

**(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*

.....  
**(i) LAWS REGARDING LIMITS ON THE NUMBER OF CHARTER SCHOOLS**

When New Jersey's charter statutes were initially adopted in 1995, the number of charter schools to be established was capped at 135 for the subsequent 48 months (18A:36A-3b).

The size of any charter school was also capped for the following 48 months at the lesser of 500 students or 25% of the student body in the LEA (18A:36A-4e). Since January 11, 2000, when the four-year period expired, there are no longer any caps on either the number of charter schools in the state or the size of any individual charter school.

As of December 31, 2009, there were 68 charter schools opened and operating in New Jersey, categorized by grade ranges as follows:

| Elementary | Middle | High | K-12 | Total |
|------------|--------|------|------|-------|
| 46         | 8      | 8    | 6    | 68    |

## **(ii) CHARTER SCHOOL AUTHORIZATION AND MONITORING**

Since charter legislation was adopted by New Jersey in 1995, the DOE has received 365 charter-school applications, of which 111 were approved and five denied. The balance (249 applications) were either withdrawn or never completed. From the 111 charters approved, 105 schools were opened. Thirty-seven of these have since been closed by charter revocation, charter surrenders, withdrawal, or non-renewal. The table below summarizes New Jersey's charter school activity over the past five years:

## New Jersey Charter School Activity Since 2005-2006 School Year

| <b>Academic Year</b> | <b>Applications</b> | <b>Approvals</b> | <b>Denials</b> | <b>Opened<sup>1</sup></b> | <b>Closed</b> |
|----------------------|---------------------|------------------|----------------|---------------------------|---------------|
| 2005-2006            | 25                  | 6                | 0              | 4                         | 2             |
| 2006-2007            | 30                  | 6                | 0              | 6                         | 7             |
| 2007-2008            | 24                  | 1                | 0              | 6                         | 3             |
| 2008-2009            | 25                  | 6                | 0              | 6                         | 0             |
| 2009-2010            | 40                  | 11               | 0              | 6                         | 1             |

The large number of application withdrawals or non-completions in earlier years was attributable to the relative inexperience of applicants, many of whom were unable to raise sufficient funds and secure facilities between approval and the planned opening. The authorization of a charter school in New Jersey is a two-step process: 1.) Interested parties must submit an application and budget for approval, and 2.) the NJDOE then

1 Existing charter schools with clear evidence of success can open an additional campus without reapplying for a new charter. The Opened category applies to both new schools and campuses.

offers a final grant of a charter after a walk-through of the facility and submission of requisite opening documentation, such as a record of enrollment. In more recent years, as charter-school operators gained experience, they were much better prepared to open within 12-18 months of approval, resulting in a closer match between number of approvals and number of openings in a given year after adjusting for the typical 12-month lag between the two. The number of approvals dropped from an average of six per year to one in 2007-2008, because several experienced charter operators were permitted to open schools as expansions under existing charters. Six schools opened the following year (2008-2009), five of which fell into this category. The number of approvals this year (2009-2010) increased to eleven, with eight meeting the September 30<sup>th</sup> approval deadline and an additional three under the new Early Action Process, which promises approval by January 15<sup>th</sup> for applications received before October 15<sup>th</sup> of the prior year. Early Action is designed to shorten the application and approval timeline for new charter schools while maintaining the rigorous review by NJDOE, allowing more charter schools to open within a shorter timeframe.

Under section 18A:36A-16 of New Jersey state law, the commissioner must conduct an annual review of every charter school to determine whether it is meeting its goals, and conduct a more comprehensive review prior to granting the renewal of the charter. The county superintendent is granted ongoing access to the records and facilities of the charter schools within the county to ensure that each school is in compliance with its charter, and is meeting all of the state- and federally-mandated requirements. To facilitate the annual review, the charter school must submit an annual report to the commissioner. These reports must also be distributed to the parents of each student enrolled in the school. The commissioner may revoke a school's charter if the school either has not fulfilled the conditions required by its charter, or has violated any such condition. The legislature granted the commissioner full authority to develop procedures and guidelines for the revocation and renewal of a school's charter.

According to NJDOE code 6A:11-2.2, each charter school must include in its annual report a review of its assessment program results to date, relative to its goals. The review

must show results on state test data for grades 3-8 and/or 11, as well as setting forth any and all criteria that are used to determine the school's AYP status under ESEA. Schools were required to present current baseline data and/or current cohort data in reading/language arts, writing, and mathematics. Although baseline data may come from both state assessments and standardized tests, cohort data must come from standardized tests. Gains are expected in the achievement of student cohorts over time and will evidence that a school is exhibiting AYP. In the absence of the expected levels of achievement, the DOE expects to see problem areas being identified and changes in curriculum and/or instruction being proposed, in order to address the issues. Schools that serve students through eighth or twelfth grade must list the high schools or colleges that the students will be attending, and in the case of twelfth-grade students, must also include the percentage of students going on to college. The annual review also includes an evaluation of progress along several dimensions other than test scores. For example, the school must demonstrate that the delivery of curriculum is in compliance with New Jersey's Core Curriculum Content Standards. It must also show that it is providing the supplementary services to at-risk students that are necessary to ensure their success.

According to sections 18A:36A-7 and 18A:36A-8 of New Jersey law, charter schools in New Jersey must be open to all students on a space-available basis. Their admission policies are subject to the same anti-discrimination requirements as apply to public schools, with the exception that the charter school may limit admission to students interested in specific areas of concentration such as mathematics, science, or arts, as outlined in the school's charter. Preference for enrollment is granted to students who reside in the LEA where the charter school is located. In instances where there are more applicants than available spaces, the charter school must select students using a random-selection process. To the maximum extent possible, charter schools are required to seek the enrollment of a representative cross-section of the community's school-age population, including racial and academic factors in its determination of what selection of students would be representative.

.....

### (iii) EQUITABLE FUNDING OF CHARTER SCHOOLS

Charter schools in New Jersey receive funding on the same basis that traditional public schools do. For funding purposes, all charter-school students are included in the resident enrollment count on the school registers of the traditional public school. In other words, school funding for the school LEA is calculated based on the total resident student population, which includes the charter-school students. Charter-school state aid flows from the school LEA to the charter school. With the new funding formula, charter schools benefited financially by receiving a greater share of resources for at-risk students. Charter-school aid is calculated pursuant to N.J.S.A. 18A:36A-12b, which stipulates that the school LEA must pay directly to the charter school, for each student enrolled in the charter school, an amount equal to 90% of the sum of the budget-year wealth-equalized state aid per pupil and the pre-budget-year general- fund local tax levy per pupil inflated by the corresponding CPI rate.

The remaining 10% is retained by the school LEA to help cover the cost of administering the charter-school program, including the student-registration-and- verification process. Pursuant to N.J.S.A. 18A:36A-13 and N.J.A.C. 6A:27-3.1, the school LEA also provides transportation, or aid in lieu of transportation, to charter-school students in K-12 on the same terms and conditions that apply when it provides transportation, or aid in lieu of transportation, to students attending the traditional public schools. The charter school is not responsible for the funding of any mandated student transportation.

Additionally, the school LEA is required to pay to the charter school 100% of the categorical state aids (those determined on a per- pupil basis) attributable to the student, and a percentage of the LEA's special-education categorical aid equal to the percentage of the LEA's special-education students enrolled in the charter school. If applicable, the school LEA is required to pay to the charter school 100% of preschool education aid.

Charter schools apply directly for, and receive 100% of, all federal entitlement and discretionary funds for which they qualify, pursuant to N.J.A.C 6A:11-4.1. Some minor state-aid categories not discussed above are not required to be passed on to charter

schools. These aid categories represent the phase-in portion of New Jersey's school funding law, and will be eliminated when the law is fully implemented.

#### **(iv) CHARTER SCHOOLS' FACILITIES**

In order to facilitate the acquisition of a safe and viable facility, charter schools are granted flexibility in regard to the type of facility in which they are permitted to locate. They are exempt from State public-schools facility regulations, except those pertaining to the health or safety of students. Pursuant to N.J.S.A. 18A:36A-10, charter schools are permitted to locate their facilities in part of an existing public-school building, in space provided on a public work-site, in a public building, or in any other suitable location.

Charter schools are permitted to use local and state sources of revenue for facility costs, including lease payments and mortgage payments. They also have access to any discretionary federal grants that are available for facility expenditures. In 2002, New Jersey charter schools received millions of dollars under the School Renovation Grant. Pursuant to N.J.S.A. 18A:36A-6, charter schools are permitted to acquire real property from public or private sources by purchase, lease, or lease with an option to purchase, or by gift, for use as a school facility.

Under section 18A:7F-60 of the state regulations, the Commissioner “shall be authorized to take any affirmative action as is necessary to ensure the effective and efficient expenditure of funds by school LEAs...” The Commissioner can use this authority to free up underutilized school-building space in some urban LEAs that have experienced recent declines in school-age population. This space will be made available for charter schools.

## (v) SUPPORT FOR PUBLIC INNOVATIVE SCHOOLS

In 1999, New Jersey's legislature adopted the Interdistrict Public School Choice Program (IPSCP) to allow LEAs to open enrollment of specified schools to students from outside the LEA. IPSCP was adopted to provide greater school choice to students whose home

LEAs may be limited in either the variety or quality of their academic programs.

Applications for designating a school as an Interdistrict Public School were evaluated on, among other criteria, the basis of the quality and variety of academic programs that are offered within the LEA and the impact on student-population diversity in the LEA.

Admission policies for students from outside the LEA are subject to the same federal and State anti-discrimination laws as apply to admission policies affecting students inside the LEA. At this point, Interdistrict school choice has reached its capacity for participation.