

(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)(i) Non-restrictive charter school laws

Georgia's charter school laws do not prohibit or inhibit the development of high-performing charter schools and the State proactively encourages high-quality charter school development. In fact, according to a report released earlier in January by the National Alliance for Public Charter Schools, Georgia is ranked fourth in the nation in terms of charter laws and commitment to charter quality.¹⁸ Unlike the majority of the forty chartering states, Georgia has no caps on the number of charter schools that can be authorized or on the number of

¹⁸ *How State Charter Laws Rank Against the New Model Public Charter School Law*, National Alliance for Public Charter Schools, Jan. 13, 2010

students charter schools can enroll. Georgia supports charter schools as a critical component in the State's efforts to maximize access to a wide variety of high-quality educational options for all students regardless of disability, race, or socioeconomic status, including those students who have struggled in a traditional public school setting. However, the State does not vary from its approach that all schools must meet high standards and charters fit into those expectations to the extent that they are actively managed and supported. Since the passage of the first Charter Schools Act in 1993 (O.C.G.A. 20-2-2061 through 20-2-2071), charter school activity in Georgia has been growing steadily, and Georgia now has 121 approved charter schools (which represents approximately 6% of all schools in Georgia). The Charter Schools Act was amended in 1998 to provide for start-up charter schools. There are **seven types of charter schools in Georgia**—conversion charter schools, Commission charter schools, startup charter schools, LEA charter startup schools, LEA charter startup schools that are Career Academies, state chartered special schools, and system charter schools. (Definitions are provided in *Appendix F3: Charter Schools by Type*.) One interesting example of LEA startup schools are Career Academies, which offer high school students exciting opportunities for a 21st Century education through partnerships between local school systems, the state technical colleges, and business and industry. Career Academies were started in 2007 with \$1 million annually in operating funds and \$15 million in revolving bond funds for construction/renovation. Career academies fast-track high school students on pathways to careers and college by focusing on career themes reflecting the local economy. The curriculum is sequenced and integrates academics and career-based learning, and dual credit courses give students the opportunity to earn high school and college credits.

Of the 121 approved charter schools, 34 are start-up charter schools, 32 are conversion charter schools, 25 are system charter schools, 18 are LEA startup schools, 6 are chartered Career Academy schools, 4 are state chartered special schools, and 2 are Commission charter schools. (See *Appendix F4: GA Charter School Activity* for additional data on these schools.)

In addition, to ensure that charter school applicants have an opportunity to apply to more than one authorizer, **the Georgia General Assembly enacted legislation in 2008 creating the Charter Schools Commission, a single-purpose, state-level Commission that can authorize**

charter schools directly. This legislation was designed to serve two purposes: 1) To develop and support charter schools to better meet the growing and diverse needs of some of the increasing number and array of charter schools in this state and to further ensure that charter schools of the highest academic quality are approved and supported throughout the state in an efficient manner; and 2) To maximize access to a wide variety of high-quality educational options for all students regardless of disability, race, or socioeconomic status, including those students who have struggled in a traditional public school setting. (O.C.G.A. § 20-2-2080 through 20-2-92.) . See *Appendix F5: SBOE Charter Schools Rules*.

(F)(2)(ii) State laws, statutes, regulations or guidelines regarding how:

Charter school authorizers approve, monitor, hold accountable, reauthorize, and close charter schools. Georgia's Charter Schools Act and related State Board regulations contain a host of guidelines governing the approval, monitoring, reauthorization, and closing of charter schools. While any particular authorization, renewal, or termination decision is multi-faceted, the principal goal of the Charter Schools Act is to increase student achievement. Indeed, **the Georgia Charter Schools Act is expressly designed “to increase student achievement through academic and organizational innovation by encouraging local school systems to utilize the flexibility of a performance based contract called a charter.”** O.C.G.A. § 20-2-2061 (2009). With this intent in mind, the authorizing bodies in Georgia consider student achievement improvement when making any decision relative to a particular school. Since the Charter Schools Act was amended in 1998 to allow for the creation of start-up charter schools, the SBOE has authorized a total of 117 charter schools. Of these 117 schools, the SBOE has terminated or non-renewed 13, for reasons ranging from poor academic performance to lack of financial viability. More than a few of these termination decisions have been contentious and opposed by local school leaders and community members. The State Board, however, is focused on high-quality charter authorizing, not merely authorizing for the sake of adding more charter schools to the Georgia sector. The SBOE works very diligently to ensure that high quality applications receive a fair and receptive authorizing environment in Georgia.

- **Application Approvals.** Since 2004, The State Board has reviewed 139 charter school applications, approved 113 and denied 26. A combination of increased rigor throughout the process and a decline in the quality of applications, coupled with weakness in the

proposed leadership teams at the schools resulted in a decrease in the percentage of applications approved in recent years. See [Table F2](#) on the next page for more detail.

Table F2: Number of Charter School Applications, 2004-09

	2004	2005	2006	2007	2008	2009	Cum
Number of New Charter School Applications	9	15	11	14	29	21	99
Number of Renewal Charter School Applications			8	8	10	14	40
Total Number of Applications	9	15	19	22	39	35	139
Number of New Applications Approved	6	15	11	12	21	12	77
Number or New Renewals Approved			8	7	9	12	36
Total Number of Approvals	6	15	19	19	30	24	113
% New Applications Approved	67%	100%	100%	86%	72%	57%	78%
% Renewals Approved			100%	88%	90%	86%	90%

- Application Denials.** In 2009, 3 applications were denied and 8 withdrawn with a recommendation for denial. The three applications the State Board denied had a variety of shortcomings including: poor academic performance, poor fiscal viability, and failure to comply with the state charter law. Petitioners can withdraw their applications at any time without an official reason. In 2009, petitioners withdrew their applications for the following reasons: Two petitions were withdrawn for projected fiscal issues; one petition was withdrawn as a result of prior poor academic achievement; and five petitions were withdrawn to continue to develop their charter concept to align with charter law and to create more rigorous academic goals
- Charter School Closures.** Over the last six years, 14 approved charter schools were closed by the SBOE. Charter schools rarely close as a result of a single factor; more often the schools close for a combination of performance related issues. If one had to isolate the reason for the ten closures, they would be summarized as follows: Five schools closed for academic performance and poor fiscal management; two schools closed as a result of poor academic performance; one school closed as a result of low student enrollment; one school reverted back to a traditional public school. See [Table F3](#) for data on number of charter schools closed or denied.

Table F3: Number of Charter Schools Denied/Withdrawn or Closed, 2004-09

	2004	2005	2006	2007	2008	2009	Cum
Number of New Charter School Applications	9	15	11	14	29	21	99
Number of New Applications Denied	3	0	0	2	8	9	22
% New Applications Denied	33%	0%	0%	14%	28%	43%	22%
Number of Renewal Charter School Applications			8	8	10	14	40
Number of Renewals Denied			0	1	1	2	4
% Renewals Denied			0%	13%	10%	14%	10%
Total Applications	9	15	11	14	29	21	139
Total Denied or Withdrawn	3	0	0	3	9	11	26
% Denied or Withdrawn	33%	0%	0%	14%	23%	31%	26%
Total Number of Charter Schools	35	48	59	71	98	121	
Number of Charter Schools Closed	4	1	1	1	3	4	14
Closed as % of Total	11%	2%	2%	1%	3%	3%	

Charter school authorizers encourage charter schools that serve student populations that are similar to local district populations.

Georgia's charter laws also encourage charter schools that serve student populations that are similar to local district student populations, especially relative to high-need students. As part of a charter school petition, prospective charters are required to submit an operations and management plan that includes, among other things, "steps that shall be taken to reach students representative of the racial and socioeconomic diversity in the school system." (See *Appendix F5: SBOE Charter Schools Rules*.) In terms of gender and racial composition, charter schools in Georgia are equally likely to enroll female students and are somewhat more likely to enroll racial minorities. In fact, when multiracial students are included, racial minorities comprise 60% of all charter school students, compared to 54% statewide: 43% of charter schools students are African-American (compared to the statewide average of 38%); 9% are Hispanic (compared to 10% statewide); 4% are Asian (compared to 3% statewide); and 4% are multiracial (compared to 3% statewide).¹⁹

¹⁹ 2007-08 Annual Report on Georgia's Charter Schools, prepared by the Georgia Department of Education

(F)(2)(iii) State charter schools receive equitable funding for charter schools compared to traditional public schools

The Georgia Charter Schools Act provides for commensurate funding for all charter schools in Georgia, with the exception of State Chartered Special Schools. All locally approved charter schools – that is, charter schools approved by local boards of education – are entitled to be treated “no less favorably” than traditional district schools with respect to funding. The law requires that charter schools be included in the allotment of all relevant formula earnings: “The local board and the state board shall treat a start-up charter school no less favorably than other local schools within the applicable local system with respect to the provision of funds for instruction, school administration, transportation, food services, and, where feasible, building programs.” (O.C.G.A. § 20-2-2068.1(a)). As a result, **Georgia charter schools are entitled to equitable funding levels. The average per pupil expenditure for charter schools is \$8,456, compared to \$8,875 for traditional schools (2008-09 data).** The only exception set forth in statute is for facilities funding, where a district is required to provide facilities funds if “feasible.” There are two critical features that distinguish Georgia charter funding from many of the chartering states: (1) in Georgia, charter schools are entitled to state, federal, *and* local revenue; and (2) in Georgia, funding for charter schools is built into the funding formula that is generally applicable to all public schools and does not rely on special appropriations to supplement funding levels for charter schools. These two features are crucial to ensuring that charter schools have access to equitable, predictable funding streams. Charter schools located in states that make only state and federal revenue available to charter schools almost always structurally underfund schools, which makes it difficult for charter schools to attain viability. Moreover, states that rely on separate appropriations to fund charter schools have to fight the appropriations battle annually. When revenues are down, this makes charter school funding particularly precarious. Georgia believes that charter schools deserve to be funded like public schools throughout the state in a clear and transparent manner. With respect to State Chartered Special Schools – schools approved by SBOE after a local district denial – they are entitled only to state and federal funds. Because the Georgia leadership recognized this as a problem, the Charter Schools Commission Act was signed into law in 2008. As noted above in (F) (2) (i), the Commission is a single-purpose state-level Commission that can authorize charter schools directly. More critically, and unlike State Chartered Special Schools, these schools are fully funded. Accordingly, **the era of the State Chartered Special School in Georgia is likely over.**

- **Strengthening of Charter School Funding in Recent Years.** The funding landscape for charter schools in Georgia has changed dramatically during the past two years to ensure that charter schools are funded equitably. Earlier reports—such as the one issued by the Fordham Foundation purporting to show a dramatic underfunding of charter schools relative to traditional public schools—are now out of date. In addition, it should be noted that the Fordham Report relied exclusively on data gathered from a single district in Georgia, the Atlanta Public Schools, which accounts for less than 8% of the statewide charter sector. While there were certainly substantial funding disparities in the City of Atlanta when the Fordham Report was issued, those disparities have largely been remedied during the last two legislative sessions. The current Georgia Charter Schools Act requires commensurate funding for all charter schools in Georgia, even those approved by the Georgia Charter Schools Commission (with the exception of State Chartered Special Schools). This means that **in Georgia, charter schools are entitled to state, federal, and local revenue as a matter of law.** This requirement is restated in the Georgia Charter Schools Rule promulgated by the State Board of Education, which requires a forward funding requirement to ensure that charter schools with a significant expansion of enrollment (either due to opening or adding a grade a year), are funded prospectively based on actual enrollment. A single-purpose state-level Commission is empowered through the Charter Schools Commission Act of 2008 to authorize charter schools directly and make sure that such schools are fully funded. Most recently, the Commission approved seven schools in December 2009. When these schools open in the fall of 2010, they will receive the same funding based on student population and characteristics as they would if they were traditional public schools, just as the two current Commission charter schools do.

(F)(2)(iv) The State provides charter schools with funding for facilities and assistance with facilities acquisition

Regarding facilities, the Georgia General Assembly created a special charter school facilities grant program in 2004 and has funded it every year since 2005: “From moneys specifically appropriated for such purpose, the state board shall create a facilities fund for local charter schools, state chartered special schools, and commission charter schools as defined in Code Section 20-2-2081 for the purpose of establishing a per pupil, need based facilities aid program.” (O.C.G.A. § 20-2-2068.2(a)). This fund was designed to provide facilities funding to charter

schools through a competitive grant program administered by the GaDOE. As a result, **charter schools in Georgia have been able to apply for facilities funding each year since 2006, with individual annual awards ranging from \$20,000 to \$280,000 per school.** These are annual awards, so schools can reapply every year. Still, the Georgia General Assembly has continued to refine its charter facilities statutes, enacting a provision of law in 2009 that provides buildings to charter schools at absolutely no lease cost. The 2009 Charter School Facilities Expansion Act marked a truly transformational change in Georgia law:

- **Each local board of education shall make its unused facilities available to local charter schools.** The terms of the use of such a facility by the charter school shall be subject to negotiation between the board and the local charter school and shall be memorialized as a separate agreement. A local charter school that is allowed to use such a facility under such an agreement shall not sell or dispose of any interest in such property without the written permission of the local board. **A local charter school may not be charged a rental or leasing fee for the existing facility or for property normally used by the public school which became the local charter school.** A local charter school that receives property from a local board may not sell or dispose of such property without the written permission of the local board. O.C.G.A. § 20-2-2068.2(h) (emphasis added). In essence, the law now requires local districts to make unused facilities available to charter schools at no lease cost. Since the law became effective on July 1, 2009, more than a dozen charter schools have used the provision to locate in buildings and rid themselves of onerous leasing costs. This provision of law has particular impact in urban districts which have experienced declining student enrollments and thus have multiple unused facilities. These districts also tend to have concentrations of students of exceptional need, the precise sort of location in which the state has encouraged charter schools to locate. The beneficial impact of this law is difficult to overstate. **Rather than spend 15% or 20% of their operating revenue on facilities costs, charter schools located in districts with unused facilities are now able to maximize operational funding and spend it directly on classroom costs.**

(F)(2) (v) The State enables LEAs to operate innovative, autonomous public schools other than charter schools

Early Colleges are innovative partnerships between local school systems and a USG institution and are an example of innovative, autonomous public schools other than charter schools operating in the State. The SBOE has student achievement waiver authority under O.C.G.A. Section 20-2-244. This has been the historical vehicle for allowing innovation at the school level with respect to some of these provisions. In addition, O.C.G.A. 20-2-161.1 enables Early College by allowing the grant of both secondary and postsecondary credit for the same courses, and 160-4-2-.34 is the corresponding SBOE rule. Early Colleges (ECs) enroll students who may not be well served by traditional schools and are underrepresented on college campuses. Students can graduate with a high school diploma and up to two years of college credit. Early College High Schools have alternative education program waivers or other waivers referenced above that allow them to operate in many ways different from a typical school. With regard to their autonomy, there are different levels that vary from system to system. The control of budget often depends on the principals' relationship with the superintendent; some have more and some have less. The admission policies vary as well because the schools make a special effort to focus on a target population (low income, high needs). Georgia's 12 Early Colleges have a total enrollment of 2,201 students, with 82% from low income families, 85% minority, and 85% first generation. The percentage of EC students passing the GHSGT ranges from 91% to 97% and the percentage of EC students passing the four components of the 8th grade CRCT ranges from 80% to 100%. The first Early College in Georgia, Carver Early College, produced its initial graduating class in May 2009 with a 100% graduation rate and 100% of students earning between 12 and 52 hours of college credit. See *Appendix F6: Early Colleges*.