Charter Schools

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What is a public charter school?

Chapter 241, Laws of 2016 (E2SSB 6194) defines a "charter school" or "charter public school" as "a public school that is established in accordance with this chapter, governed by a charter school board, and operated according to the terms of a charter school contract executed under this chapter." A charter contract is "a fixed-term, renewable contract between a charter school and an authorizer that specifies the roles, powers, responsibilities, and performance expectations for each party to the contract. The charter contract sets forth the academic and operational performance measures by which the charter school will be evaluated and the administrative relationship between the authorizer and the school. More generically, the National Association of Public Charter Schools defines a charter school as "unique public schools that are allowed the freedom to be more innovative while being held accountable for advancing student achievement. Because they are public schools, they are:

- Open to all children;
- Do not charge tuition; and
- Do not have special entrance requirements."
How many states authorize the establishment of public charter schools?

Forty-three states and the District of Columbia authorize the establishment of charter public schools. Washington was the 42nd state to enact a law authorizing public charter schools. Minnesota was the first, in 1991. Alabama was the last, in 2015. The seven states that do not authorize the establishment of public charter schools are Montana, North Dakota, South Dakota, Nebraska, Kentucky, West Virginia and Vermont.

When and how was Washington's charter school law enacted?

Washington's charter school law, Chapter 28A.710 RCW, was originally enacted by Initiative Measure No. 1240 and approved by the voters at the November 2012 general election. The Washington Supreme Court, in League of Women Voters V. State of Washington, issued a decision on September 4, 2015, that invalidated the law in its entirety. The 2016 Legislature passed E2SSB 6194, An act relating to public schools that are not common schools. E2SSB 6194 re-enacted the prior charter school law with amendments. The bill became law as Chapter 241, Laws of 2016, without the governor's signature.

What are some of the changes made to the state's charter school law by Chapter 241, Laws of 2016 (E2SSB 6194)?

- Clarifies that charter schools are public schools but not common schools, and that a charter public school is operated separately from the common school system as an alternative to traditional common schools.
- Provides that charter public schools are supported by appropriation from the Washington Opportunity Pathways Account, a dedicated account funded from the state lottery.
- Eliminates the eligibility of charter schools for local levy revenue.
- Eliminates conversion schools (traditional public schools that convert to charter schools).
- Changes the membership of and appointments to the Washington State Charter School Commission.

Who can apply for a charter to establish and operate a charter school?

Under Washington law, a charter applicant must be a nonprofit corporation. The nonprofit corporation must be either a public benefit corporation as defined in RCW 24.03.490 or a nonprofit corporation as defined in RCW 24.03.005 that has applied for tax exempt status under Sec. 501(c)(3) of the U.S. Internal Revenue Service Code.
What is a charter school authorizer?

An authorizer is an entity with the powers and duties to review, approve or reject charter school applications; enter into, renew or revoke charter contracts with nonprofit corporations seeking to operate charter schools, and oversee the schools it has authorized. Eligible authorizers in Washington are:

- School district boards of directors that have been approved as authorizers by the State Board of Education, for charter schools located within the school district’s own boundaries;
- The Washington State Charter School Commission, an independent state agency established for the sole purpose of authorizing charter schools, for charter schools located anywhere in the state.

What is the process for a school district to become a charter authorizer?

A school district wishing to become a charter authorizer must submit an application to the State Board of Education meeting the requirements of RCW 28A.710.090 and applicable SBE rules. If its application is approved, the district's board of directors then must execute an authorizing contract with the SBE, for an initial term of six years, specifying its agreement to serve as an authorizer in accordance with the expectations of the state's charter school law and any additional performance terms based on the district's plan for chartering.

What school districts are currently authorizers of charter schools?

Spokane Public Schools is the only school district to have been approved as a charter authorizer to date. The SBE approved Spokane's authorizer application in September 2013 and executed an authorizing contract with Spokane in December 2013. Spokane has authorized two charter schools to operate in the district, both of which opened in the fall of 2015.

Can a charter school be religious or sectarian?

No. RCW 28A.710.010 specifically provides that the nonprofit corporation may not be a sectarian or religious organization and must meet all of the requirements for a public benefit corporation as defined in law before it may receive any funding under the charter school law. RCW 28A.710.040 further provides that no charter school may engage in any sectarian practices in its educational program, admissions policies, employment policies, or operations.
Who can enroll in a charter school?

RCW 28A.710.020 provides that a charter school is a public school open to all children free of charge. A charter school may not limit admission on any basis other than age group, grade level, or capacity and must enroll all students who apply within these bases. RCW 28A.710.150 provides that an authorizer may not restrict admission to a charter school to students residing within the boundaries of the district in which the school is located.

Is a charter school required to serve children with disabilities, English language learners, and other student with special needs?

Yes. RCW 28A.710.020 provides that a charter school functions as a local education agency (LEA, i.e., a school district) under applicable federal laws and regulations and is responsible for meeting the requirements of local education agencies and public schools under those federal laws and regulations, including the Individuals with Disabilities Education Improvement (IDEA) act, the federal Educational Rights and Privacy Act, the McKinney-Vento Homeless Assistance Act of 1987, and the Elementary and Secondary Education Act (ESEA), currently known as the Every Student Succeeds Act (ESSA). A charter school may not discriminate in its admissions policies and practices against students with special needs. In addition, RCW 28A.710.130 provides that a charter school application must describe thoroughly the school's plans for identifying, successfully serving, and complying with applicable laws and regulations regarding students with disabilities, students who are limited English proficient, students who are struggling academically, and highly capable students.

Can a charter school charge tuition?

No. RCW 28A.710.050 provides that a charter school may not charge tuition.

What are the State Board of Education's duties for charter schools?

Chapter 28A.710 RCW assigns duties to the SBE for administration and oversight, including:

- Serve, through its chair or the chair's designee, on the Charter School Commission.
- Include all charter schools in its public school system oversight, including accountability measures, to the same extent as other public schools.
- Screen, approve, contract with, and oversee the performance and effectiveness of school districts that authorize charter schools within their boundaries.
• Set an annual timeline for submission of charter applications to all authorizers and approval or denial by the authorizers.
  Establish a statewide formula for an authorizer oversight fee, deducted from the state allocation to the charter school and transmitted to the authorizer for the costs of carrying out its duties.
• Certify charter school applications approved by CSC or a district authorizer between approval and contract ratification (to ensure "room" within the 40 maximum allowed by law).
• Issue an annual charter school report, in collaboration with the Charter School Commission, on the performance of the state's charter schools for the preceding year.
• Recommend, after five years, whether the Legislature should authorize the establishment of additional charter schools.
  Review and determine whether to grant petitions for charter contract transfers.

How does SBE's role for charter schools differ from that of the Washington State Charter School Commission?

The State Board of Education and Washington State Charter School Commission are both independent state agencies. The State Board of Education does not authorize charter school, whereas the Commission does; its mission (per 28A.710.070(1-2) is to authorize high quality charter public schools throughout the state, especially schools that are designed to expand opportunities for at-risk students, and to ensure the highest standards of accountability and oversight for these schools and to administer the charter schools it authorizes in the same manner as a school district board of directors administers other schools (through its management, supervision, and enforcement of the charter contracts and pursuant to applicable law).

How many charter schools may be established?

A maximum of forty charter schools may be established over a five-year period. No more than eight may be established in any year within the five-year period. If fewer than eight are established in any year, then additional schools equal to the difference between the number established in that year and eight may be established in the following year. The five-year period begins with the first year in which there have been charter schools operating for a full school year (2016-2017). The SBE must certify charter school applications approved by CSC or a district authorizer between approval and contract ratification. Within ten days of an action to approve or deny a charter application, all authorizers must provide notification of the action to the SBE. If the SBE receives notification on the same day of approval of charters for operation in any single year that would cause the annual limit on the number of charter schools that be established for that year to be exceeded, the SBE will certify those charters for implementation in that year through the use of a lottery, and certify the remaining school or schools for implementation in a subsequent year.
Are the limits on the maximum number of charter schools differentiated between those authorized by school districts and those authorized by the Washington Charter School Commission?
No. The limits apply to the total number of charter schools that may be established, regardless of whether the authorizer is a school district or the Commission.

Can a school district authorize a charter school located in another school district?
No. RCW 28A.710.080 specifies that a charter school authorized by a school district must be located within that district.

If a school district has been approved as an authorizer, is a non-profit organization that wishes to establish a charter school located in the district required to submit its charter application to the local school board rather than to the Commission?
No. The nonprofit organization can choose to submit its charter application to either to the local school board, if the district has been approved as an authorizer, or to the Commission.

If a charter applicant is denied by one authorizer, can it apply to another?
Not in the same application cycle. RCW 28A.710.130 provides that applicants may submit a proposal for a particular charter public school to no more than one authorizer at a time.

Can a charter school board contract with a for-profit organization for management and operation of the school?
No. RCW 28A.710.030 stipulates that "management operation" of the school may only be with nonprofit organizations, and provides that a charter school board may enter into contracts with any school district, educational service district or other public or private entity the provision of real property, equipment, goods, supplies and services.

Can a charter school board levy taxes and issue bonds supported by taxes?
No. RCW 28A.710.030 prohibits a charter school board from levying taxes or issuing tax-supported bonds.
Can a private school convert to a charter public school?

Not directly. A private school that wishes to become a public charter school must form a 501(c)(3) non-profit corporation and apply to an authorizer to establish a charter school, following all the same requirements and procedures as any other charter applicant. If approved by an authorizer, it would then be subject to the terms of the charter contract and to any state laws applicable to any other charter public school.

How is a charter school governed?

A charter school is governed by an independent charter school board according to state nonprofit laws, IRS regulations, and the terms of a charter contract. The duty of the charter school board is to manage and operate the charter school and carry out the terms of its charter contract, with powers including but not limited to hiring, managing and discharging any charter school employee in accordance with the charter school law and the school's charter contract, receiving and disbursing funds for the purpose of the charter school, and entering into contracts for real property, goods, and services.

How are the members of a charter school board selected?

Washington's charter school law does not specify how a charter school board is selected or the composition of its membership. That is determined by the non-profit corporation operating a charter public school. Among the required elements of a charter application is background information on the proposed members of the charter school board.

Is a charter school required to provide a program of basic education?

Yes. RCW 28A.710.040 provides that a charter school must provide a program of basic education that meets the goals in RCW 28A.150.210 (Basic education ?Goals of school districts), including instruction in the state's essential academic learning requirements. RCW 28A.150.200 defines "program of basic education"as that "deemed by the legislature to comply with the requirements of Article IX, section 1 of the state Constitution, which states that ?t is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex,and is adopted pursuant to Article IX, section 2 of the state Constitution, which states that ?he legislature shall provide for a general and uniform system of public schools.?This basic education law further provides, in part, that the legislature has defined the program of basic education to include The instructional program of basic education the minimum components of which are described in RCW 28A.150.220""(Basic education ?Minimum Instructional Requirements ?Rules). "

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Are charter schools required to administer state assessments?
Yes. RCW 28A.710.040 requires charter schools to participate in the statewide student assessment system as developed under RCW 28A.66.070.

Are teachers employed by a charter school required to be certificated?
Yes. RCW 28A.710.040 provides that a charter school must employ certificated staff as required in RCW 28A.410.025. Like other public schools, it may however, hire noncertificated instructional staff of unusual competence and in exceptional cases as specified in RCW 28A.150.203(7).

What are some of the other local, state or federal laws that apply to charter schools?
RCW 28A.710.040 provides that a charter school must:

In addition, a charter school must contract for an independent performance audit of the school to be conducted the second year immediately following the school's first full school year of operation, and every three years thereafter (RCW 28A.710.030(2).

- Comply with local, state, and federal health, safety, parents' rights, civil rights, and nondiscrimination laws applicable to school districts and to the same extent as school districts.
- Comply with employee record check requirements in RCW 28A.400.303.
- Comply with the annual performance report under RCW 28A.655.110.
- Be subject to the performance improvement goals adopted by the State Board of Education under RCW 28A.305.130.
- Adhere to Generally Accepted Accounting Principles and be subject to financial examinations and audits as determined by the State Auditor, including annual audits for legal and fiscal compliance.

Is a charter public school subject to the same accountability requirements as other public schools?
RCW 28A.710.040 provides that charter schools must participate in the statewide assessment system developed by the Superintendent of Public Instruction under the state law on academic achievement and accountability. It also provides that charter schools are subject to the supervision of the Superintendent of Public Instruction and the State Board of Education, including accountability other public schools, except as provided in the charter school law.
To what additional accountability requirements are charter schools subject?

Charter schools have their own, distinct accountability requirements that do not apply to other public schools. A charter school is subject to accountability requirements set in its charter contract, which must include a performance framework setting out the academic and operational indicators, measures and metrics that will guide the authorizer's evaluation of the school over the term of the contract. The performance framework must include, at a minimum, student academic proficiency, student academic growth, achievement gaps in both proficiency and growth between major student subgroup, attendance, recurrent enrollment from year to year, high school graduation rates and student postsecondary readiness. (RCW 28A.710.170). A charter contract may not be renewed, when its five-year term is up, if the charter school's performance falls in the bottom quartile of all public schools in the Washington Achievement Index developed by the State Board of Education, except if the school demonstrates exceptional circumstances that the authorizer accepts as justifying renewal.

Can a charter school be closed for unsatisfactory performance?

Yes. A charter contract may be revoked at any time or not renewed at the end of the contract term if the authorizer determines that the charter school:

Authorizers must follow procedures set out in RCW 28A.710.200 in revoking or declining to renew a charter contract.

- Committed a substantial and material violation of the charter contract or any of the requirements of the charter school law;
- Failed to make sufficient progress toward the performance expectations in the charter contract;
- Failed to meet generally accepted standards of fiscal management; or
- Substantially violated any material provision of law from which the charter school is not exempt.

How are charter schools funded for operations?

Chapter 241, Laws of 2016 declares a legislative intent that state funding for charter schools be distributed equitably with state funding for other public schools. This includes distributions for

- General Apportionment, using the same funding ratios as for school districts under RCW 28A.150.260;
- Categorical programs including Learning Assistance, Transitional Bilingual Education, Special Education, Highly Capable, and Pupil Transportation.
Charter schools must report student enrollment in the same manner as other public schools, and must comply with applicable reporting requirements to receive state or federal funding that is distributed based on student characteristics. Chapter 214, Laws of 2016 provides that the legislature shall appropriate from the Washington Opportunity Pathways Account for the current use of charter public schools amounts sufficient to fund them as provided above. A charter school is eligible to apply for state grants on the same basis as a school district. Specific questions about charter school funding should be directed to the Financial Services and Apportionment office in the Office of Superintendent of Public Instruction, which is responsible for distributions of state funding to public schools.

**How are charter schools funded for facilities?**

RCW 28A.710.230, as amended by Chapter 241, Laws of 2016, provides that charter schools are eligible for state funding for school construction. It does not specify a specific source or manner for state funding for school construction or modernization. It does specify that any such appropriations may not be made from the Common School Construction Fund. The law prohibits charter schools from levying taxes or issuing tax-supported bonds, which is a primary means by which districts fund school facilities.

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