

**(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*

Wisconsin has established a policy environment that fosters the proliferation of high-quality charter schools and innovative educational programs throughout the state. Wisconsin has made a continuous effort to create favorable conditions for high-quality charter schools since passing its first charter school law. Wisconsin charter schools encourage innovation and creativity in their approach to providing educational options for parents and their children and are an innovative part of the State’s overall public education efforts to close the achievement gaps between economically disadvantaged students, students of color, and their peers. The state’s charter schools also serve to increase the

diversity of learning experiences, provide testing grounds for new curricula and professional development training, and improve science, technology, engineering, and math (STEM) opportunities statewide.

*The extent to which—*

*(F)(2)(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;*

### **Charter School Laws**

The Wisconsin Charter Program was established in 1993 and empowered 10 school districts to establish up to two charter schools each, for a total of 20 statewide (1993 Wis. Act 16, § 2296). Thirteen charter schools were created under this law. In 1995, revisions to the first charter school law granted chartering authority to all school boards statewide and eliminated the cap on the total number of charter schools. (1995 Wis. Act 27, § 3983m). In 1997, the State extended chartering authority in Milwaukee to the Chancellor of the University of Wisconsin–Milwaukee (UW–Milwaukee), to the Milwaukee Area Technical College (MATC), and to the Common Council of the City of Milwaukee (1997 Wis. Act 27, § 2830, 2835).

Charter school students in Wisconsin perform as well academically as traditional public school students: 82 percent of charter school students scored proficient or advanced in reading and 73 percent scored proficient or advanced in math on the most recent statewide assessments. The WDPI has made significant efforts, and secured substantial federal funding to support the financial viability of charter schools. When Wisconsin’s previous four-year federal grant ended in 2008, the State had exceeded its goal of ensuring at least 80 percent of the non-instrumentality and independent charter schools remained financially viable after their third year of operations. The final total of 83 percent meant that five of six non-instrumentality or independent charter schools receiving grant funds met their financial and management goals. This successful endeavor helped Wisconsin secure another four-year \$86.2 million federal charter grant to expand and sustain this crucial reform.

In 1998, the State made additional changes to the law, allowing school districts to contract with regional Cooperative Educational Service Agencies (CESAs) to operate charter schools located within the CESA region (1997 Wis. Act 238, §6). Another change required that a school board receiving a petition to establish a charter school or to convert a nonsectarian private school to a charter school must hold a public hearing on the matter and must consider the fiscal impact of the charter’s establishment (1997 Wis. Act 238, §4m). A final change enacted in 1998 requires that a school district in which a charter school is located determine whether the charter school is an instrumentality of the school district (1997 Wis. Act 238, §8). If the board deems it an instrumentality, the district employs all personnel for the charter school. If the board determines the charter school is not an instrumentality, the personnel are considered employees of the charter school. The word “instrumentality” is not defined in the charter school law and has had limited use in Wisconsin. The word was initially included in the charter law to ensure continuing eligibility of charter school teachers in the Wisconsin Retirement System. Instrumentality as used in the retirement law defines the employer, making it clear that the employing school district is the entity responsible for worker’s compensation, insurance, unemployment compensation, employee insurance and benefits, liability for acts of school staff members, and so forth.

A charter school in Milwaukee that receives its charter from the Milwaukee Common Council, UW–Milwaukee, or MATC is not an instrumentality of the Milwaukee Public Schools (MPS), and the MPS school board may not employ any personnel for the charter school (1997 Wis. Act. 27, § 2842). However, if the Milwaukee Common Council contracts with an individual or group operating a charter school for profit, then that charter school is an instrumentality of the Milwaukee Public Schools. The MPS Board of Education will then employ all personnel for the charter school. If the Chancellor of University of Wisconsin–Parkside (UW-Parkside) contracts for the establishment of a charter school, the Board of Regents of the University of Wisconsin System may employ instructional staff for the charter school (2001 Wis. Act 16, §2725t).

The changes that occurred in the 1999–2001 biennial budget revolved around Milwaukee per-pupil aids and statewide assessments (1999 Wisconsin Act 9, §§3090, 3090m). In the 2001–2003 budget bill, limited chartering authority was granted to UW–Parkside allowing it to establish a single charter school (2001 Wisconsin Act 16, §2725md). Changes that occurred in 2004 exempted a specific charter school sponsored by UW–Milwaukee (Woodlands Academy) from some residency requirements (2003 Wisconsin Act 156). Additional changes

in 2005 resulted in the elimination of previous school year attendance requirements for students residing in Milwaukee (2005 Wisconsin Act 25, § 1883f). In 2008, state law was further amended to clarify requirements for virtual charter schools (2007 Wisconsin Act 222).

Most recently, the State Legislature passed and the governor signed 2009 Wisconsin Act 61, effective in November 2009. The new law directs all charter school authorizers to consider the principles and standards for quality charter schools established by the National Association of Charter School Authorizers when establishing or contracting for the establishment of a charter school. The Wisconsin Charter School Association considers this measure an important step towards ensuring that charter school contracts will be comprehensive and clearly define the autonomy of the charter school governance board. The state laws governing Wisconsin's charter schools can be found in Wis. Stat. § 118.40.

There is no limit in State law or regulation concerning the number of charter schools that can be authorized or the number of children who can be served by such schools in the state (except virtual charter schools, for which non-resident enrollment is limited under Wis. Stat. § 118.40(8)(h)1). There are currently 79 local school boards that have authorized at least one charter school. Charter schools must employ Wisconsin Department of Public Instruction (WDPI) certified staff and participate in the state assessment system. From the 1997-98 school year to the 2009-10 school year, Wisconsin charter schools grew in number from 17 to 206, and they serve children in all corners of the State (See Appendix 28: Wisconsin Map of Charter Schools). In the 2009-2010 school year, 206 charter schools are serving approximately 35,000 students. These 206 charter schools are comprised of 169 instrumentality charters authorized by school boards, 20 non-instrumentality charters authorized by school boards, and 17 non-instrumentality charters authorized by the University of Wisconsin-Milwaukee, the Common Council of the City of Milwaukee, and the University of Wisconsin-Parkside.

In addition to monitoring which charter schools in the state are instrumentality and non-instrumentality charter schools, the State surveys schools to determine their focus, or purpose. Some service at-risk student populations, while others report a general or liberal arts orientation, and still more identify themselves as project-based, technological/vocational, environmental, Montessori, virtual, arts/culture, mathematics/science, language, early learning, or gifted/talented schools. A breakdown of charter schools according to their curricular focus is provided in Appendix 29: 2009-2010 Charter Schools by Type.

*(F)(2)(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;*

### **Wisconsin Charter School Statutes**

Pursuant to Wisconsin law, a charter may be granted for any term not exceeding five school years and may be renewed for additional terms with each term not exceeding five years (Wis. Stat. § 118.40(3)(b)). School boards are the primary charter school authorizers in Wis. Stat. §. 118.40 (1m), (2), and (2m). State statutes concerning charter schools contain a list of required items that must be included in a petition to form a charter school (Wis. Stat. § 118.40(1m)). These items are designed to ensure that submitted petitions are of high quality and to provide guidance to authorizers during the approval process. Among other things, the charter petition must include: a description of the school’s educational program; the methods by which the school will help students achieve educational goals as well as the method by which student progress will be assessed; and, the governance structure of the school including methods of ensuring parental involvement. All of the provisions that are required in the charter petition must be included in the final contract that is established between the authorizer and the person who seeks to establish the school (Wis. Stat. § 118.40(2r)(b)2).

There is also a statutorily required process (a public hearing within 30 days to establish the level of support from parents and employees) and timeline of approval (30 days from the date of the public hearing) (Wis. Stat. § 118.40(2) and (2m)). The Milwaukee Common Council, UW–Milwaukee, Milwaukee Area Technical College, and UW–Parkside also have chartering authority (Wis. Stat. § 118.40(2r)), and the resultant charters and contracts must contain the same information that is required in a petition to a public school authorizer, (Wis. Stat. § 118.40(2r)(b)). With the exception of UW–Parkside, each of the other non-school board authorizers may establish, sponsor, and operate an unlimited number of charter schools in Milwaukee. The chartering entity reviews submitted petitions or proposals and reserves complete discretion in granting or denying a charter school. Under State law, all chartering entities must give preference to an applicant who would establish a charter school to serve an at-risk student population (Wis. Stat. § 118.40(3)(d)). If the Milwaukee school board denies a petition, the denied petitioner may appeal to the Wisconsin Department of Public Instruction (WDPI) (Wis. Stat. § 118.40(2)(c)).

Regardless of authorizer, all charter school contracts must clearly describe the educational program of the school; how the school will achieve a racial and ethnic balance among its pupils that reflects the balance in the school district as a whole; the methods the school will use to enable the students to attain the educational goals and measure pupil progress toward attaining those goals; the methods the school will use to ensure parental involvement; the procedures the school will use to ensure the health and safety of its pupils; the procedures to discipline students; the qualifications of people employed at the school; and the manner in which the school will conduct annual audits of financial and programmatic operations. All of these things (including the annual audits) must be included in the petition and the contract. (Wis. Stat. §§ 118.40(1m)(b), 118.40(2r)(b)2). As of November 2009, all charter school authorizers must consider the principles and standards for quality charter schools established by the National Association of Charter School Authorizers when establishing or contracting for the establishment of a charter school (2009 Wis. Act 61, creating Wis. Stat. § 118.40(3)(e)).

WDPI will continue to support high-quality charter school contracts through its administration of the competitive federal charter schools discretionary grant program. Previously, Wisconsin was the recipient of a federal Public Charter Schools Program Grant for approximately \$52 million for the three-year project period from 2005-2008. For the entire four-year period of the federal grant from August 1, 2005, through the extension year ending on July 31, 2009, WDPI awarded 72 planning grants, 100 initial implementation grants, 115 implementation renewal grants, 21 dissemination grants and 19 dissemination renewal grants. At the end of the four-year project, 91 percent of charter school teachers met the highly qualified standards of the Elementary and Secondary Education Act (ESEA). The State Superintendent's advisory council on charter schools met in October 2008, and May 2009. The council was created to develop and support exemplary charter schools to increase student achievement and educational options for parents and children. The 22-member council continues to help ensure strong, accountable charter schools while also providing support related to a wide range of programs, services, and educational strategies to strengthen existing charter school programs and establish new high-quality charter schools. Each year of the federal grant, the WDPI co-sponsored the annual charter schools state conference with the Wisconsin Charter Schools Association.

Hundreds of parents, students, teachers, authorizers and charter school operators attend this two-day conference. WDPI staff present each year on the federal and state laws governing charter schools and the federal grant application process. During the last year of the project,

WDPI Charter Schools Program staff worked frequently with the Green Charter Schools Network to plan and conduct a Green Charter Schools Conference in Ashland, Wisconsin, at Northland College. Staff also worked with and visited many new charter schools to help them launch project-based learning (PBL) curriculum and staff development projects. The (PBL) curriculum has been a success in the state.

Charter schools are also held strictly accountable. A charter may be revoked if the authorizer finds that the charter school violated its contract or failed to comply with generally accepted accounting standards of fiscal management, or if its pupils failed to make sufficient progress in attaining educational goals (Wis. Stat. § 118.40(5)).

WDPI annually surveys school districts to determine the number of first level and second level decisions made regarding the number of charter school “applications” in the state. First level decisions are defined as a concept approval for the purposes of further study, participation in a consortium or a signed planning grant application for federal charter school funds. Second level decisions are defined as an approved charter contract, a written agreement to participate in a consortium or a signature on an implementation grant application for federal charter school funds. The most recent information available is from 2003-04 through 2007-08 and is presented in Table 51 below. Each of the annual surveys also includes the applicable reasons for approval and denial. Reasons for denial include: (a) declining enrollment; (b) financial reasons; (c) educational program not unique or innovative; (d) lack of teacher, parent or community support; (e) liability of school district; (f) school district withdrew from a multi-district consortium; and (g) other.

**Table 51 - Number of Charter School Applications Made, Approved, & Denied**

	<b>2003-04</b>	<b>2004-05</b>	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>
<b>First Level Decisions</b>					
Approved	72	98	106	100	61
Denied	2	4	9	12	10
Total	74	102	115	112	71
<b>Second Level Decisions</b>					
Approved	47	80	76	86	57
Denied	1	3	0	6	1
Total	48	83	76	92	58

Over the past five years, the state’s authorizers have opened 143 charter schools and closed 67 charter schools, with some of these closures occurring mid-contract and others as non-renewals. Forty of the closures occurred during the past two years – indicating that the state’s authorizers, with support from WDPI, are increasingly holding charter schools accountable and shutting down ineffective schools. These numbers are presented by year in Table 52 below.

**Table 52 - Number of Charter Schools Opened, Closed, & Operating**

	<b>2004-05</b>	<b>2005-06</b>	<b>2006-07</b>	<b>2007-08</b>	<b>2008-09</b>	<b>2009-10</b>
Opened	36	27	18	52	10	4
Closed	7	10	10	21	19	TBD
Operating	162	182	190	232	221	206

Although Wisconsin does not systematically report reasons for charter school closures, it is clear from research and conversations that the following are some common reasons charter schools have closed: students do not choose to attend the charter school and thus there is insufficient student enrollment; the authorizer closes the charter school because the school has not met parts of the contract, including

adequate student academic progress; the charter school governance board is not properly operating and the educational offerings of the charter school become a school district program or the charter school changes to an alternative school run by the school district; financial reasons, such as the lack of financial capital available to the charter school; and school district declining student enrollments that result in less operating revenue for the school district and the need to reduce expenditures, such as teacher lay-offs resulting in charter school closures. Of the nineteen charter school closed last year, the Wisconsin Charter School Association reports that six were closed for “poor performance.” All of these six schools were non-instrumentality charter schools chartered by Milwaukee Public Schools.

*(F)(2)(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;*

### **Equitable Funding for Charter Schools**

Most of the money that funds K–12 education in Wisconsin comes from State funds raised primarily through state income and sales taxes. The remaining funds come from other sources, including property taxes, federal aid, and local fees. Wisconsin statutes do not treat district authorized charter schools any differently than traditional public schools in how they are funded.

In schools chartered by a school district, the school district counts charter school students on its regular count for state and federal aid purposes, but the contract or charter determines the amount of funding for the charter school each year. In some cases, the district’s per-pupil expenditure (including local, state, and federal revenues) follows the student as he or she moves from a regular public school to a charter school. In other cases, the charter school may function with less money per pupil, though the district will have received the same amount of aid as had the student been at a traditional public school. This diminished funding arrangement may occur when a charter school shares an existing district facility, shares management costs with the school district, or participates in district services such as co-curricular activities, special education, psychological services, and/or food service.

In schools chartered by the Common Council of the City of Milwaukee, UW–Milwaukee, Milwaukee Area Technical College, or UW–Parkside, State law determines the State school aids received. These non–school board sponsored independent charter schools are funded from a proportionate reduction in State school aids from all 440 school districts. For the 2009-2010 school year, the amount of State school

aids is \$7,775 per pupil for the independent charter schools and is paid directly to the operator of the charter schools. The total amount is based on the number of eligible students attending the charter school. Several charter schools have received grants and gifts from community, state, and national organizations, foundations, businesses, and private individuals. These schools also receive additional federal monies under the ESEA's Title 1 for economically disadvantaged students, federal monies under Individuals with Disabilities Education Act (IDEA) for special education students, and additional State aids for eligible special education program costs. These schools should therefore receive their commensurate share of state and federal revenues. The Center for Education Reform estimates that Wisconsin funds its charter schools at a slightly higher rate than most other states. According to the Center for Education Reform, only 10 other states fund their charters at a higher rate than Wisconsin. It is important to note, since school-level data are not generally available for school board authorized instrumentality charter schools, these estimates tend to be based on survey data and the data that is available for the non-school board independent charter schools in Milwaukee. Therefore, Wisconsin's rate is probably higher than reported. Finally, independent charter schools only comprise 8 percent of the charter schools in Wisconsin.

92percent of charter schools in the state are authorized by a school district. The district receives state and federal aids for qualified students in these charter schools. Therefore, the district's per pupil revenue does not change. The vast majority of charter schools could be said to be receiving their commensurate share of state and federal resources. However, the district and the charter school negotiate the specific level of funding.

*(F)(2)(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*

### **Equitable Access to Funding for Charter Schools**

The State of Wisconsin treats charter schools exactly the same as traditional public schools regarding facility-related requirements. Each is held to the same safe and healthful facilities requirements. Under the Wisconsin school financing system, a dollar spent on a school facility is aided exactly the same as a dollar spent on a teacher's salary. The State funds a student enrolled in charter school the same as it funds a

student that chooses to enroll in a traditional public school. Each charter school negotiates the level of facility funding it requires from its authorizer. The State of Wisconsin does not provide separate facilities funds for traditional public schools or for public charter schools.

*(F)(2)(v): The State enables LEAs to operate innovative, autonomous public schools (as defined in this notice) other than charter schools.*

State law allows maximum flexibility for school boards to create and operate innovative and autonomous public schools and educational programs. Twenty-seven school boards have created and operate virtual charter schools serving over 4,000 students in the 2009-10 school year. In addition, dozens of school boards offer students innovative methods of accessing online education in a variety of school environments. The Wisconsin Department of Public Instruction (WDPI) has entered into a memorandum of understanding with the Cooperative Educational Service Agency 9 to operate a statewide Web Academy that offers online curriculum to all 425 school districts. Furthermore, Wis. Stat. § 118.38 allows school boards to apply for a waiver from the WDPI to be exempt from any education related district requirement except those that concern the health and safety of pupils, pupil discrimination, the assessment program, teacher licensure, pupil records, data collection, and financial audits.