

State Reform Conditions Criteria

(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

In Virginia, [Article VIII § 4](#) of the Constitution of Virginia vests the general supervision of the public school system in the State Board of Education. [Article VIII § 7](#) of the Constitution of Virginia vests local school boards with the supervision of schools

in each school division.

The General Assembly of Virginia passed a resolution establishing a joint subcommittee to study charter schools in 1995. In 1998, the General Assembly passed a law establishing charter schools in Virginia. Since that time, the law has been amended several times. The Virginia General Assembly's most recent change to the charter school law was in 2009, and the change was to remove the limit on the number of public charter schools that could be established in a school division.

The *Code of Virginia*, (§ 22.1-212.5), defines public charter schools in Virginia as nonsectarian, nonreligious, or nonhome-based alternative schools located within a public school division intended to:

- stimulate the development of innovative educational programs;
- provide opportunities for innovative instruction and assessment;
- provide parents and students with more options within their school divisions;
- provide teachers with a vehicle for establishing schools with alternative innovative instruction and school scheduling, management, and structure;
- encourage the use of performance-based educational programs;
- establish and maintain high standards for both teachers and administrators; and
- develop models for replication in other public schools.

In many respects, Virginia's charter schools are treated similarly to other public schools in Virginia—they are held to state and federal accountability requirements and they receive funding under the same proportionate rules as other public schools. Charter schools may be released from school division policies as agreed upon in the contract agreed to in the contract that establishes the school. Like other public schools, Virginia school divisions have the option to request a release from state requirements upon request and approval from the Virginia Board of Education.

Virginia public charter schools may be created as a new public school or through the conversion of all or part of an existing public school; however, no public charter school shall be established through the conversion of a private school or a nonpublic

home-based educational program. A charter school for at-risk pupils may be established as a residential school. A “regional public charter school” is defined as “a public charter school operated by two or more school boards and chartered directly by the participating school boards.”

Since the initial state legislation for charter schools was passed in 1998, ten charter schools in nine school divisions have been approved by local school boards in the following school divisions: Albemarle (2), Chesterfield, Gloucester, Greene, Franklin, and York Counties and Hampton, Richmond, and Roanoke Cities. The charter schools in Chesterfield, Gloucester, Greene, Franklin Counties, and Roanoke City have closed. Four schools operated during the 2008-2009 school year and three are operating in the 2009-2010 school year, representing less than one percent of Virginia’s public schools. A charter school located in Richmond City received contract approval in 2008-2009 and will open to students in 2010-2011. The three schools in operation for the 2009-2010 school year have missions to: 1) facilitate intensive, experiential learning opportunities for students at-risk of dropping out of school or not reaching their full potential; 2) provide academic, social, and career preparatory education in computer and Web-based technology for at-risk students; and 3) provide an alternative and innovative learning environment using the arts to determine the learning styles of at-risk students. The charter school slated to open in the 2010-2011 academic year (July) has a mission to establish parent, educator, and community involvement and provide students with a curriculum that emphasizes awareness and social responsibility. There are also numerous local programs operating within the state that offer innovative programs. (See Evidence for (F)(2)(v).)

The remainder of this section summarizes Virginia’s applicable laws, statutes, regulations, and other relevant legal documents that pertain to the state’s successful conditions for high performing charter schools and other innovative schools.

Evidence for (F)(2)(i): A description of the State’s applicable laws, statutes, regulations, or other relevant legal documents. (See Appendix (F)(2) for a detailed description of Virginia’s state laws regarding charter schools.)

In addition to the laws cited above, the following sections of the *Code of Virginia* support the establishment of charter schools:

- Section [22.1-212.5:1](#) established the Public Charter School Fund for the sole purpose of establishing or supporting public

charter schools in the Commonwealth that stimulate the development of alternative public education programs. See (F)(2)(ii) for additional information regarding this fund.

- Section [22.1-212.6](#) prescribes the requirements for the establishment and operation of public charter schools. It requires that public charter schools be subject to all federal and state laws and regulations and constitutional provisions prohibiting discrimination. Enrollment must be open to any child who is deemed to reside within the relevant school division through a lottery process and tuition cannot be charged.
- Section [22.1-212.7](#) prescribes the requirements for contracts for public charter schools and the release from policies and regulations. Approved charter school applications are deemed to be an agreement, with the terms of a contract, between the public charter school and the local school board(s). The contract must include all of the agreements regarding the release from school division policies and the request for release from state regulations.
- Section [22.1-212.8](#) prescribes the requirements for the charter application. The application must include: 1) a mission statement; 2) goals and educational objectives; 3) evidence that the parents, pupils and teachers support the formation of the school; 4) a statement of the need; 5) a description of the educational program, performance standards, and curriculum; 6) a description of the enrollment process; 7) evidence that the plan for the charter school is economically sound; 8) a plan for the displacement of students, teachers and other employees who will not attend or be employed in the public charter school if a school is converted to a charter school or a charter is revoked or terminated; 9) a description of the management and operation; and 10) in the case of a residential charter school for at-risk students, a description of the residential program.
- Section [22.1-212.9](#) prescribes the requirements for the review of applications. Applications are received and reviewed by local school boards. Each local school board establishes its own procedures for receiving, reviewing, and ruling upon the applications.
- Section [22.1-212.10](#) provides that the decision of the local school board to grant or deny a charter application or to revoke or fail to renew a charter agreement is final and not subject to appeal.

- Section [22.1-212.11](#) prescribes responsibilities of local school boards. Local school boards approve and establish public charter schools within their school division. Priority must be given to those applications that are designed to increase the educational opportunities for at-risk students. At least one-half of the public charter schools in each division must be for at-risk students.
- Section [22.1-212.12](#) prescribes the requirements for the approval, renewal or revocation of a charter. A charter may be approved or renewed for a period not to exceed five school years. This section of state law also prescribes what must be included in the renewal application for a charter school.
- Section [22.1-212.13](#) specifies employment requirements. Public charter school personnel are required to be employees of the local school board or boards that granted the charter.
- Section [22.1-212.14](#) prescribes the funding requirements for public charter schools and the services to be provided to the school by the local school board or boards. For example, students enrolled in public charter schools are included in average daily membership for school divisions, which is a primary driver of state and local funding requirements under Virginia's Standards of Quality. As well, proportionate shares of state and federal resources allocated for students with disabilities and school personnel assigned to special education programs, and for moneys allocated under other federal or state categorical aid programs shall also be directed to public charter schools serving eligible students. (See (F)(2)(iii) and Appendix (F)(2) for additional detail regarding this provision in state law.)
- Section [22.1-212.15](#) provides for the evaluation of charter schools. It requires local school boards to submit annual evaluations of their charter schools to the Board of Education for review.
- Section [22.1-212.16](#) provides immunity for public charter schools, their employees and volunteers to the same extent as all other public schools and their volunteers and employees in Virginia.
- Section [22.1-26](#) provides for joint and regional schools and regional charter schools, including regional residential charter schools for at-risk students. See (F)(3) for additional information regarding this provision in state law.

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.

Public charter schools are operated by agreement with a local school board(s). Public charter schools are subject to the same accountability measures as any other public school within a school division. Consequently, the accountability structure (test scores and other benchmarks) used for state accreditation and for meeting federal benchmarks is the same as that for other public schools. See additional information in (F)(2)(i) for background information on Virginia laws governing public charter schools.

For each of the last five years: 1) the number of charter school applications made in the State; 2) the number of charter school applications approved; 3) the number of charter school applications denied and reasons for the denials (academic, financial, low enrollment, other); and 4) the number of charter schools closed (including charter schools that were not reauthorized to operate).

- *Academic Year 2004-2005* – Number of Charter Schools Operating: 5; Number of Charter School Applications Received: 0; Number of Charter School Applications Approved: 0; Number of Charter School Applications Denied/Reason: 0; Number of Charter Schools Closed/Reason: 2 – Reasons: 1) insufficient funds and 2) need for greater flexibility than allowed by state law.
- *Academic Year 2005-2006* – Number of Charter Schools Operating: 3; Number of Charter School Applications Received: 0; Number of Charter School Applications Approved: 0; Number of Charter School Applications Denied/Reason: 0; Number of Charter Schools Closed/Reason: 0.
- *Academic Year 2006-2007* – Number of Charter Schools Operating: 3; Number of Charter School Applications Received: 2; Number of Charter School Applications Approved: 0; Number of Charter School Applications Denied/Reason: 2 - Reasons: 1) plan for instruction efforts lacked specificity and 2) lack of evidence that curriculum was aligned with state standards.; Number of Charter Schools Closed/Reason: 0.
- *Academic Year 2007-2008* – Number of Charter Schools Operating: 3; Number of Charter School Applications Received:

1; Number of Charter School Applications Approved: 1; Number of Charter School Applications Denied/Reason: 0; Number of Charter Schools Closed/Reason: 0.

- *Academic Year 2008-2009* – Number of Charter Schools Operating: 4; Number of Charter School Applications Received: 2; Number of Charter School Applications Approved: 1; Number of Charter School Applications Denied/Reason: 1 – Reason: lack of specificity and weak curriculum; Number of Charter Schools Closed/Reason: 1 – Reason: lack of sufficient program in achieving academic goals.

Evidence for (F)(2)(iii):

A description of the State’s applicable statutes, regulations, or other relevant legal documents: see additional information in (F)(2)(i) for background information on Virginia laws governing public charter schools.

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.

Funding mechanisms for Virginia charter schools are outlined in [§ 22.1–212.14](#) of state law. The provisions of this section of the state law cover the following: 1) all students enrolled in a public charter school must be included in the average daily membership, which means that the relevant school division will receive funding for any student enrolled in the charter school, in accordance with state and federal funding formulas; 2) local school board(s) may establish contracts outlining funding provisions for a public charter school; 3) the services provided by public charter schools may include: a) food services; b) custodial and maintenance services; c) curriculum, media, and library services; d) warehousing and merchandising; and e) such other services not prohibited by the provisions of this article or state and federal laws; 4) all educational and related fees collected from students shall be credited to the account of the public charter school; 5) the proportionate share of state and federal resources allocated for students with disabilities and school personnel must be directed to public charter schools where such students are enrolled; and 6) public charter schools may accept gifts, donations, or grants of any kind and may spend such funds in accordance with the conditions

prescribed by the donor, provided the conditions are not contrary to the law or to the terms of any agreement with a relevant school board.

Under state law (§ 22.1-212.5:1), a public charter school fund has been established. The fund is intended to be used solely for the purposes of establishing or supporting public charter schools in the Commonwealth that stimulate the development of alternative public education programs. Furthermore, the Virginia Board of Education has established criteria and guidelines for fund distribution.

A public charter school is established upon agreement with one or more local school boards. Because the charter school is under the control of the local school board(s), the relevant school division(s) receive both state and federal funding for every student enrolled in the charter school, just as it does for students enrolled in other schools within the division. Depending upon the terms of the agreement between the school and the local school board(s), state funding would be received for every student reported in the March 31 student record collection administered by the Virginia State Education Agency, in addition to the LEA distributions related to federal programs, including, but not limited to, the federal No Child Left Behind Act, the Carl D. Perkins Act, the Individuals with Disabilities Education Act (IDEA), and the State Fiscal Stabilization Fund (SFSF). Appendix (F)(2) contains a chart with the various state funding components approved by the Virginia Legislature.

Evidence for (F)(2)(iv):

A description of the State's applicable statutes, regulations, or other relevant legal documents. Information on this topic is included in (F)(2)(i).

A description of the statewide facilities supports provided to charter schools, if any. Because charter schools are established by agreement with a local school board and fall under the purview of the local school board, public charter schools in Virginia could be eligible for all of the same facilities supports as other public schools, depending upon the terms of the agreement with the local school board. The state does provide additional support to school divisions for school construction and operating costs in terms of funding from the Virginia Lottery. Virginia Lottery proceeds are dedicated to public education and the balance of the Lottery

proceeds, once a number of instructional programs are funded, are allocated on a per pupil basis directly to school divisions for school construction and operating costs. The SEA also provides the following services to school divisions: 1) school facility planning; 2) school building guidelines; 3) energy efficiency and high performance school buildings; 4) school construction cost data; 5) school construction project submission; 6) facility conferences and training; 7) school safety; 8) playground safety; and 9) school facility studies.

Evidence for (F)(2)(v):

A description of how the State enables LEAs to operate innovative, autonomous public schools other than charter schools.

As prescribed in the USED package, *innovative, autonomous public schools* means open enrollment public schools that, in return for increased accountability for student achievement (as defined in this notice), have the flexibility and authority to define their instructional models and associated curriculum; select and replace staff; implement new structures and formats for the school day or year; and control their budgets. The Constitution of Virginia, [Article VIII § 7](#), stipulates that the Board of Education (the “SEA”) is responsible for the overall supervision of the system of public schools. However, the responsibility for the operation of the schools in the various school divisions (“districts”) is vested in local school boards in those divisions. Thus, LEAs have wide latitude to establish innovative programs and schools without interference from the SEA unless waivers to certain statutes and regulations are necessary for their operation. [Section 22.1-79.1](#) of the *Code of Virginia* allows local school boards to secure approval of waivers for experimental, innovative, or year-round programs offered in one or more elementary, middle, or high schools. Virginia currently has 17 experimental, innovative, or year-round programs in five school divisions throughout the state. Generally, the year-round schools operate on quarterly instructional sessions followed by optional intersessions. One approved high school allows students to have an extended school year with two optional summer school sessions. One approved middle school opens early to provide two additional weeks of instruction prior to state assessments. During the intersessions, the schools offer both remedial instruction and enrichment courses. Most of the schools with year-round calendars share one or more of the following characteristics: high populations of minority or limited English proficient students, high percentages of students on free or

reduced lunch, or histories of low performance on state assessments. The year-round schools report the following: 1) all of the schools are taking steps to achieve or maintain full accreditation and to meet federal benchmarks; 2) most of these schools are making progress closing the achievement gap; 3) there has been improvement in subgroup academic achievement in most of these schools; 4) school divisions report that students who participate in these programs are better prepared for the next grade; 5) good student attendance remains consistent in these schools; 6) discipline does not appear to be a significant problem in these schools; and 7) school staff and teachers, parents, and the community are supportive of these schools.

In addition, the Virginia Governor's Schools provide some of the state's most able students academically and artistically challenging programs beyond those offered in their home schools. The Governor's Schools include summer residential, summer regional, and academic-year programs serving more than 7,500 gifted students. The Governor's Schools are established as "joint schools" by [§ 22.1-26](#) of the *Code of Virginia*. As such, they are typically managed by a regional governing board of representatives from the school boards of each participating division. While these processes differ from school to school, all applicants are assessed using multiple criteria by trained evaluators who have experience in gifted education and the focus area of the specific Academic-Year Governor's School.

Other joint schools operated by LEAs are regional career and technical centers which may serve two or more divisions. Such centers may also have cooperative working agreements with local community colleges and industries. Most recently, Virginia was one of six states to receive a \$500,000 grant from the National Governors Association (NGA) Center for Best Practices to establish Science, Technology, Engineering, and Mathematics (STEM) academies. The STEM academies are intended to develop model programs in career and technical education (CTE) that will expand options for the general population of students to acquire STEM literacy and other critical knowledge, skills and credentials for work force preparation. The academies are partnerships of business and industry, public schools, community colleges and universities and local government, including regional work force and economic development officials. There are currently eight STEM academies. They are located in all regions of the state and specialize in areas such as: 1) agriculture; 2) biotechnology; 3) manufacturing; 4) engineering; 5) information technology; 6) health

sciences; and 7) automotive technology. More information on these academies is provided in Section (B)(3), and greater details can be found at: http://www.doe.virginia.gov/VDOE/Instruction/ct_academies/academies/index.html.

In addition to the eight STEM academies, there are 18 Academic Year Governor's schools, 10 regional career and technical centers, and 19 regional special education centers. All of these academies, schools, and centers represent consortiums of school divisions offering specialized programs and services to public school students.