

(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 fostering a vibrant, high-quality charter school and other opportunities to increase autonomy and flexibility for school leaders. One of the first states to adopt charter school legislation in 1992, Colorado has improved upon the strength of this legislation multiple times. Today, Colorado’s Charter Schools Act 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*. This report assesses the strengths of each State’s charter school law against the 20 essential components of a strong law, which is contained in the new model public charter school law released by the Alliance in June

2009.¹²⁰ At the State level, Colorado has passed legislation to permit any school to gain “innovation school status,” providing charter-like autonomy.

(F)(2)(i) Cap on Charter Schools/Enrollment:

Colorado’s 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.¹²¹ 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. The exception is 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% of the schools in Colorado may be charter schools, and 100% of Colorado’s students may attend charter schools.¹²²

Enrollment in charter schools has steadily increased each year, with approximately 66,000 students currently enrolled in the more than 150 charter schools across the State. This is approximately 8% of the State’s total public school enrollment. 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. Since 1998, the State has garnered a total of \$65 million in Federal charter school funds 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.

¹²⁰ A copy of Colorado’s Charter Schools Act is attached to this application as Appendix Exhibit F-3.

¹²¹ See Appendix Exhibit F-2

¹²² See Appendix Exhibit F-2

(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 Colorado Charter School Institute (CSI) or by the State as a result of a turnaround process. Each of these is described in turn.

Until recently, charter authorizing practices were left largely to local development efforts. However, in the last few years, several important efforts have improved the quality and ease of authorizing and overseeing charter schools. For example, in 2004, a partnership between the CDE, the Colorado League of Charter Schools, LEA charter school liaison, and CSI resulted in a recommended common charter school application and rubric.¹²³ Improvements in authorizing practices have led to fewer appeals to the State Board of Education from would-be charter schools from the denial of charter applications. Colorado recently was one of six states selected

¹²³ See Appendix Exhibit F-3.

by the National Governors Association (NGA) to receive a grant to improve state support for quality authorizing practices and its work in that effort has been nationally recognized.

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.¹²⁴ A charter school application is considered at a public hearing of the local board of education for the board may approve or deny. 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.¹²⁵

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

¹²⁴ See Appendix Exhibit F-2.

¹²⁵ See Appendix Exhibit F-2.

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.¹²⁶ There are currently 130 charter schools in Colorado operating under a charter with an LEA.¹²⁷

Part 5 of 2004's Charter Schools Act¹²⁸ governs charter schools authorized by CSI. A charter school applicant may apply for authorization from the CSI 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.¹²⁹ CSI is governed by a nine-member board selected for their experience and expertise in matters related to charter schools. By statute, CSI is charged to serve as a model of best practices in charter school authorizing and oversight.¹³⁰ There are currently 23 charter schools operating under a charter with the CSI.¹³¹

Part 3 of the Charter Schools Act¹³² governs the formation of independent charter schools that may be created as part of a strategy to turn around a persistently lowest-achieving 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.

¹²⁶ See Appendix Exhibit F-2.

¹²⁷ See Appendix Exhibit F-4.

¹²⁸ See Appendix Exhibit F-2.

¹²⁹ See Appendix Exhibit F-2.

¹³⁰ See Appendix Exhibit F-2.

¹³¹ See Appendix Exhibit F-4.

¹³² See Appendix Exhibit F-2.

**(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

The CDE has made clear to participating LEAs that they must equitably share funding obtained from Race to the Top with the charter schools they authorize.

Under the School Finance Act, charter schools in Colorado receive 100% of LEA per-pupil operating revenues. The authorizer may choose to retain up to 5% 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% for overhead costs.) Any charter school that began operations in the 2004-2005 school year or after, is located within an LEA that has been given exclusive chartering authority *and* has a student population consisting 40% or more of at-risk students receives 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.¹³³ 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.¹³⁴ The LEA may withhold agreed-upon funds for these purposes. At the close of the fiscal year, the LEA

¹³³ See Appendix Exhibit F-2.

¹³⁴ See Appendix Exhibit F-2.

must provide an itemized accounting of other services provided to the charter school for which the parties had not negotiated a specific amount.¹³⁵ 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).¹³⁶

(F)(2)(iv) Facilities Funding for Charter Schools

Although costs for facilities 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 Act¹³⁷ provides that charter school capital needs must be 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 land trusts 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.¹³⁸ 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 the 2009-2010 fiscal year will be distributed from the State Education Fund to charter schools for capital construction costs, based on a per-pupil share for all students enrolled in a qualified charter school that is not operating in a LEA facility, and on 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 the charter school's behalf, up to

¹³⁵ See Appendix Exhibit F-2.

¹³⁶ See Appendix Exhibit F-2.

¹³⁷ See Appendix Exhibit F-2.

¹³⁸ CRS 22-43.7-101

the amount the charter school is entitled to receive from the State Public School Fund.¹³⁹ To provide additional security for charter school capital financing from the State’s educational and cultural facilities authority, Colorado also created a State charter school debt reserve fund consisting of appropriations, transfers from the State Education Fund and interest earned by the fund.¹⁴⁰

The part of the Charter Schools Act creating CSI charter schools 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.¹⁴¹ Charter schools authorized by the CSI also have access to the Institute Charter School Capital Assistance Fund.

Charter schools also 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.¹⁴²

(F)(2)(v) Other Types of Innovative Schools

Innovation and autonomy in Colorado’s public schools is not limited to its charter schools.¹⁴³ Most prominently, the Innovation Schools Act of 2008 was passed to give schools increased flexibility to meet the changing needs of students. It also 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.

The Innovation Schools Act provides a means for LEAs to authorize one or more schools to implement a package of waivers. These waivers are from LEA policy, State laws and regulations and collective bargaining agreement provisions, if applicable. 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.

¹³⁹ See Appendix Exhibit F-2.

¹⁴⁰ See Appendix Exhibit F-2.

¹⁴¹ See Appendix Exhibit F-2.

¹⁴² See Appendix Exhibit F-2.

¹⁴³ See Appendix Exhibit F-5 for an overview of options for autonomous schools in Colorado published by members of Colorado’s education reform and business communities.

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, which 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, which the State board is required to grant 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, the question of collective bargaining agreement waivers is presented to bargaining unit members at the school, who must approve such waivers by a 60% vote. Waivers continue for as long as the school remains an innovation school.

In 2009, Denver Public Schools presented three schools to the State board for its approval to receive innovation school status. All three were approved. A fourth DPS school was approved in 2010 and at least two additional schools (one in Denver and another in Colorado Springs) will be presented to the State board later this year.

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 State Board of Education in 1990, allows LEAs to apply to the board 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, 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 and in collaboration with its teachers' union, is experimenting with pilot schools modeled after Boston Public School's Pilot Schools initiative. Denver Public Schools has created an Office of School Reform and Innovation that uses a public RFP process to actively solicit and support the creation of new high-quality schools in Denver, including new or redesigned district schools, contract schools, performance schools and charter schools. These multiple avenues which provide greater flexibility and freedom at the school or local level ensure Colorado's educators have a variety of approaches to operate innovative, autonomous schools.

Conclusion

Colorado's charter and innovation school success is demonstrated by steadily increasing enrollment, which is now at approximately 8% of the total student population. A leader and trendsetter in charter and innovation schools, Colorado continues to support these schools through legislation, equitable funding, and by improving the quality and ease of authorizing, as it has done over the last several years.

(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.

(F)(3) Demonstrating Other Significant Reform Conditions

Colorado's key education reforms over the past decade are closely aligned with the Race to the Top selection criteria and encompass a P-20 alignment strategy. The Great Teachers and Leaders Bill (SB 191), Colorado Achievement Plan for Kids (CAP4K), the Education Accountability Act of 2009, the Educator Identifier Act, the Innovation Schools Act, the establishment of the School Leadership Academy, the Colorado Growth Model and other critical advancements have been central to Colorado's reform plan described throughout this Race to the Top proposal.¹⁴⁴

In addition to these efforts previously described, Colorado's ability to achieve its student achievement goals are bolstered by policies directly aimed at decreasing high school dropout rates, closing achievement gaps and increasing students' accumulation of college degrees and certificates.

All of these reforms are the result of bipartisan support and a cumulative effort across three gubernatorial administrations. Standards reform and public school choice began with Democratic Governor Roy Romer in the 1990s, were strengthened by Republican Governor Bill Owens, and culminated in CAP4K and the Education Accountability Act supported by

¹⁴⁴ A comprehensive summary of the state's education reform environment can be found in Appendix Exhibit A-8.