

(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

Charter schooling has had a presence in New Jersey for 15 years. The state passed a charter law in 1995, becoming one of the first states to embrace this critically-important education-reform tool.

In 2009-10, the state had 68 charter schools on 72 campuses, serving more than 22,000 students.¹ Importantly, these schools are predominantly serving the state’s most disadvantaged students in the most distressed communities.

With this strong foundation, New Jersey plans to significantly advance charter schooling in the years to come. This effort will be given energy and direction by the state’s

¹ <http://www.publiccharters.org/charterlaws/state/NJ>

education leadership. Governor Chris Christie is a strong and vocal proponent of charter schooling. Education Commissioner Bret Schundler was an early and active proponent of choice, and he has made charter schooling a priority for the department.

Charter schools in New Jersey are dedicated to serving the most needy students. The reorganization of the NJDOE reflects New Jersey's increased commitment to expanding quality charter-choice options in the State, and the strategic role that the most highly-effective charters can have in scaling up quality schools in our most challenged communities.

As the state's charter-authorizer, NJDOE is committed to not only growing the number of high-quality charter schools statewide, but also improving its own capacity for reviewing applications and monitoring charter schools. Accordingly, the NJDOE has partnered with the National Association of Charter School Authorizers (NACSA) to facilitate the adoption of the highest standards and the implementation of best practices in charter-authorizing.

Working with NACSA, New Jersey will strengthen the charter-school-accountability measures to include performance contracts and effective monitoring and technical assistance. A charter-specific version of the New Jersey Quality Single Accountability Continuum (NJQSAC) instrument is also under consideration, in consultation with charter-school operators. NJQSAC is the monitoring-and-evaluation system for public schools, and it shifts the focus from compliance to improvement and capacity-building.

New Jersey is exceptionally well-positioned to reach its bold charter-schools goals because of the strong web of external charter-school supporters across the state. NJDOE will work closely with those providing technical assistance to charters, such as the state charter-school association and the Charter School Resource Center; and those running extraordinary charters, such as KIPP and Uncommon Schools. The State will also develop new partnerships with highly-regarded CMOs and related entities.

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

New Jersey places no caps on the number of charter schools in the state, or on 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

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(ii) CHARTER SCHOOL AUTHORIZATION AND MONITORING

The State has always been a conscientious authorizer, demanding quality from those hoping to run schools. Since charter legislation was adopted by New Jersey in 1995, the NJDOE has received 365 charter-school applications, of which 111 were approved and five were never granted their final charter. From the 111 charters approved, 105 schools were opened.

The state has also been a tough monitor of school quality. Thirty-eight charters have 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

Academic Year	Applications	Approvals	Denials	Opened²	Closed
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 number of charter-school applications under consideration for the Fall openings has increased from last year. Thirty-seven new applications have been submitted for 2011-12 as of May 25, bringing the total number of applications submitted to 402. The expedited application process will allow for additional applications to be submitted for consideration as to whether they may become operational in the 2011-2012 school year.

The large number of unsuccessful applications in earlier years is also attributable to the relative inexperience of applicants, local resistance (which included zoning and related red tape), limited access to facilities, and tight timelines. The NJDOE recognized the importance of increasing both the number of potential applicants and the preparedness of the applicants to open and operate charter schools. NJDOE introduced numerous initiatives to increase the number of applications, including extending the duration of the planning-year option and the enhanced technical assistance to support quality applications.

Among the most effective efforts have been dissemination grants to highly-effective charter schools, which are designed to address the most daunting issues facing charter applicants and operators: the need to secure facilities, the need to provide special

² The Opened category applies to both new schools and campuses. 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.

education, governance issues, and issues regarding staff recruitment and retention. The grants have also promoted the identification and sharing of best practices, including by offering workshops to prospective applicants.

The regulations have been amended twice, to foster growth in the quality and quantity of charter schools. The authorization of a charter school in New Jersey is a three-step process: Interested parties must (1) submit a complete, comprehensive application that addresses curriculum and instruction, assessment, governance and administration, fiscal management and operations; (2) complete the interview process if qualified; and (3) satisfy the terms of the preparedness process, which includes a site visit with the board and leadership team to review the essential readiness of staffing, student recruitment and enrollment, equipment and supplies, fiscal and operational matters, policy development, board training and board training. These requirements, as well as the requirements of a walk-through of the facility and the submission of requisite, essential documentation, must be fulfilled before the charter may be granted.

In more recent years, as charter-school applicants were provided with extended time and support, including contact with experienced and effective charter operators, applicants were much better-prepared to open within 12-18 months of approval, resulting in a closer match between the number of approvals and the 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, but this was because several experienced charter-operators were permitted to open schools as expansions under existing charters. Therefore, charter growth is not fully reflected in the number of new charters approved in that year. Six schools opened the following year (2008-2009), five of which were expansions.

The number of approvals during the 2009-2010 school year increased to eleven, with eight meeting the September 30th approval deadline, and an additional three under the new Early Action process, which promises approval by January 15th for applications received before October 15th of the prior year. Early Action provides an additional application opportunity, and is designed to shorten the application-and-approval timeline

for new charter schools, while maintaining the rigorous review by NJDOE. It is anticipated that this will also increase the number of quality charter schools, by employing two timelines for the same operational year.

The current administration is fully committed to helping increase the number of high-quality charter-applicants, approving promising proposals, and assiduously monitoring charters for academic, financial, and operational quality.

Legislation for a rolling application process, Bill # A-2142, introduced February 11, 2010, has been drafted and referred to committee. This legislation offers multiple times for application submissions throughout the year, and a shorter time for application review. NJDOE anticipates that a bill will be introduced to allow a higher-education organization to authorize charters. If enacted, this should expedite the authorization process and the increasing the number of successful applicants that are opening high-quality charter schools in New Jersey.

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 must 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 that each 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 who is enrolled in the school, and the district or districts of residence. 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 administrative 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 the 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 NJDOE expects to see problem areas being identified and changes in curriculum and/or instruction being proposed, in order to address the issues relating to achievement. 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 its 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.

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(iii) EQUITABLE FUNDING OF CHARTER SCHOOLS

Charter schools in New Jersey receive funding on the same basis as traditional public schools.

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 charter students. Charter school state aid flows from the school LEA to the charter school.

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 (that is, 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 that are 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.

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(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 NJDOE 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. The New Jersey Economic Development Authority (EDA) currently has flexible, affordable loan funds available to charter schools through its Main Street Program.

In addition, charter schools have access to tax-exempt bonds from the EDA and local-improvement-authority bonds. In more recent years, credit-enhancement grants have been available for charters through New Jersey Community Capital. The NJDOE worked in partnership with NJCC to make this program available.

Under section 18A:7F-60 of the state statute, the Commissioner “shall be authorized to take any affirmative action as is necessary to ensure the effective and efficient

expenditure of funds by school district [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. Because of these declines, the NJDOE has initiated a space-utilization survey in over a dozen districts.

The study is identifying underutilized space for takeover within major urban centers. This space will be made available first for charter schools. There are other instances where urban schools are overcrowded, and traditional routes will not produce additional space. In these instances, creative solutions will be sought to find space for charter schools.

The facilities analysis examines the following key questions:

- What is the maximum capacity of all existing district-owned and -leased facilities, based on existing school grade-assignments?
- Does the district have deficient or surplus capacity based on existing enrollments? Will there be deficient or surplus capacity based on projected enrollments?
- Are there opportunities to more efficiently utilize available capacity, and possibly consolidate district functions in fewer buildings, should the district be willing to change school sending areas or school grade configurations?
- What are the short- and long-term capacity implications of pending and proposed school-construction projects?

Based on the answers to the above questions, options are developed that explore opportunities to use available capacity. These options may explore changes to school grade alignments and the subdivision of existing building(s) to allow different schools to independently function within one building.

In addition, the NJDOE requires all public school districts in the state to maintain and update Long Range Facilities Plans (LRFP) at least once every five years on a web-based

reporting system. This system provides a powerful tool to both the district and the NJDOE in assessing efficiency, adequacy, and utilization. In particular, the LRFP data allows the State to quickly evaluate instances where a district can consolidate its operations in fewer buildings without sacrificing program-delivery. The LRFP provides a routine mechanism for assessing the availability of space for charter use statewide.

In the 31 districts that are part of the court-mandated, State-funded facilities-improvement program, the reuse of swing space that is required to accommodate students off-site during construction is being evaluated for charter-school use. The NJDOE is working with the Schools Development Authority to identify appropriate space after it is no longer needed for district purposes. This repurposing of swing space could provide charter schools with recently-renovated instructional space in “move-in” condition that meets State standards. There are other instances where urban schools are overcrowded and traditional routes will not produce additional space. In these instances, creative solutions will be sought to find space for charter schools. For example, READS, an active partner, assists charter schools by providing pre-development loan funds and has enacted a new development model which ensures quality schools, expedites development projects, reduces costs, and builds on equity for the school.

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(v) SUPPORT FOR INNOVATIVE PUBLIC SCHOOLS

In 1999, New Jersey’s legislature adopted the Interdistrict Public School Choice Program (IPSCP) to allow LEAs to open enrollment of specified public 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.

Due to the program's success, the State is preparing to expand interdistrict school choice. A bill, S1073, that makes interdistrict school choice permanent was introduced on February 4, 2010 and passed both the Education Committees and the full Assembly. It is currently awaiting Senate Budget Committee and full Senate approval before becoming law.