

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 3356

STATE OF NEW JERSEY
214th LEGISLATURE

ADOPTED MAY 23, 2011

Sponsored by:

Assemblyman ALBERT COUTINHO

District 29 (Essex and Union)

Assemblywoman MILA M. JASEY

District 27 (Essex)

SYNOPSIS

Modifies various aspects of charter school program including student enrollment procedures, revocation of charter, monitoring of charter schools, and collaboration between school districts and charter schools.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Education Committee.



1 AN ACT concerning charter schools and amending and
2 supplementing P.L.1995, c.426.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. (New section) The Legislature finds and declares that based
8 on experience since the enactment of the “Charter School Program
9 Act of 1995,” P.L.1995, c.426, which established a charter school
10 program in New Jersey, it is necessary to establish additional
11 standards and safeguards to ensure that the charter school program:
12 is operated in an effective and accountable manner; provides
13 educational programs to address the special needs of particular
14 students or subgroups of students; and contributes to the overall
15 improvement of public education for all students served by charter
16 schools.

17

18 2. Section 8 of P.L.1995, c.426 (C.18A:36A-8) is amended to
19 read as follows:

20 8. a. Preference for enrollment in a charter school shall be
21 given to students who reside in the [school district in which the
22 charter school is located. If there are more applications to enroll in
23 the charter school than there are spaces available, the] charter
24 school district of residence as approved by the commissioner. A
25 charter school shall select students to attend [using a random
26 selection process] through a lottery. The name of each student who
27 is enrolled in the charter school district of residence shall be placed
28 in the lottery. In the event that the parents or guardians of a student
29 who is selected for admission to the charter school through the
30 lottery determine not to enroll the student in the charter school, then
31 the charter school shall fill that enrollment space with a student
32 from the waiting list maintained pursuant to subsection g. of this
33 section.

34 A charter school shall not charge tuition to students [who reside
35 in the district].

36 b. A charter school shall allow any student who was enrolled in
37 the school in the immediately preceding school year to enroll in the
38 charter school in the appropriate grade unless the appropriate grade
39 is not offered at the charter school.

40 c. A charter school may give enrollment priority to a sibling of
41 a student enrolled in the charter school.

42 d. If available space permits, a charter school may enroll non-
43 resident students. The terms and condition of the enrollment shall

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 be outlined in the school's charter and approved by the
2 commissioner.

3 e. The admission policy of the charter school shall, to the
4 maximum extent practicable, seek the enrollment of [a cross section
5 of the community's school age population including racial and] the
6 student demographics of the charter school district of residence
7 including race, ethnicity, eligibility for the federal free lunch
8 program, eligibility for the federal reduced price lunch program,
9 limited English proficient students, special education services
10 students in respective special education classifications, and other
11 appropriate academic factors.

12 f. A charter school shall file with the commissioner and the
13 charter school district of residence a report on the student
14 enrollment demographics of the charter school no later than October
15 15 of each year. The report shall be in a form prescribed by the
16 commissioner and shall be posted on the websites of the
17 Department of Education, the charter school, and the charter school
18 district of residence.

19 g. A charter school shall maintain a waiting list for admission
20 to the school and shall annually submit the number and
21 demographics of students, consistent with subsection f. of this
22 section, on the waiting list to the commissioner. The Department of
23 Education and the charter school shall post the number on their
24 websites and shall update the number as appropriate.

25 (cf: P.L.1995, c.426, s.8)

26

27 3. Section 9 of P.L.1995, c.426 (C.18A:36A-9) is amended to
28 read as follows:

29 9. A student may withdraw from a charter school at any time.
30 A student may be expelled from a charter school based on criteria
31 determined by the board of trustees, which are consistent with the
32 provisions of N.J.S.18A:37-2, and approved by the commissioner as
33 part of the school's charter. Any expulsion shall be made upon the
34 recommendation of the charter school principal, in consultation
35 with the student's teachers. The charter school shall provide the
36 student's parent or guardian with information on how to transfer the
37 student to the student's school district of residence and shall
38 forward all student records to the district of residence.

39 (cf: P.L.1995, c.426, s.9)

40

41 4. Section 11 of P.L.1995, c.426 (C.18A:36A-11) is amended
42 to read as follows:

43 11. a. A charter school shall operate in accordance with its
44 charter and the provisions of law and regulation which govern other
45 public schools; except that, upon the request of the board of trustees
46 of a charter school, the commissioner may exempt the school from
47 State regulations concerning public schools, except those pertaining

1 to assessment, testing, civil rights and student health and safety, if
2 the board of trustees satisfactorily demonstrates to the
3 commissioner that the exemption will advance the educational goals
4 and objectives of the school.

5 A charter school shall comply with all requests for information
6 or data made by the commissioner.

7 b. A charter school shall comply with the provisions of chapter
8 46 of Title 18A of the New Jersey Statutes concerning the provision
9 of services to handicapped students; except that the fiscal
10 responsibility for any student currently enrolled in or determined to
11 require a private day or residential school shall remain with the
12 district of residence.

13 Within 15 days of the signing of the individualized education
14 plan, a charter school shall provide notice to the resident district of
15 any individualized education plan which results in a private day or
16 residential placement. The resident district may challenge the
17 placement within 30 days in accordance with the procedures
18 established by law.

19 c. A charter school shall comply with applicable State and
20 federal anti-discrimination statutes.

21 (cf: P.L. 2007, c.260, s.57)

22

23 5. Section 12 of P.L.1995, c.426 (C.18A:36A-12) is amended
24 to read as follows:

25 12. a. (Deleted by amendment, P.L.2007, c.260).

26 b. **【The】** (1) Except as otherwise provided pursuant to
27 paragraph (2) of this subsection, the school district of residence
28 shall pay directly to the charter school for each student enrolled in
29 the charter school who resides in the district an amount equal to
30 90% of the sum of the budget year equalization aid per pupil and
31 the prebudget year general fund tax levy per pupil inflated by the
32 CPI rate most recent to the calculation. In addition, the school
33 district of residence shall pay directly to the charter school the
34 security categorical aid attributable to the student and a percentage
35 of the district's special education categorical aid equal to the
36 percentage of the district's special education students enrolled in the
37 charter school and, if applicable, 100% of preschool education aid.
38 The district of residence shall also pay directly to the charter school
39 any federal funds attributable to the student.

40 (2) In the event that the general fund tax levy for a proposed
41 budget of the school district of residence is rejected by the voters or
42 the board of school estimate, as applicable, and the municipal
43 governing body or bodies of the municipalities included within the
44 district or the board of school estimate, as applicable, reduces the
45 amount of the general fund tax levy, the per pupil general fund tax
46 levy amount calculated pursuant to paragraph (1) of this subsection
47 shall be reduced in proportion to the reduction made by the

1 municipal governing body or bodies or board of school estimate to
2 the general fund tax levy.

3 c. (Deleted by amendment, P.L.2007, c.260).

4 d. Notwithstanding the provisions of subsection b. of this
5 section, in the case of a student who was not included in the
6 district's projected resident enrollment for the school year, the State
7 shall pay 100% of the amount required pursuant to subsection b. of
8 this section for the first year of the student's enrollment in the
9 charter school.

10 e. The State shall make payments required pursuant to
11 subsection d. of this section directly to the charter school.
12 (cf: P.L.2007, c.260, s.58)

13

14 6. Section 13 of P.L.1995, c.426 (C.18A:36A-13) is amended
15 to read as follows:

16 13. The students who reside in the [school district in which the
17 charter school is located] charter school district of residence shall
18 be provided transportation to the charter school on the same terms
19 and conditions as transportation is provided to students attending
20 the schools of the district. Non-resident students shall receive
21 transportation services pursuant to regulations established by the
22 State board.

23 At the discretion of the board of trustees of a charter school, the
24 charter school may provide courtesy busing services at its own
25 expense to students enrolled in the charter school.

26 (cf: P.L.1995 ,c.426, s.13)

27

28 7. Section 16 of P.L.1995, c.426 (C.18A:36A-16) is amended
29 to read as follows:

30 16. a. The commissioner shall annually assess whether each
31 charter school is meeting the goals of its charter[, and]. The annual
32 assessment shall be in writing and shall be posted on the
33 department's website no later than October 15. The assessment
34 shall include, but not be limited to, the number of students who
35 enrolled in and withdrew from the charter school during the year
36 and the student demographics of the charter school.

37 The commissioner shall conduct a comprehensive review prior to
38 granting a renewal of the charter. The findings of the review shall
39 be submitted in writing to the charter school no later than six
40 months prior to the commissioner's decision on the renewal of the
41 charter.

42 The executive county superintendent of schools of the county in
43 which the charter school is located shall have on-going access to the
44 records and facilities of the charter school to ensure that the charter
45 school is in compliance with its charter and that State board
46 regulations concerning assessment, testing, civil rights, and student
47 health and safety are being met, as well as regulations concerning

1 student discipline, special education, and bilingual education in the
2 event that the charter school is not exempt pursuant to the
3 provisions of subsection a. of section 11 of P.L.1995, c.426
4 (C.18A:36A-11).

5 b. In order to facilitate the commissioner's review, each charter
6 school shall submit an annual report to the local board of education,
7 the executive county superintendent of schools, and the
8 commissioner in the form prescribed by the commissioner. The
9 report shall be received annually by the local board, the executive
10 county superintendent, and the commissioner no later than August
11 1. The report shall also be made available to the parent or guardian
12 of a student enrolled in the charter school.

13 In addition to the information required by the commissioner to be
14 included in the annual report, the annual report shall include
15 information on the number of students who left the charter school
16 during the preceding school year by withdrawal, expulsion, other
17 disciplinary action, or any other circumstance, and the educational
18 placements of students after leaving the charter school.

19 c. By April 1, 2001, the commissioner shall hold public
20 hearings in the north, central, and southern regions of the State to
21 receive input from members of the educational community and the
22 public on the charter school program.

23 d. The commissioner shall commission an independent study of
24 the charter school program. The study shall be conducted by an
25 individual or entity identified with expertise in the field of
26 education and the selection shall be approved by the Joint
27 Committee on the Public Schools. The individual or entity shall
28 design a comprehensive study of the charter school program.

29 e. The commissioner shall submit to the Governor, the
30 Legislature, and the State Board of Education by October 1, 2001
31 an evaluation of the charter school program based upon the public
32 input required pursuant to subsection c. of this section and the
33 independent study required pursuant to subsection d. of this section.
34 The evaluation shall include, but not be limited to, consideration of
35 the following elements:

36 (1) the impact of the charter school program on resident
37 districts' students, staff, parents, educational programs, and
38 finances;

39 (2) the impact of the charter school program and the increased
40 number of schools on the economics of educational services on a
41 Statewide basis;

42 (3) the fairness and the impact of the reduction of available
43 resources on the ability of resident districts to promote competitive
44 educational offerings;

45 (4) the impact of the shift of pupils from nonpublic schools to
46 charter schools;

1 (5) the comparative demographics of student enrollments in
2 school districts of residence and the charter schools located within
3 those districts. The comparison shall include, but not be limited to,
4 race, gender, socioeconomic status, enrollment of special education
5 students, enrollment of students of limited English proficiency, and
6 student progress toward meeting the core curriculum content
7 standards as measured by student results on Statewide assessment
8 tests;

9 (6) the degree of involvement of private entities in the operation
10 and financial support of charter schools, and their participation as
11 members of charter school boards of trustees;

12 (7) verification of the compliance of charter schools with
13 applicable laws and regulations;

14 (8) student progress toward meeting the goals of the charter
15 schools;

16 (9) parent, community and student satisfaction with charter
17 schools;

18 (10) the extent to which waiting lists exist for admission to
19 charter schools and the length of those lists;

20 (11) the extent of any attrition among student and faculty
21 members in charter schools; and

22 (12) the results of the independent study required pursuant to
23 subsection d. of this section.

24 The evaluation shall include a recommendation on the
25 advisability of the continuation, modification, expansion, or
26 termination of the program. If the evaluation does not recommend
27 termination, then it shall include recommendations for changes in
28 the structure of the program which the commissioner deems
29 advisable. The commissioner may not implement any
30 recommended expansion, modification, or termination of the
31 program until the Legislature acts on that recommendation.

32 (cf: P.L.2000, c.142, s.3)

33

34 8. Section 17 of P.L.1995, c.426 (C.18A:36A-17) is amended
35 to read as follows:

36 17. a. A charter granted by the commissioner pursuant to the
37 provisions of this act shall be granted for a four-year period and
38 may be renewed for a five-year period. The commissioner may
39 revoke a school's charter if the school:

40 (1) has not fulfilled any condition imposed by the commissioner
41 in connection with the granting of the charter [or if the school has
42 violated any provision of its charter];

43 (2) fails to achieve the core curriculum content standards or fails
44 to meet any performance standard set forth in the school's charter;

45 (3) engages in a practice and pattern of discrimination in
46 violation of federal or State law or violates any federal or State law;

47 or

- 1 (4) violates any provision of its charter, including provisions
2 concerning fiscal responsibility.
- 3 b. The commissioner may place the charter school on
4 probationary status to allow the implementation of a remedial plan
5 after which, if the plan is unsuccessful, the charter may be
6 summarily revoked. The commissioner shall develop procedures
7 and guidelines for the revocation and renewal of a school's charter
8 which shall be in accordance with the provisions of subsection a. of
9 this section.
- 10 c. Upon the revocation of its charter, the charter school shall
11 provide the following information to the commissioner and to the
12 parents or guardians of the charter school's students:
- 13 (1) the effective date of the closure;
14 (2) the name and contact information of the person to whom
15 reasonable inquiries may be made regarding the closure; and
16 (3) the district of residence for the student.
- 17 d. Upon the revocation of its charter, the charter school shall
18 also provide the parents or guardians with information on how to
19 transfer the student to the student's school district of residence. The
20 charter school shall forward all student records to a student's school
21 district of residence.
- 22 e. A charter school shall cause an independent final audit of the
23 school's accounts and financial transactions to be made by a public
24 school accountant within six months following the closure of the
25 school. The audit shall include, but not be limited to:
- 26 (1) an accounting of all financial assets, including accounts
27 receivable, and an inventory of property, equipment, and other items
28 of material value;
29 (2) an accounting of the liabilities, including accounts payable;
30 and
31 (3) an assessment of the disposition of any restricted funds
32 received by or due to the charter school.
- 33 f. A charter school shall dispose of any net assets remaining
34 after all liabilities of the charter school have been paid or otherwise
35 addressed including, but not limited to, the following:
- 36 (1) the return of any grant funds and restricted categorical funds
37 to their source in accordance with the terms of the grant or State and
38 federal law, as appropriate, which may include submission of final
39 expenditure reports for entitlement grants and the filing of any
40 required final expenditure reports and final performance reports; and
41 (2) the return of any donated materials and property in
42 accordance with any conditions established when the donation of the
43 materials or property was accepted.
- 44 (cf: P.L.1995, c.426, s.17)
- 45
- 46 9. (New section) In order to enroll in a charter school, the
47 student must first be registered in the school district in which the

1 student resides. For any student who applies for enrollment in a
2 charter school, the board of education of the school district in which
3 the charter school applicant resides shall process the registration of
4 the student for the subsequent school year upon submission of the
5 registration forms. The board of education shall process the
6 registration in a timely manner, including the assessment of
7 residency and the subsequent transfer to the charter school, and
8 shall identify the specific categorical aid for which the student
9 qualifies.

10
11 10. (New section) A charter school shall annually submit its
12 budget for the upcoming school year to the commissioner for
13 approval. The budget shall be submitted in such format, and by
14 such date, as determined by the commissioner and shall include
15 information on revenues received from private or philanthropic
16 sources, expenses supported by those revenues, and any in-kind
17 contributions received by the charter school. The commissioner
18 shall post the charter school's approved budget on the department's
19 website.

20
21 11. (New section) A board of education and a charter school
22 may enter into a written agreement to conduct collaborative
23 education programs or implement shared services if the
24 arrangement will serve to improve any of the following for all
25 students in the charter school and the district of residence:

- 26 a. teacher quality;
27 b. professional development opportunities for teachers and
28 principals;
29 c. school leadership;
30 d. programs and services for students with limited English
31 proficiency and students with disabilities;
32 e. drop-out rates and achievement gaps among students; and
33 f. data collection and program evaluation.

34
35 12. (New section) A charter school shall be subject to review
36 and evaluation under the New Jersey Quality Single Accountability
37 Continuum in the five key components of effectiveness established
38 pursuant to section 10 of P.L.1975, c.212 (C.18A:7A-10). The
39 commissioner shall determine a charter school's capacity and
40 effectiveness using quality performance indicators comprised of
41 standards for each of the five key components. Based on a charter
42 school's compliance with the quality performance indicators, the
43 commissioner shall assess the charter school's capacity and
44 effectiveness and place the charter school on a performance
45 continuum that will determine the type and level of oversight and

1 technical assistance and support the charter school receives.

2

3 13. This act shall take effect immediately.