facilities' costs continue to represent a significant cost to charter schools, charter schools in Colorado have access to a wide variety of potential funding sources for their facilities, including a dedicated annual appropriation, equal access to certain state funds, a dedicated bond enhancement program and an opportunity to participate in local bond issues to support facilities.

For example, the Charter School Capital Facilities Financing Act (CRS 22-30.5-401 et seq. in Exhibit VI.F(2)i-1), provides that charter school capital needs are considered for inclusion on LEA ballot issues using the same priority assessment used for other LEA schools. The Public School Capital Assistance Fund, established in 2008, uses monies from income derived from State school lands to provide cash grants and enter into lease purchase agreements for capital construction purposes. Charter schools and LEAs may apply for funds, and decisions about prioritizing projects are made by the Public School Capital Construction Assistance Board (CRS 22-43.7-101 et seq. in Exhibit VI.F(2)i-1). In the most recent round of funding, three charter schools received cash grants totaling nearly \$1.8 million, and three received funds for lease purchase agreements totaling \$14.3 million. In addition, \$5 million in FY 2009-2010 will be distributed from the State Education Fund to charter schools for capital construction costs. The funds are distributed based on a per-pupil share for all students enrolled in a qualified charter school that is not operating in a LEA facility and half of the per-pupil share for qualified charter schools operating in a LEA facility with capital needs.

To enhance the ability of charter schools to receive favorable terms on bonds issued by a governmental agency other than an LEA, the charter school may request that the State Treasurer make direct payments of principal and interest on the bonds on behalf of the charter school, up to the amount the charter school is entitled to receive from the State Public School Fund (CRS 22-30.5-406 in Exhibit VI.F(2)i-1). To provide additional security for charter school capital financing from the State's educational and cultural

facilities authority, the State also created a state charter school debt reserve fund consisting of appropriations, transfers from the State Education Fund, and interest earned by the fund (CRS 22-30.5-407 in Exhibit VI.F(2)i-1).

Under Colorado's School Finance Act, all schools, including charter schools, must set aside a portion of their per-pupil funding into a fund that may be used solely for capital reserve or risk management purposes (see Exhibit VI.F(1)i-2 for CRS 22-54-105(2)). The part of the Charter Schools Act creating Institute charter schools also specifies that such charter schools receive a proportionate share of State Education Fund moneys distributed each year, and that this money is to be used for capital purposes (CRS 22-30.5-515 in Exhibit VI.F(2)i-1). Charter schools authorized by the State's Charter School Institute also have access to the Institute Charter School Capital Assistance Fund.

Finally, charter schools may negotiate with their LEAs concerning the use of LEA facilities, and if the LEA chooses to make space available to the charter school it must provide these services at cost. LEAs cannot charge charter schools rent for LEA space that is available, although the parties may agree on the cost of operations and maintenance. The charter school may also agree to purchase LEA facilities (CRS 22-30.5-104(7) in Exhibit VI.F(2)i-1).

(F)(2)(v) Other types of innovative schools: Innovation and autonomy in Colorado's public schools is not limited to its charter schools. (See Exhibit VI.F(2)v-1 for an overview of options for autonomous schools in Colorado published by members of Colorado's education reform and business communities.) Most prominently, the Innovation Schools Act of 2008 (see Exhibit VI.F(2)v-2 for CRS 22-32.5-101 et seq.) provides a means for LEAs to authorize one or more schools to implement a package of waivers from LEA policy, State laws and regulations, and collective bargaining agreement provisions, if applicable. The Act is intended to grant schools increased flexibility to meet the changing needs of students, to encourage LEAs to manage diverse portfolios of schools that can meet different needs, and to encourage innovation in areas such as curriculum, educational programs, provision of services, teacher recruitment, hiring, compensation, governance, and school management practices. In addition to authorizing individual Innovation Schools, the Act also provides for the authorization of Innovation Zones, consisting of a set of schools with common interests.

Any public school may apply to its LEA for Innovation School status, and groups of schools may apply for Innovation Zone status. LEAs are encouraged to collaborate with their schools to streamline the process. The innovation plan must include the school's mission; reason for seeking Innovation School status; proposed innovations; and State, LEA, and collective bargaining agreement waivers required to implement the innovations. A majority of the teachers, administrators, and members of the school accountability committee at the school must indicate support for the application. It is within the discretion of the LEA to approve the application. The LEA's approval of the application results in waiver of the requested LEA policies. The LEA then applies to the Colorado State Board of Education for the waivers of State law and regulations on behalf of the school. The State Board of Education is required to grant these waivers unless it determines that the waivers are likely to result in a decrease in student achievement or are not fiscally feasible. Upon the granting of waivers by the State Board of Education, the question of collective bargaining agreement waivers is presented to bargaining unit members at the school, who must approve such waivers by a 60 percent vote. Waivers continue for as long as the school remains an Innovation School. Denver Public Schools has granted the Innovation School applications of three schools to date, and the State Board of Education granted waivers from state law and regulations for all three of these schools in 2009.

Even before the passage of the Innovation Schools Act, Colorado provided avenues for LEAs to waive state statutes and regulations. For example, CRS 22-2-117, adopted by the Colorado State Board of Education (SBE) in 1990, allows LEAs to apply to the SBE for waivers of a variety of statutes and regulations (except for those expressly prohibited from waiver, such as accountability and child safety requirements). The State Board is to grant the waiver if it determines that the waiver would enhance educational quality and opportunity, and that the cost of compliance with the requirement to be waived is significantly limiting educational opportunity. LEAs with fewer than 3,000 students can apply directly for waivers, while larger LEAs must obtain the consent of a majority of the relevant accountability committee and affected principals and licensed teachers. LEAs that have been granted exclusive chartering authority need not obtain this consent, except for matters directly relating to licensed personnel requirements.

In addition, LEAs are free to experiment with their own versions of school autonomy. For example, the Aurora Public Schools, a highly diverse LEA in the Denver-metro area, is experimenting with pilot schools modeled after Pilot Schools in the Boston Public Schools, in collaboration with its teachers' union. These multiple avenues enabling greater flexibility and freedom at the school or local level ensure Colorado's educators have a variety of approaches to operate innovative, autonomous schools.