

## CHAPTER 124E

### CHARTER SCHOOLS

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#### GENERALLY

##### 124E.01 PURPOSE AND APPLICABILITY.

Subdivision 1. **Purposes.** The primary purpose of charter schools is to improve all pupil learning and all student achievement. Additional purposes include to:

- (1) increase learning opportunities for all pupils;
- (2) encourage the use of different and innovative teaching methods;
- (3) measure learning outcomes and create different and innovative forms of measuring outcomes;
- (4) establish new forms of accountability for schools; or
- (5) create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.

Subd. 2. **Applicability.** This chapter applies only to charter schools formed and operated under this chapter.

**History:** 1991 c 265 art 9 s 3; 1Sp1995 c 3 art 9 s 2; 1998 c 397 art 2 s 164; 2009 c 96 art 2 s 41; 2013 c 116 art 4 s 1; 2014 c 272 art 3 s 33; 1Sp2015 c 3 art 4 s 10; 2016 c 189 art 26 s 1

##### 124E.02 DEFINITIONS.

- (a) For purposes of this chapter, the terms defined in this section have the meanings given them.
- (b) "Affidavit" means a written statement the authorizer submits to the commissioner for approval to establish a charter school under section 124E.06, subdivision 4, attesting to its review and approval process before chartering a school.
- (c) "Affiliate" means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person.

(d) "Control" means the ability to affect the management, operations, or policy actions or decisions of a person, whether by owning voting securities, by contract, or otherwise.

(e) "Immediate family" means an individual whose relationship by blood, marriage, adoption, or partnership is no more remote than first cousin.

(f) "Person" means an individual or entity of any kind.

(g) "Related party" means an affiliate or immediate relative of the other interested party, an affiliate of an immediate relative who is the other interested party, or an immediate relative of an affiliate who is the other interested party.

(h) For purposes of this chapter, the terms defined in section 120A.05 have the same meanings.

**History:** *1Sp2001 c 6 art 2 s 25; 2007 c 146 art 2 s 24,47; 2009 c 96 art 2 s 41; 1Sp2011 c 11 art 2 s 29; 1Sp2015 c 3 art 4 s 2,10; 2016 c 189 art 26 s 2*

### 124E.03 APPLICABLE LAW.

Subdivision 1. **Public status; exemption from statutes and rules.** A charter school is a public school and is part of the state's system of public education. A charter school is exempt from all statutes and rules applicable to a school, school board, or school district unless a statute or rule is made specifically applicable to a charter school or is included in this chapter.

Subd. 2. **Certain federal, state, and local requirements.** (a) A charter school shall meet all federal, state, and local health and safety requirements applicable to school districts.

(b) A school must comply with statewide accountability requirements governing standards and assessments in chapter 120B.

(c) A charter school must comply with the Minnesota Public School Fee Law, sections 123B.34 to 123B.39.

(d) A charter school is a district for the purposes of tort liability under chapter 466.

(e) A charter school must comply with the Pledge of Allegiance requirement under section 121A.11, subdivision 3.

(f) A charter school and charter school board of directors must comply with chapter 181 governing requirements for employment.

(g) A charter school must comply with continuing truant notification under section 260A.03.

(h) A charter school must develop and implement a teacher evaluation and peer review process under section 122A.40, subdivision 8, paragraph (b), clauses (2) to (13), and place students in classrooms in accordance with section 122A.40, subdivision 8, paragraph (d). The teacher evaluation process in this paragraph does not create any additional employment rights for teachers.

(i) A charter school must adopt a policy, plan, budget, and process, consistent with section 120B.11, to review curriculum, instruction, and student achievement and strive for the world's best workforce.

(j) A charter school is subject to and must comply with the Pupil Fair Dismissal Act, sections 121A.40 to 121A.56.

Subd. 3. **Pupils with a disability.** A charter school must comply with sections 125A.02, 125A.03 to 125A.24, 125A.65, and 125A.75 and rules relating to the education of pupils with a disability as though it were a district. A charter school enrolling prekindergarten pupils with a disability under section 124E.11, paragraph (h), must comply with sections 125A.259 to 125A.48 and rules relating to the Interagency Early Intervention System as though it were a school district.

Subd. 4. **Students' rights and related law.** (a) A charter school must release a student for religious instruction, consistent with section 120A.22, subdivision 12, clause (3).

(b) A charter school must comply with chapter 363A governing the Minnesota Human Rights Act and section 121A.04 governing student athletics and sex discrimination in schools.

(c) A charter school must comply with section 121A.031 governing policies on bullying.

Subd. 5. **Records and data requirements.** (a) A charter school must comply with chapter 13 governing government data; and sections 121A.75 governing access to juvenile justice records, and 260B.171, subdivisions 3 and 5, governing juvenile justice records.

(b) A charter school must comply with section 120A.22, subdivision 7, governing the transfer of students' educational records and sections 138.163 and 138.17 governing the management of local records.

Subd. 5a. **Open meetings.** A charter school must comply with chapter 13D governing open meetings.

Subd. 6. **Length of school year.** A charter school must provide instruction each year for at least the number of hours required by section 120A.41. It may provide instruction throughout the year under sections 124D.12 to 124D.127 or 124D.128 governing learning year programs.

Subd. 7. **Additional program-specific requirements.** (a) A charter school offering online courses or programs must comply with section 124D.095 governing online learning.

(b) A charter school that provides early childhood health and developmental screening must comply with sections 121A.16 to 121A.19 governing early childhood screening.

(c) A charter school that provides school-sponsored youth athletic activities must comply with section 121A.38 governing policies on concussions.

**History:** 1991 c 265 art 3 s 38; art 9 s 3; 1993 c 224 art 9 s 7; 1Sp1995 c 3 art 9 s 2; 1998 c 397 art 2 s 5,6,10,11,164; art 11 s 3; 2002 c 352 s 10; 2003 c 120 s 3; 1Sp2003 c 9 art 12 s 10; 2009 c 96 art 2 s 41; 2010 c 346 art 1 s 3; 2011 c 90 s 3; 2012 c 239 art 2 s 12; 2013 c 116 art 4 s 1; 2014 c 160 s 3; 2014 c 272 art 3 s 38; 1Sp2015 c 3 art 4 s 4,5,10; 2016 c 189 art 26 s 3; 1Sp2017 c 5 art 2 s 39

## ADMINISTRATION

### 124E.05 AUTHORIZERS.

Subdivision 1. **Eligible authorizers.** (a) The organizations in this subdivision may authorize one or more charter schools.

(b) A school board, intermediate school district school board, or education district organized under sections 123A.15 to 123A.19 may authorize a charter school.

(c) A charitable organization under section 501(c)(3) of the Internal Revenue Code of 1986 may authorize a charter school, if the organization:

(1) is registered with the attorney general's office;

(2) is incorporated in the state of Minnesota and has been operating continuously for at least five years but does not operate a charter school; and

(3) is not:

(i) a nonpublic sectarian or religious institution;

(ii) any person other than a natural person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the nonpublic sectarian or religious institution; or

(iii) any other charitable organization under this paragraph that in the federal IRS Form 1023, Part IV, describes activities indicating a religious purpose.

(d) A Minnesota private college that grants two- or four-year degrees and is registered with the Minnesota Office of Higher Education under chapter 136A may authorize a charter school, notwithstanding paragraph (c).

(e) A state college or university governed by the Board of Trustees of the Minnesota State Colleges and Universities may authorize a charter school.

(f) The University of Minnesota may authorize a charter school.

(g) A nonprofit corporation subject to chapter 317A, described in section 317A.905 and exempt from federal income tax under section 501(c)(6) of the Internal Revenue Code of 1986, may authorize one or more charter schools if the charter school has operated for at least three years under a different authorizer and if the nonprofit corporation has existed for at least 25 years.

(h) A single-purpose authorizer formed as a charitable, nonsectarian organization under section 501(c)(3) of the Internal Revenue Code of 1986 and incorporated in the state of Minnesota under chapter 317A as a corporation with no members or under section 322C.1101 as a nonprofit limited liability company for the sole purpose of chartering schools may authorize a charter school. An eligible organization interested in being approved as an authorizer under this paragraph must submit a proposal to the commissioner that includes the provisions of subdivision 3 and a five-year financial plan. A single-purpose authorizer under this paragraph shall consider and approve charter school applications using the criteria under section 124E.06 and shall not limit the applications it solicits, considers, or approves to any single curriculum, learning program, or method.

**Subd. 2. Requirements for authorizers.** The authorizer must participate in department-approved training.

**Subd. 3. Application process.** (a) An eligible authorizer under this section must apply to the commissioner for approval as an authorizer before submitting any affidavit to the commissioner to charter a school. The application for approval as a charter school authorizer must show the applicant's ability to implement the procedures and satisfy the criteria for chartering a school under this chapter. The commissioner must approve or disapprove the application within 45 business days of the deadline for that application period. If the commissioner disapproves the application, the commissioner must notify the applicant of the specific deficiencies in writing and the applicant then has 20 business days to address the deficiencies to the commissioner's satisfaction. After the 20 business days expire, the commissioner has 15 business days to make a final decision to approve or disapprove the application. Failing to address the deficiencies to the

commissioner's satisfaction makes an applicant ineligible to be an authorizer. The commissioner, in establishing criteria to approve an authorizer, consistent with subdivision 4, must consider the applicant's:

- (1) infrastructure and capacity to serve as an authorizer;
- (2) application criteria and process;
- (3) contracting process;
- (4) ongoing oversight and evaluation processes; and
- (5) renewal criteria and processes.

(b) A disapproved applicant under this section may resubmit an application during a future application period.

Subd. 4. **Application content.** (a) To be approved as an authorizer, an applicant must include in its application to the commissioner at least the following:

- (1) how the organization carries out its mission by chartering schools;
- (2) a description of the capacity of the organization to serve as an authorizer, including the positions allocated to authorizing duties, the qualifications for those positions, the full-time equivalencies of those positions, and the financial resources available to fund the positions;
- (3) the application and review process the authorizer uses to decide whether to grant charters;
- (4) the type of contract it arranges with the schools it charters to meet the provisions of section 124E.10;
- (5) the process for overseeing the school, consistent with clause (4), to ensure that the schools chartered comply with applicable law and rules and the contract;
- (6) the criteria and process the authorizer uses to approve applications adding grades or sites under section 124E.06, subdivision 5;
- (7) the process for renewing or terminating the school's charter based on evidence showing the academic, organizational, and financial competency of the school, including its success in increasing student achievement and meeting the goals of the charter school agreement; and
- (8) an assurance specifying that the organization is committed to serving as an authorizer for the full five-year term.

(b) Notwithstanding paragraph (a), an authorizer that is a school district may satisfy the requirements of paragraph (a), clauses (1) and (2), and any requirement governing a conflict of interest between an authorizer and its charter schools or ongoing evaluation or continuing education of an administrator or other professional support staff by submitting to the commissioner a written promise to comply with the requirements.

Subd. 5. **Review by commissioner.** (a) The commissioner shall review an authorizer's performance every five years in a manner and form determined by the commissioner, subject to paragraphs (b) and (c), and may review an authorizer's performance more frequently at the commissioner's own initiative or at the request of a charter school operator, charter school board member, or other interested party. The commissioner, after completing the review, shall transmit a report with findings to the authorizer.

- (b) Consistent with this subdivision, the commissioner must:

(1) use criteria appropriate to the authorizer and the schools it charters to review the authorizer's performance; and

(2) consult with authorizers, charter school operators, and other charter school stakeholders in developing review criteria under this paragraph.

(c) The commissioner's form must use existing department data on the authorizer to minimize duplicate reporting to the extent practicable. When reviewing an authorizer's performance under this subdivision, the commissioner must not:

(1) fail to credit;

(2) withhold points; or

(3) otherwise penalize an authorizer for failing to charter additional schools or for the absence of complaints against the authorizer's current portfolio of charter schools.

**Subd. 6. Corrective action.** (a) If, consistent with this chapter, the commissioner finds that an authorizer has not met the requirements of this chapter, the commissioner may subject the authorizer to corrective action, which may include terminating the contract with the charter school board of directors of a school it chartered. The commissioner must notify the authorizer in writing of any findings that may subject the authorizer to corrective action and the authorizer then has 15 business days to request an informal hearing before the commissioner takes corrective action. If the commissioner terminates a contract between an authorizer and a charter school under this paragraph, the commissioner may assist the charter school in acquiring a new authorizer.

(b) The commissioner may at any time take corrective action against an authorizer, including terminating an authorizer's ability to charter a school for:

(1) failing to demonstrate the criteria under subdivision 3 under which the commissioner approved the authorizer;

(2) violating a term of the chartering contract between the authorizer and the charter school board of directors;

(3) unsatisfactory performance as an approved authorizer; or

(4) any good cause shown that gives the commissioner a legally sufficient reason to take corrective action against an authorizer.

**Subd. 7. Withdrawal.** If the governing board of an approved authorizer votes to withdraw as an approved authorizer for a reason unrelated to any cause under section 124E.10, subdivision 4, the authorizer must notify all its chartered schools and the commissioner in writing by March 1 of its intent to withdraw as an authorizer on June 30 in the next calendar year, regardless of when the authorizer's five-year term of approval ends. Upon notification of the schools and commissioner, the authorizer must provide a letter to the school for distribution to families of students enrolled in the school that explains the decision to withdraw as an authorizer. The commissioner may approve the transfer of a charter school to a new authorizer under section 124E.10, subdivision 5.

Subd. 8. **Reports.** By September 30 of each year, an authorizer shall submit to the commissioner a statement of income and expenditures related to chartering activities during the previous school year ending June 30. The authorizer must transmit a copy of the statement to all schools it charters.

**History:** 1991 c 265 art 9 s 3; 1993 c 224 art 9 s 3; 1994 c 647 art 9 s 1; 1Sp1995 c 3 art 9 s 2; 1Sp1997 c 4 art 5 s 5; 1997 c 397 art 2 s 164; 1998 c 398 art 5 s 3; 1999 c 241 art 5 s 7; 2000 c 489 art 6 s 18; 1Sp2003 c 9 art 2 s 22; 2005 c 107 art 2 s 60; 2009 c 96 art 2 s 41; 2010 c 382 s 24; 2011 c 27 s 2; 1Sp2011 c 11 art 2 s 29; 2012 c 239 art 2 s 9; 2013 c 116 art 4 s 1; 2013 c 144 s 22; 2014 c 157 art 2 s 29; 2014 c 272 art 3 s 33; 1Sp2015 c 3 art 4 s 2,10; 2016 c 135 art 4 s 7; 2016 c 189 art 26 s 4; art 28 s 1-4; 2017 c 40 art 1 s 122; 1Sp2017 c 5 art 2 s 40

## 124E.06 FORMING A SCHOOL.

Subdivision 1. **Individuals eligible to organize.** (a) An authorizer, after receiving an application from a charter school developer, may charter either a licensed teacher under section 122A.18, subdivision 1, or a group of individuals that includes one or more licensed teachers under section 122A.18, subdivision 1, to operate a school subject to the commissioner's approval of the authorizer's affidavit under subdivision 4.

(b) "Application" under this section means the charter school business plan a charter school developer submits to an authorizer for approval to establish a charter school. This application must include:

- (1) the school developer's:
  - (i) mission statement;
  - (ii) school purposes;
  - (iii) program design;
  - (iv) financial plan;
  - (v) governance and management structure; and
  - (vi) background and experience;
- (2) any other information the authorizer requests; and
- (3) a "statement of assurances" of legal compliance prescribed by the commissioner.

(c) An authorizer shall not approve an application submitted by a charter school developer under paragraph (a) if the application does not comply with subdivision 3, paragraph (e), and section 124E.01, subdivision 1. The commissioner shall not approve an affidavit submitted by an authorizer under subdivision 4 if the affidavit does not comply with subdivision 3, paragraph (e), and section 124E.01, subdivision 1.

Subd. 2. **Nonprofit corporation.** (a) The school must be organized and operated as a nonprofit corporation under chapter 317A and the provisions of that chapter shall apply to the school except as provided in this chapter.

The operators authorized to organize and operate a school must incorporate as a nonprofit corporation before entering into a contract or other agreement for professional or other services, goods, or facilities.

(b) Notwithstanding sections 465.717 and 465.719, a school district, subject to this chapter, may create a corporation for the purpose of establishing a charter school.

Subd. 3. **Requirements.** (a) The primary focus of a charter school must be to provide a comprehensive program of instruction for at least one grade or age group from ages five through 18 years. A charter school may provide instruction to people older than 18 years of age.

(b) A charter school may offer a free or fee-based preschool or prekindergarten that meets high-quality early learning instructional program standards aligned with Minnesota's early learning standards for children. The hours a student is enrolled in a fee-based prekindergarten program do not generate pupil units under section 126C.05 and must not be used to calculate general education revenue under section 126C.10.

(c) A charter school must be nonsectarian in its programs, admission policies, employment practices, and all other operations. An authorizer may not authorize a charter school or program that is affiliated with a nonpublic sectarian school or a religious institution.

(d) A charter school must not be used to provide education or generate revenue for home-schooled students. This paragraph does not apply to shared time aid under section 126C.19.

(e) This chapter does not provide a means to keep open a school that a school board decides to close. However, a school board may endorse or authorize establishing a charter school to replace the school the board decided to close. Applicants seeking a charter under this circumstance must demonstrate to the authorizer that the charter sought is substantially different in purpose and program from the school the board closed and that the proposed charter satisfies the requirements of section 124E.01, subdivision 1. If the school board that closed the school authorizes the charter, it must document in its affidavit to the commissioner that the charter is substantially different in program and purpose from the school it closed.

(f) A school authorized by a school board may be located in any district, unless the school board of the district of the proposed location disapproves the location by written resolution.

(g) Except as provided in paragraph (b), a charter school may not charge tuition.

(h) The authorizer may prevent an approved charter school from opening for operation if, among other grounds, the charter school violates this chapter or does not meet the ready-to-open standards that are part of (1) the authorizer's oversight and evaluation process or (2) stipulated in the charter school contract.

Subd. 4. **Authorizer's affidavit; approval process.** (a) Before an operator may establish and operate a school, the authorizer must file an affidavit with the commissioner stating its intent to charter a school. An authorizer must file a separate affidavit for each school it intends to charter. An authorizer must file an affidavit at least 14 months before July 1 of the year the new charter school plans to serve students. The affidavit must state:

(1) the terms and conditions under which the authorizer would charter a school; and

(2) how the authorizer intends to oversee:

(i) the fiscal and student performance of the charter school; and

(ii) compliance with the terms of the written contract between the authorizer and the charter school board of directors under section 124E.10, subdivision 1.

(b) The commissioner must approve or disapprove the authorizer's affidavit within 60 business days of receiving the affidavit. If the commissioner disapproves the affidavit, the commissioner shall notify the authorizer of the deficiencies in the affidavit and the authorizer then has 20 business days to address the deficiencies. The commissioner must notify the authorizer of the commissioner's final approval or final disapproval within 15 business days after receiving the authorizer's response to the deficiencies in the



affidavit. If the authorizer does not address deficiencies to the commissioner's satisfaction, the commissioner's disapproval is final. An authorizer who fails to obtain the commissioner's approval is precluded from chartering the school that is the subject of this affidavit.

Subd. 5. **Adding grades or sites.** (a) A charter school may apply to the authorizer to amend the school charter to add grades or primary enrollment sites beyond those defined in the original affidavit approved by the commissioner. After approving the school's application, the authorizer shall submit a supplemental affidavit in the form and manner prescribed by the commissioner. The authorizer must file a supplemental affidavit to the commissioner by October 1 to be eligible to add grades or sites in the next school year. The supplemental affidavit must document to the authorizer's satisfaction:

(1) the need for the additional grades or sites with supporting long-range enrollment projections;

(2) a longitudinal record of student academic performance and growth on statewide assessments under chapter 120B or on other academic assessments that measure longitudinal student performance and growth approved by the charter school's board of directors and agreed upon with the authorizer;

(3) a history of sound school finances and a plan to add grades or sites that sustains the school's finances; and

(4) board capacity to administer and manage the additional grades or sites.

(b) The commissioner shall have 30 business days to review and comment on the supplemental affidavit. The commissioner shall notify the authorizer in writing of any deficiencies in the supplemental affidavit and the authorizer then has 20 business days to address any deficiencies in the supplemental affidavit to the commissioner's satisfaction. The commissioner must notify the authorizer of final approval or final disapproval within 15 business days after receiving the authorizer's response to the deficiencies in the affidavit. The school may not add grades or sites until the commissioner has approved the supplemental affidavit. The commissioner's approval or disapproval of a supplemental affidavit is final.

Subd. 6. **Conversion of existing schools.** A board of an independent or special school district may convert one or more of its existing schools to charter schools under this chapter if 60 percent of the full-time teachers at the school sign a petition seeking conversion. The conversion must occur at the beginning of an academic year.

Subd. 7. **Merger.** (a) Two or more charter schools may merge under chapter 317A. The effective date of a merger must be July 1. The merged school must continue under the identity of one of the merging schools. The authorizer and the merged school must execute a new charter contract under section 124E.10, subdivision 1, by July 1. The authorizer must submit to the commissioner a copy of the new signed charter contract within ten business days of executing the contract.

(b) Each merging school must submit a separate year-end report for the previous fiscal year for that school only. After the final fiscal year of the premerger schools is closed out, each of those schools must transfer the fund balances and debts to the merged school.

(c) For its first year of operation, the merged school is eligible to receive aid from programs requiring approved applications equal to the sum of the aid of all of the merging schools. For aids based on prior year data, the merged school is eligible to receive aid for its first year of operation based on the combined data of all of the merging schools.

**History:** 1991 c 265 art 9 s 3; 1992 c 499 art 12 s 1; 1993 c 224 art 9 s 2,4,5,7; 1Sp1995 c 3 art 9 s 2; 1Sp1997 c 4 art 5 s 6; 1998 c 397 art 2 s 2,3,6,164; art 11 s 3; 1998 c 398 art 5 s 55; 1999 c 241 art 5 s

*8,9; 1Sp2001 c 6 art 2 s 21,23; 1Sp2003 c 9 art 2 s 23; 1Sp2005 c 5 art 2 s 59; 2007 c 146 art 2 s 23; 2009 c 96 art 2 s 41; 2010 c 382 s 25; 1Sp2011 c 11 art 2 s 29; 2012 c 239 art 1 s 20; 2013 c 116 art 4 s 1; 2014 c 272 art 3 s 35,38; 1Sp2015 c 3 art 4 s 1,3,4,7,10; 2016 c 189 art 26 s 5*

#### **124E.07 BOARD OF DIRECTORS.**

Subdivision 1. **Initial board of directors.** Before entering into a contract or other agreement for professional or other services, goods, or facilities, the operators authorized to organize and operate a school must establish a board of directors composed of at least five members who are not related parties. The initial board continues to serve until a timely election for members of the ongoing charter school board of directors is held according to the school's articles and bylaws under subdivision 4.

Subd. 2. **Ongoing board of directors.** The ongoing board must be elected before the school completes its third year of operation. Board elections must be held during the school year but may not be conducted on days when the school is closed.

Subd. 3. **Membership criteria.** (a) The ongoing charter school board of directors shall have at least five nonrelated members and include: (1) at least one licensed teacher who is employed as a teacher at the school or provides instruction under contract between the charter school and a cooperative; (2) at least one parent or legal guardian of a student enrolled in the charter school who is not an employee of the charter school; and (3) at least one interested community member who resides in Minnesota, is not employed by the charter school, and does not have a child enrolled in the school. The board structure may include a majority of teachers under this paragraph or parents or community members, or it may have no clear majority. The chief financial officer and the chief administrator may only serve as ex-officio nonvoting board members. No charter school employees shall serve on the board other than teachers under clause (1). Contractors providing facilities, goods, or services to a charter school shall not serve on the board of directors of the charter school.

(b) An individual is prohibited from serving as a member of the charter school board of directors if: (1) the individual, an immediate family member, or the individual's partner is a full or part owner or principal with a for-profit or nonprofit entity or independent contractor with whom the charter school contracts, directly or indirectly, for professional services, goods, or facilities; or (2) an immediate family member is an employee of the school. An individual may serve as a member of the board of directors if no conflict of interest exists under this paragraph, consistent with this section.

(c) A violation of paragraph (b) renders a contract voidable at the option of the commissioner or the charter school board of directors. A member of a charter school board of directors who violates paragraph (b) is individually liable to the charter school for any damage caused by the violation.

(d) Any employee, agent, or board member of the authorizer who participates in initially reviewing, approving, overseeing, evaluating, renewing, or not renewing the charter school is ineligible to serve on the board of directors of a school chartered by that authorizer.

Subd. 4. **Board structure.** Board bylaws shall outline the process and procedures for changing the board's governance structure, consistent with chapter 317A. A board may change its governance structure only:

(1) by a majority vote of the board of directors and a majority vote of the licensed teachers employed by the school as teachers, including licensed teachers providing instruction under a contract between the school and a cooperative; and

(2) with the authorizer's approval.

Any change in board governance structure must conform with the board composition established under this section.

Subd. 5. **Eligible voters.** Staff members employed at the school, including teachers providing instruction under a contract with a cooperative, members of the board of directors, and all parents or legal guardians of children enrolled in the school are the voters eligible to elect the members of the school's board of directors. A charter school must notify eligible voters of the school board election dates at least 30 days before the election.

Subd. 6. **Duties.** The board of directors also shall decide and is responsible for policy matters related to operating the school, including budgeting, curriculum programming, personnel, and operating procedures. The board shall adopt a nepotism policy. The board shall adopt personnel evaluation policies and practices that, at a minimum:

- (1) carry out the school's mission and goals;
- (2) evaluate how charter contract goals and commitments are executed;
- (3) evaluate student achievement, postsecondary and workforce readiness, and student engagement and connection goals;
- (4) establish a teacher evaluation process under section 124E.03, subdivision 2, paragraph (h); and
- (5) provide professional development related to the individual's job responsibilities.

Subd. 7. **Training.** Every charter school board member shall attend annual training throughout the member's term. All new board members shall attend initial training on the board's role and responsibilities, employment policies and practices, and financial management. A new board member who does not begin the required initial training within six months after being seated and complete that training within 12 months after being seated is automatically ineligible to continue to serve as a board member. The school shall include in its annual report the training each board member attended during the previous year.

Subd. 8. **Meetings and information.** (a) Board of director meetings must comply with chapter 13D governing open meetings.

(b) A charter school shall publish and maintain on the school's official website: (1) the meeting minutes of the board of directors and of members and committees having board-delegated authority, for at least 365 days from the date of publication; (2) directory information for the board of directors and for the members of committees having board-delegated authority; and (3) identifying and contact information for the school's authorizer.

(c) A charter school must include identifying and contact information for the school's authorizer in other school materials it makes available to the public.

**History:** 1991 c 265 art 9 s 3; 1993 c 224 art 9 s 4; 1Sp1995 c 3 art 9 s 2; 1998 c 397 art 2 s 2,164; 1999 c 241 art 5 s 8; 1Sp2001 c 6 art 2 s 20,21; 2009 c 96 art 2 s 41; 1Sp2011 c 11 art 2 s 29; 2012 c 239 art 2 s 10; 2013 c 116 art 4 s 1; 2015 c 21 art 1 s 18; 1Sp2015 c 3 art 4 s 3,10; 2016 c 189 art 26 s 6

#### **124E.08 CHARTER SCHOOL AND SCHOOL DISTRICT COLLABORATION.**

(a) A charter school board may voluntarily enter into a two-year, renewable collaboration agreement with a school district in which the charter school is geographically located to enhance the achievement of the students in the district and the students in the charter school.

A school district does not need to be either an approved authorizer or the authorizer of the charter school to enter into a collaboration agreement under this section.

A charter school authorizer is prohibited from requiring a collaboration agreement as a condition of entering into or renewing a charter contract as defined in section 124E.10, subdivision 1.

(b) The collaboration agreement may include, but is not limited to, collaboration regarding facilities, transportation, training, student achievement, assessments, mutual performance standards, and other areas of mutual agreement.

(c) For purposes of student assessment and reporting to the state under section 120B.36, the school district may include the academic performance of the students of a collaborative charter school site under paragraph (a).

Districts, authorizers, or charter schools entering into a collaborative agreement are equally and collectively subject to the same state and federal accountability measures for student achievement, school performance outcomes, and school improvement strategies. The collaborative agreement and all accountability measures must be posted on the district, charter school, and authorizer websites.

(d) Nothing in this section or in the collaboration agreement may impact in any way the authority or autonomy of the charter school.

(e) Nothing in this section or in the collaboration agreement shall cause the state to pay twice for the same student, service, or facility or otherwise impact state funding or payment to the school district or the charter school.

**History:** 2012 c 239 art 2 s 15; 1Sp2015 c 3 art 4 s 10; 2016 c 189 art 26 s 7

#### **124E.09 EXTENT OF SPECIFIC LEGAL AUTHORITY.**

(a) The board of directors of a charter school may sue and be sued.

(b) The board may not levy taxes or issue bonds.

(c) The commissioner, an authorizer, members of the board of an authorizer in their official capacity, and employees of an authorizer are immune from civil or criminal liability with respect to all activities related to a charter school they approve or authorize. The board of directors shall obtain at least the amount of and types of insurance up to the applicable tort liability limits under chapter 466. The charter school board must submit a copy of the insurance policy to its authorizer before starting operations. The charter school board must submit changes in its insurance carrier or policy to its authorizer within 20 business days of the change.

(d) Notwithstanding section 3.736, the charter school shall assume full liability for its activities and indemnify and hold harmless the authorizer and its officers, agents, and employees from any suit, claim, or liability arising from any operation of the charter school and the commissioner and department officers, agents, and employees. A charter school is not required to indemnify or hold harmless a state employee if the state would not be required to indemnify and hold the employee harmless under section 3.736, subdivision 9.

**History:** 1991 c 265 art 9 s 3; 1Sp1995 c 3 art 9 s 2; 1998 c 397 art 2 s 21,164; art 11 s 3; 1998 c 398 art 5 s 55; 2009 c 96 art 2 s 41; 2010 c 382 s 29; 1Sp2011 c 11 art 2 s 29; 2013 c 116 art 4 s 1; 1Sp2015 c 3 art 4 s 10

**POLICIES AND PROCEDURES****124E.10 CHARTER CONTRACT.**

Subdivision 1. **Contents.** (a) To authorize a charter school, the authorizer and the charter school board of directors must sign a written contract within 45 business days of the commissioner's approval of the authorizer's affidavit. The authorizer shall submit a copy of the charter contract to the commissioner within ten business days after the contract is signed by the contracting parties. The contract must include at least the following:

(1) a declaration that the charter school will carry out the primary purpose in section 124E.01, subdivision 1, and indicate how the school will report its implementation of the primary purpose to its authorizer;

(2) a declaration of the additional purpose or purposes in section 124E.01, subdivision 1, that the school intends to carry out and indicate how the school will report its implementation of those purposes to its authorizer;

(3) a description of the school program and the specific academic and nonacademic outcomes that pupils must achieve;

(4) a statement of admission policies and procedures;

(5) a school governance, management, and administration plan;

(6) signed agreements from charter school board members to comply with the federal and state laws governing organizational, programmatic, and financial requirements applicable to charter schools;

(7) the criteria, processes, and procedures the authorizer will use to monitor and evaluate the fiscal, operational, and academic performance, consistent with subdivision 3, paragraphs (a) and (b);

(8) for contract renewal, the formal written performance evaluation that is a prerequisite for reviewing a charter contract under subdivision 3;

(9) types and amounts of insurance liability coverage the charter school must obtain, consistent with section 124E.03, subdivision 2, paragraph (d);

(10) consistent with section 124E.09, paragraph (d), a provision to indemnify and hold harmless from any suit, claim, or liability arising from any charter school operation:

(i) the authorizer and its officers, agents, and employees; and

(ii) notwithstanding section 3.736, the commissioner and department officers, agents, and employees;

(11) the term of the contract, which, for an initial contract, may be up to five years plus a preoperational planning period, or for a renewed contract or a contract with a new authorizer after a transfer of authorizers, may be up to five years, if warranted by the school's academic, financial, and operational performance;

(12) how the charter school board of directors or the charter school operators will provide special instruction and services for children with a disability under sections 125A.03 to 125A.24, and 125A.65, and a description of the financial parameters within which the charter school will provide the special instruction and services to children with a disability;

(13) the specific conditions for contract renewal that identify the performance of all students under the primary purpose of section 124E.01, subdivision 1, as the most important factor in determining whether to renew the contract; and

(14) the additional purposes under section 124E.01, subdivision 1, and related performance obligations under clause (7) contained in the charter contract as additional factors in determining whether to renew the contract.

(b) In addition to the requirements of paragraph (a), the charter contract must contain the plan for an orderly closing of the school under chapter 317A, that establishes the responsibilities of the school board of directors and the authorizer, whether the closure is a termination for cause, a voluntary termination, or a nonrenewal of the contract. The plan must establish who is responsible for:

(1) notifying the commissioner, school district in which the charter school is located, and parents of enrolled students about the closure;

(2) providing parents of enrolled students information and assistance to enable the student to re-enroll in another school;

(3) transferring student records under section 124E.03, subdivision 5, paragraph (b), to the student's resident school district; and

(4) closing financial operations.

(c) A charter school must design its programs to at least meet the outcomes adopted by the commissioner for public school students, including world's best workforce goals under section 120B.11, subdivision 1. In the absence of the commissioner's requirements governing state standards and benchmarks, the school must meet the outcomes contained in the contract with the authorizer. The achievement levels of the outcomes contained in the contract may exceed the achievement levels of any outcomes adopted by the commissioner for public school students.

**Subd. 2. Limits on charter school agreements.** (a) A school must disclose to the commissioner any potential contract, lease, or purchase of service from an authorizer. The contract, lease, or purchase must be accepted through an open bidding process and be separate from the charter contract. The school must document the open bidding process. An authorizer must not enter into a contract to provide management and financial services to a school it authorizes, unless the school documents receiving at least two competitive bids.

(b) An authorizer must not condition granting or renewing a charter on:

(1) the charter school being required to contract, lease, or purchase services from the authorizer; or

(2) the bargaining unit status of school employees.

**Subd. 3. Review and comment.** (a) The authorizer shall provide a formal written evaluation of the school's performance before the authorizer renews the charter contract. The commissioner must review and comment on the authorizer's evaluation process at the time the authorizer submits its application for approval and each time the authorizer undergoes its five-year review under section 124E.05, subdivision 5.

(b) An authorizer shall monitor and evaluate the academic, financial, operational, and student performance of the school, and may assess a charter school a fee according to paragraph (c). The agreed-upon fee structure must be stated in the charter school contract.

(c) The fee that an authorizer may annually assess is the greater of:

(1) the basic formula allowance for that year; or

(2) the lesser of:

(i) the maximum fee factor times the basic formula allowance for that year; or

(ii) the fee factor times the basic formula allowance for that year times the charter school's adjusted pupil units for that year. The fee factor equals .015. The maximum fee factor equals 4.0.

(d) An authorizer may not assess a fee for any required services other than as provided in this subdivision.

(e) For the preoperational planning period, after a school is chartered, the authorizer may assess a charter school a fee equal to the basic formula allowance.

**Subd. 4. Causes for nonrenewal or termination of charter school contract.** (a) The duration of the contract with an authorizer must be for the term contained in the contract according to subdivision 1, paragraph (a). The authorizer may or may not renew a contract at the end of the term for any ground listed in paragraph (b). An authorizer may unilaterally terminate a contract during the term of the contract for any ground listed in paragraph (b). At least 60 business days before not renewing or terminating a contract, the authorizer shall notify the board of directors of the charter school of the proposed action in writing. The notice shall state the grounds for the proposed action in reasonable detail and describe the informal hearing process, consistent with this paragraph. The charter school's board of directors may request in writing an informal hearing before the authorizer within 15 business days after receiving notice of nonrenewal or termination of the contract. Failure by the board of directors to make a written request for an informal hearing within the 15-business-day period shall be treated as acquiescence to the proposed action. Upon receiving a timely written request for a hearing, the authorizer shall give ten business days' notice to the charter school's board of directors of the hearing date. The authorizer shall conduct an informal hearing before taking final action. The authorizer shall take final action to renew or not renew a contract no later than 20 business days before the proposed date for terminating the contract or the end date of the contract.

(b) An authorizer may terminate or not renew a contract upon any of the following grounds:

(1) failure to demonstrate satisfactory academic achievement for all students, including the requirements for pupil performance contained in the contract;

(2) failure to meet generally accepted standards of fiscal management;

(3) violations of law; or

(4) other good cause shown.

If the authorizer terminates or does not renew a contract under this paragraph, the school must be dissolved according to the applicable provisions of chapter 317A.

(c) The commissioner, after providing reasonable notice to the board of directors of a charter school and the existing authorizer, and after providing an opportunity for a public hearing, may terminate the existing contract between the authorizer and the charter school board if the charter school has a history of:

(1) failure to meet pupil performance requirements, consistent with state law;

(2) financial mismanagement or failure to meet generally accepted standards of fiscal management; or

(3) repeated or major violations of the law.

Subd. 5. **Mutual nonrenewal.** If the authorizer and the charter school board of directors mutually agree not to renew the contract, or if the governing board of an approved authorizer votes to withdraw as an approved authorizer for a reason unrelated to any cause under subdivision 4, a change in authorizers is allowed. The authorizer and the school board must jointly submit a written and signed letter of their intent to the commissioner to mutually not renew the contract. The authorizer that is a party to the existing contract must inform the proposed authorizer about the fiscal, operational, and student performance status of the school, including unmet contract outcomes and other outstanding contractual obligations. The charter contract between the proposed authorizer and the school must identify and provide a plan to address any outstanding obligations from the previous contract. The proposed authorizer must submit the proposed contract at least 105 business days before the end of the existing charter contract. The commissioner has 30 business days to review and make a determination on the change in authorizer. The proposed authorizer and the school have 15 business days to respond to the determination and address any issues identified by the commissioner. The commissioner must make a final determination no later than 45 business days before the end of the current charter contract. If the commissioner does not approve a change in authorizer, the school and the current authorizer may withdraw their letter of nonrenewal and enter into a new contract. If the commissioner does not approve a change in authorizer and the current authorizer and the school do not withdraw their letter and enter into a new contract, the school must be dissolved according to applicable law and the terms of the contract.

Subd. 6. **Pupil enrollment upon nonrenewal or termination of charter school contract.** (a) If a contract is not renewed or is terminated according to subdivision 4 or 5, a pupil who attended the school, siblings of the pupil, or another pupil who resides with the pupil may enroll in the resident district or may submit an application to a nonresident district according to section 124D.03 governing open enrollment at any time. Applications and notices required by section 124D.03 must be processed and provided in a prompt manner. The application and notice deadlines in section 124D.03 do not apply under these circumstances.

(b) Within ten business days of closing the charter school, the closed school must transfer the student's educational records to the student's school district of residence where the records must be retained or transferred under section 120A.22, subdivision 7.

**History:** 1991 c 265 art 9 s 3; 1993 c 224 art 9 s 6,12; 1Sp1995 c 3 art 9 s 2; 1Sp1997 c 4 art 5 s 7,8; 1998 c 397 art 2 s 2,4,8,13,19,20,164; art 11 s 3; 1998 c 398 art 2 s 4; art 5 s 55; 1999 c 241 art 5 s 10; 2000 c 489 art 6 s 22,23; 1Sp2001 c 6 art 2 s 24; 2003 c 130 s 12; 1Sp2005 c 5 art 2 s 60-62; 2007 c 146 art 2 s 25; 2009 c 96 art 2 s 41; 2010 c 382 s 27,28; 1Sp2011 c 11 art 2 s 29; 2012 c 187 art 1 s 18; 2012 c 239 art 2 s 11,13; 2013 c 116 art 4 s 1; 2013 c 144 s 11; 2014 c 272 art 3 s 36; 1Sp2015 c 3 art 4 s 3,10; 2016 c 189 art 26 s 8; art 28 s 5,6

#### 124E.11 ADMISSION REQUIREMENTS AND ENROLLMENT.

(a) A charter school, including its preschool or prekindergarten program established under section 124E.06, subdivision 3, paragraph (b), may limit admission to:

(1) pupils within an age group or grade level;

(2) pupils who are eligible to participate in the graduation incentives program under section 124D.68;

or

(3) residents of a specific geographic area in which the school is located when the majority of students served by the school are members of underserved populations.



(b) A charter school, including its preschool or prekindergarten program established under section 124E.06, subdivision 3, paragraph (b), shall enroll an eligible pupil who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, pupils must be accepted by lot. The charter school must develop and publish, including on its website, a lottery policy and process that it must use when accepting pupils by lot.

(c) A charter school shall give enrollment preference to a sibling of an enrolled pupil and to a foster child of that pupil's parents and may give preference for enrolling children of the school's staff before accepting other pupils by lot. A charter school that is located in Duluth township in St. Louis County and admits students in kindergarten through grade 6 must give enrollment preference to students residing within a five-mile radius of the school and to the siblings of enrolled children. A charter school may give enrollment preference to children currently enrolled in the school's free preschool or prekindergarten program under section 124E.06, subdivision 3, paragraph (b), who are eligible to enroll in kindergarten in the next school year.

(d) A person shall not be admitted to a charter school (1) as a kindergarten pupil, unless the pupil is at least five years of age on September 1 of the calendar year in which the school year for which the pupil seeks admission commences; or (2) as a first grade student, unless the pupil is at least six years of age on September 1 of the calendar year in which the school year for which the pupil seeks admission commences or has completed kindergarten; except that a charter school may establish and publish on its website a policy for admission of selected pupils at an earlier age, consistent with the enrollment process in paragraphs (b) and (c).

(e) Except as permitted in paragraph (d), a charter school, including its preschool or prekindergarten program established under section 124E.06, subdivision 3, paragraph (b), may not limit admission to pupils on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability and may not establish any criteria or requirements for admission that are inconsistent with this section.

(f) The charter school shall not distribute any services or goods of value to students, parents, or guardians as an inducement, term, or condition of enrolling a student in a charter school.

(g) Once a student is enrolled in the school, the student is considered enrolled in the school until the student formally withdraws or is expelled under the Pupil Fair Dismissal Act in sections 121A.40 to 121A.56.

(h) A charter school with at least 90 percent of enrolled students who are eligible for special education services and have a primary disability of deaf or hard-of-hearing may enroll prekindergarten pupils with a disability under section 126C.05, subdivision 1, paragraph (a), and must comply with the federal Individuals with Disabilities Education Act under Code of Federal Regulations, title 34, section 300.324, subsection (2), clause (iv).

**History:** 1991 c 265 art 9 s 3; 1993 c 224 art 9 s 8; 1Sp1995 c 3 art 9 s 2; 1996 c 412 art 4 s 2; 1998 c 397 art 2 s 7,164; art 11 s 3; 2000 c 489 art 6 s 20; 2009 c 96 art 2 s 41; 1Sp2011 c 11 art 2 s 29; 2013 c 116 art 4 s 1; 2014 c 272 art 3 s 38,39; 1Sp2015 c 3 art 4 s 4,10; 1Sp2017 c 5 art 2 s 41; 2018 c 182 art 1 s 32

## 124E.12 EMPLOYMENT.

Subdivision 1. **Teachers.** A charter school must employ or contract with necessary teachers, as defined by section 122A.15, subdivision 1, who hold valid licenses to perform the particular service for which they are employed in the school. The commissioner may reduce the charter school's state aid under section 127A.43 if the school employs a teacher who is not appropriately licensed or approved by the Professional

Educator Licensing and Standards Board. The school may employ necessary employees who are not required to hold teaching licenses to perform duties other than teaching and may contract for other services. The school may discharge teachers and nonlicensed employees. The charter school board is subject to section 181.932 governing whistle-blowers. When offering employment to a prospective employee, a charter school must give that employee a written description of the terms and conditions of employment and the school's personnel policies.

Subd. 2. **Administrators.** (a) A person, without holding a valid administrator's license, may perform administrative, supervisory, or instructional leadership duties. The board of directors shall establish qualifications for all persons who hold administrative, supervisory, or instructional leadership roles. The qualifications shall cover at least: instruction and assessment; human resource and personnel management; financial management; legal and compliance management; effective communication; and board, authorizer, and community relationships. The board of directors shall use those qualifications as the basis for job descriptions, hiring, and performance evaluations of those who hold administrative, supervisory, or instructional leadership roles.

(b) The board of directors and an individual who does not hold a valid administrative license and who serves in an administrative, supervisory, or instructional leadership position shall develop a professional development plan. The school's annual report must include public personnel information documenting the professional development plan.

Subd. 3. **Collective bargaining.** Employees of the board of directors of a charter school may, if otherwise eligible, organize under chapter 179A and comply with its provisions. The board of directors of a charter school is a public employer, for the purposes of chapter 179A, when forming one or more bargaining units at the school. Bargaining units at the school must be separate from any other units within an authorizing district, except that bargaining units may remain part of the appropriate unit within an authorizing district if the employees of the school, the board of directors of the school, the exclusive representative of the appropriate unit in the authorizing district, and the board of the authorizing district agree to include the employees in the appropriate unit of the authorizing district. The board of directors of a charter school with employees organized under this subdivision must comply with sections 471.6161 governing group insurance and 471.895 governing gifts.

Subd. 4. **Teacher and other employee retirement.** (a) Teachers in a charter school must be public school teachers for the purposes of chapters 354 and 354A governing the Teacher Retirement Act.

(b) Except for teachers under paragraph (a), employees in a charter school must be public employees for the purposes of chapter 353 governing the Public Employees Retirement Act.

Subd. 5. **Group health insurance.** (a) A charter school board with at least 25 employees or a teacher cooperative of licensed teachers providing instruction under a contract between a school and a cooperative that provides group health insurance coverage shall:

(1) request proposals for group health insurance coverage from a minimum of three sources at least every two years; and

(2) notify employees covered by the group health insurance coverage before the effective date of the changes in the group coverage policy contract.

(b) A charter school board or a cooperative of teachers that provides group health insurance coverage must establish and publish on its website the policy for purchasing group health insurance coverage. A charter school board policy must include a sealed proposal process, which requires all proposals to be opened

at the same time. Upon opening the proposals according to the school or cooperative policy, the proposals become public data under chapter 13.

Nothing in this subdivision supersedes the right of an exclusive representative to negotiate the terms and conditions of employment.

**Subd. 6. Leave to teach in a charter school.** If a teacher employed by a district makes a written request for an extended leave of absence to teach at a charter school, the district must grant the leave. The district must grant a leave not to exceed a total of five years. Any request to extend the leave shall be granted only at the discretion of the school board. The district may require a teacher to make the request for a leave or extension of leave before February 1 in the school year preceding the school year in which the teacher intends to leave, or February 1 of the calendar year in which the teacher's leave is scheduled to terminate. Except as otherwise provided in this subdivision and section 122A.46, subdivision 7, governing employment in another district, the leave is governed by section 122A.46, including, but not limited to, reinstatement, notice of intention to return, seniority, salary, and insurance.

During a leave, the teacher may continue to aggregate benefits and credits in the Teachers' Retirement Association account under chapters 354 and 354A, consistent with subdivision 4.

**History:** 1991 c 265 art 9 s 3; 1993 c 224 art 9 s 9; 1Sp1995 c 3 art 9 s 2; 1Sp1997 c 4 art 5 s 9; 1998 c 397 art 2 s 9,16-18,164; art 11 s 3; 1999 c 241 art 5 s 11; 2000 c 489 art 6 s 21; 1Sp2003 c 9 art 2 s 25; 2009 c 96 art 2 s 41; 2014 c 279 s 6,7; 1Sp2015 c 3 art 4 s 10; 2016 c 189 art 26 s 9; 1Sp2017 c 5 art 12 s 22

## 124E.13 FACILITIES.

Subdivision 1. **Leased space.** A charter school may lease space from: an independent or special school board; other public organization; private, nonprofit, nonsectarian organization; private property owner; or a sectarian organization if the leased space is constructed as a school facility. The commissioner must review and approve or disapprove leases in a timely manner to determine eligibility for lease aid under section 124E.22.

**Subd. 2. Related party lease costs.** (a) A charter school must not enter into a lease of real property with a related party unless the lessor is a nonprofit corporation under chapter 317A or a cooperative under chapter 308A, and the lease cost is reasonable under section 124E.22, paragraph (a), clause (1).

(b) A related party permitted to enter into a lease under paragraph (a) must include the following statement in the lease: "This lease is subject to Minnesota Statutes, section 124E.13, subdivision 2."

(c) If a charter school leases space from a related party and the charter school subsequently closes, the commissioner has the right to recover from the related party any lease payments in excess of those that are reasonable under section 124E.22, paragraph (a), clause (1).

**Subd. 3. Affiliated nonprofit building corporation.** (a) An affiliated nonprofit building corporation may purchase, expand, or renovate an existing facility to serve as a school or may construct a new school facility. A charter school may organize an affiliated nonprofit building corporation if the charter school:

- (1) has operated for at least six consecutive years;
- (2) as of June 30, has a net positive unreserved general fund balance in the preceding three fiscal years;
- (3) has long-range strategic and financial plans that include enrollment projections for at least five years;

(4) completes a feasibility study of facility options that outlines the benefits and costs of each option; and

(5) has a plan that describes project parameters and budget.

(b) An affiliated nonprofit building corporation under this subdivision must:

(1) be incorporated under section 317A;

(2) comply with applicable Internal Revenue Service regulations, including regulations for "supporting organizations" as defined by the Internal Revenue Service;

(3) post on the school website the name, mailing address, bylaws, minutes of board meetings, and names of the current board of directors of the affiliated nonprofit building corporation;

(4) submit to the commissioner a copy of its annual audit by December 31 of each year; and

(5) comply with government data practices law under chapter 13.

(c) An affiliated nonprofit building corporation must not serve as the leasing agent for property or facilities it does not own. A charter school that leases a facility from an affiliated nonprofit building corporation that does not own the leased facility is ineligible to receive charter school lease aid. The state is immune from liability resulting from a contract between a charter school and an affiliated nonprofit building corporation.

(d) The board of directors of the charter school must ensure the affiliated nonprofit building corporation complies with all applicable legal requirements. The charter school's authorizer must oversee the efforts of the board of directors of the charter school to ensure legal compliance of the affiliated building corporation. A school's board of directors that fails to ensure the affiliated nonprofit building corporation's compliance violates its responsibilities and an authorizer must consider that failure when evaluating the charter school.

**Subd. 4. Positive review and comment.** If the amount of a purchase agreement or construction contract exceeds the review and comment threshold, a charter school or its affiliated nonprofit building corporation must receive a positive review and comment from the commissioner before initiating any purchase agreement or construction contract. Without a positive review and comment from the commissioner, a purchase agreement or construction contract under this subdivision is null and void. For purposes of this subdivision, "review and comment threshold" means the dollar amount specified in section 123B.71, subdivision 8, applicable to a school entity that is not a recipient of a maximum effort capital loan.

**History:** 1991 c 265 art 9 s 3; 1993 c 224 art 9 s 10; 1994 c 647 art 9 s 2; 1Sp1995 c 3 art 9 s 2; art 16 s 13; 1998 c 397 art 2 s 164; 1Sp2001 c 6 art 2 s 25; 2003 c 130 s 12; 1Sp2003 c 9 art 12 s 11; 2007 c 146 art 2 s 24; 2009 c 96 art 2 s 41; 1Sp2011 c 11 art 2 s 29; 2012 c 239 art 2 s 14; 2013 c 116 art 4 s 1; 2014 c 272 art 3 s 40,41; 1Sp2015 c 3 art 4 s 10; 2016 c 189 art 26 s 10

#### 124E.14 CONFLICTS OF INTEREST.

(a) No member of the board of directors, employee, officer, or agent of a charter school shall participate in selecting, awarding, or administering a contract if a conflict of interest exists. A conflict exists when:

(1) the board member, employee, officer, or agent;

(2) the immediate family of the board member, employee, officer, or agent;

(3) the partner of the board member, employee, officer, or agent; or

(4) an organization that employs, or is about to employ any individual in clauses (1) to (3),

has a financial or other interest in the entity with which the charter school is contracting. A violation of this prohibition renders the contract void.

(b) The conflict of interest provisions under this section do not apply to compensation paid to a teacher employed as a teacher by the charter school or a teacher who provides instructional services to the charter school through a cooperative formed under chapter 308A when the teacher also serves on the charter school board of directors.

(c) A charter school board member, employee, or officer is a local official for purposes of section 471.895 with regard to receipt of gifts as defined under section 10A.071, subdivision 1, paragraph (b). A board member, employee, or officer must not receive compensation from a group health insurance provider.

**History:** *1Sp2001 c 6 art 2 s 20; 2009 c 96 art 2 s 41; 2013 c 116 art 4 s 1; 2014 c 279 s 5; 1Sp2015 c 3 art 4 s 10*

#### **124E.15 TRANSPORTATION.**

(a) A charter school must comply with all pupil transportation requirements in section 123B.88, subdivision 1. A charter school must not require parents to surrender their rights to pupil transportation under section 123B.88, subdivision 2.

(b) A charter school must notify the district in which the school is located and the commissioner by July 1 of its first fiscal year of operation if it will provide its own transportation or use the transportation services of the district in which it is located. For each subsequent year of operation, a charter school must give that district and the commissioner notice by March 1 for the following fiscal year.

(c) If a charter school elects to provide transportation for pupils, the charter school must provide the transportation within the district in which the charter school is located. The state must pay transportation aid to the charter school according to section 124E.23.

(d) For pupils who reside outside the district in which the charter school is located, the charter school is not required to provide or pay for transportation between the pupil's residence and the border of the district in which the charter school is located. The charter school may reimburse a parent for costs of transportation from the pupil's residence to the border of the district in which the charter school is located if the pupil is from a family whose income is at or below the poverty level, as determined by the federal government. The reimbursement may not exceed the pupil's actual cost of transportation or 15 cents per mile traveled, whichever is less. Reimbursement may not be paid for more than 250 miles per week.

(e) If a charter school does not elect to provide transportation, the district in which the school is located must provide transportation, according to sections 123B.88, subdivision 6, governing transporting nonresident pupils, and 124D.03, subdivision 8, for a pupil residing in the same district in which the charter school is located. The district in which the charter school is located may provide transportation, according to sections 123B.88, subdivision 6, and 124D.03, subdivision 8, governing open enrollment transportation, for a pupil residing in a different district. If the district provides the transportation, the scheduling of routes, manner and method of transportation, control and discipline of the pupils, and any other matter relating to the transportation of pupils under this paragraph is within the sole discretion, control, and management of the district.

(f) The charter school must provide the parent or guardian with information about transportation when a pupil enrolls.

**History:** 1991 c 265 art 9 s 3; 1Sp1995 c 3 art 9 s 2; 1998 c 397 art 2 s 14,164; art 11 s 3; 2003 c 130 s 12; 1Sp2003 c 9 art 2 s 24; 2006 c 263 art 2 s 15; 2014 c 272 art 3 s 38; 1Sp2015 c 3 art 4 s 4,10; 2016 c 189 art 26 s 11

#### 124E.16 REPORTS.

Subdivision 1. **Audit report.** (a) A charter school is subject to the same financial audits, audit procedures, and audit requirements as a district, except as required under this subdivision. Audits must be conducted in compliance with generally accepted governmental auditing standards, the federal Single Audit Act, if applicable, and section 6.65 governing auditing procedures. A charter school is subject to and must comply with sections 15.054; 118A.01; 118A.02; 118A.03; 118A.04; 118A.05; 118A.06 governing government property and financial investments; and sections 471.38; 471.391; 471.392; and 471.425 governing municipal contracting. The audit must comply with the requirements of sections 123B.75 to 123B.83 governing school district finance, except when the commissioner and authorizer approve a deviation made necessary because of school program finances. The commissioner, state auditor, legislative auditor, or authorizer may conduct financial, program, or compliance audits. A charter school in statutory operating debt under sections 123B.81 to 123B.83 must submit a plan under section 123B.81, subdivision 4.

(b) The charter school must submit an audit report to the commissioner and its authorizer annually by December 31.

(c) The charter school, with the assistance of the auditor conducting the audit, must include with the report, as supplemental information: (1) a copy of management agreements with a charter management organization or an educational management organization and (2) service agreements or contracts over the lesser of \$100,000 or ten percent of the school's most recent annual audited expenditures. The agreements must detail the terms of the agreement, including the services provided and the annual costs for those services. If the entity that provides the professional services to the charter school is exempt from taxation under section 501 of the Internal Revenue Code of 1986, that entity must file with the commissioner by February 15 a copy of the annual return required under section 6033 of the Internal Revenue Code of 1986.

(d) A charter school independent audit report shall include audited financial data of an affiliated building corporation under section 124E.13, subdivision 3, or other component unit.

(e) If the audit report finds that a material weakness exists in the financial reporting systems of a charter school, the charter school must submit a written report to the commissioner explaining how the charter school will resolve that material weakness. An auditor, as a condition of providing financial services to a charter school, must agree to make available information about a charter school's financial audit to the commissioner and authorizer upon request.

Subd. 2. **Annual public reports.** (a) A charter school must publish an annual report approved by the board of directors. The annual report must at least include information on school enrollment, student attrition, governance and management, staffing, finances, academic performance, innovative practices and implementation, and future plans. A charter school may combine this report with the reporting required under section 120B.11 governing the world's best workforce. A charter school must post the annual report on the school's official website. A charter school also must distribute the annual report by publication, mail, or electronic means to its authorizer, school employees, and parents and legal guardians of students enrolled in the charter school. The reports are public data under chapter 13.

(b) An authorizer must submit an annual public report in a manner specified by the commissioner by January 15 for the previous school year ending June 30 that shall at least include key indicators of school academic, operational, and financial performance. The report is part of the system to evaluate authorizer performance under section 124E.05, subdivision 5.

**History:** 1991 c 265 art 9 s 3; 1993 c 224 art 14 s 16; 1994 c 465 art 2 s 1; 1Sp1995 c 3 art 9 s 2; art 16 s 13; 1998 c 397 art 2 s 6,12,164; art 11 s 3; 1998 c 398 art 5 s 55; 2000 c 489 art 6 s 19; 1Sp2001 c 6 art 2 s 22,23; 2003 c 130 s 12; 2009 c 96 art 2 s 41; 2010 c 382 s 27; 1Sp2011 c 11 art 2 s 29; 2013 c 116 art 4 s 1; 2014 c 272 art 3 s 37; 1Sp2015 c 3 art 4 s 4,6,10; 2016 c 189 art 26 s 12; art 28 s 7

#### 124E.17 DISSEMINATION OF INFORMATION.

Subdivision 1. **Charter school information.** (a) Charter schools must disseminate information about how to use the charter school offerings to targeted groups, among others. Targeted groups include low-income families and communities, students of color, and students who are at risk of academic failure.

(b) Authorizers and the commissioner must disseminate information to the public on how to form and operate a charter school. Authorizers, operators, and the commissioner also may disseminate information to interested stakeholders about the successful best practices in teaching and learning demonstrated by charter schools.

Subd. 2. **Financial information.** Upon request of an individual, the charter school must make available in a timely fashion financial statements showing all operations and transactions affecting the school's income, surplus, and deficit during the last annual accounting period; and a balance sheet summarizing assets and liabilities on the closing date of the accounting period. A charter school also must include that same information about its authorizer in other school materials that it makes available to the public.

**History:** 1991 c 265 art 9 s 3; 1993 c 224 art 9 s 11; 1Sp1995 c 3 art 9 s 2; art 16 s 13; 1998 c 397 art 2 s 164; 2003 c 130 s 12; 2009 c 96 art 2 s 41; 2012 c 239 art 2 s 10; 2013 c 116 art 4 s 1; 1Sp2015 c 3 art 4 s 3,10; 2016 c 189 art 26 s 13

### FINANCE

#### 124E.20 GENERAL EDUCATION REVENUE.

Subdivision 1. **Revenue calculation.** (a) General education revenue must be paid to a charter school as though it were a district. The general education revenue for each adjusted pupil unit is the state average general education revenue per pupil unit, plus the referendum equalization aid allowance in the pupil's district of residence, minus an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0466, calculated without declining enrollment revenue, local optional revenue, basic skills revenue, extended time revenue, pension adjustment revenue, transition revenue, and transportation sparsity revenue, plus declining enrollment revenue, basic skills revenue, pension adjustment revenue, and transition revenue as though the school were a school district.

(b) For a charter school operating an extended day, extended week, or summer program, the general education revenue in paragraph (a) is increased by an amount equal to 25 percent of the statewide average extended time revenue per adjusted pupil unit.

(c) Notwithstanding paragraph (a), the general education revenue for an eligible special education charter school as defined in section 124E.21, subdivision 2, equals the sum of the amount determined under paragraph

(a) and the school's unreimbursed cost as defined in section 124E.21, subdivision 2, for educating students not eligible for special education services.

Subd. 2. **Use of total operating capital revenue.** Notwithstanding section 126C.10, subdivision 14, a charter school may use total operating capital revenue for any purpose related to the school.

**History:** 1991 c 265 art 9 s 43; 1Sp1995 c 3 art 8 s 4; 1996 c 412 art 7 s 5,7; 1998 c 397 art 2 s 89,164; art 11 s 3; 1998 c 398 art 1 s 10; 1999 c 241 art 1 s 2; 2000 c 489 art 2 s 4; 1Sp2003 c 9 art 2 s 26; 1Sp2005 c 5 art 2 s 63; 2013 c 116 art 4 s 2; 2014 c 312 art 15 s 5; 1Sp2015 c 3 art 1 s 1; art 4 s 10; art 5 s 4

### 124E.21 SPECIAL EDUCATION AID.

Subdivision 1. **Special education aid.** (a) Except as provided in section 124E.23, special education aid must be paid to a charter school according to section 125A.76, as though it were a school district.

(b) For fiscal year 2015 and later, the special education aid paid to the charter school shall be adjusted as follows:

(1) if the charter school does not receive general education revenue on behalf of the student according to section 124E.20, the aid shall be adjusted as provided in section 125A.11; or

(2) if the charter school receives general education revenue on behalf of the student according to section 124E.20, the aid shall be adjusted as provided in section 127A.47, subdivision 7, paragraphs (b) to (e).

Subd. 2. **Definitions.** (a) For purposes of subdivision 3, the terms in this subdivision have the meanings given.

(b) "Unreimbursed costs" means the difference between the total cost of educating students at the school and the total of state and federal aids and grants, excluding aid under subdivision 3 and section 124E.20, subdivision 1, paragraph (c).

(c) "Eligible special education charter school" means a charter school:

(1) where the percent of students eligible for special education services equals at least 90 percent of the charter school's total enrollment; and

(2) that submits to the commissioner a preliminary annual budget by June 15 prior to the start of the fiscal year and a revised budget by January 15 of the current fiscal year detailing its unreimbursed costs for educating students eligible and not eligible for special education services.

Subd. 3. **Special education aid for eligible special education charter schools.** (a) Notwithstanding subdivision 1, the special education aid for an eligible special education charter school equals the sum of the school's special education aid under subdivision 1, paragraph (a), and the school's approved unreimbursed cost for educating students eligible for special education services.

(b) The commissioner must review the budget data submitted by an eligible special education charter school under subdivision 2 and notify the school of the approved unreimbursed cost to be used for current aid payments within 30 days of receiving the budget from the school.

(c) For purposes of section 127A.45, subdivision 13, the aid under this subdivision is not subject to the 97.4 percent current fiscal year special education aid entitlement provision.



(d) Final aid payments must be calculated using the actual unreimbursed costs as determined by the department based on year-end financial and student data submitted by the charter school.

**History:** 1991 c 265 art 9 s 43; 1994 c 647 art 3 s 11; 1Sp1995 c 3 art 8 s 4; 1996 c 412 art 7 s 8; 1997 c 7 art 1 s 52; 1Sp1997 c 4 art 2 s 4; 1998 c 397 art 2 s 91,164; art 11 s 3; 2000 c 254 s 17; 1Sp2001 c 6 art 8 s 2; 1Sp2005 c 5 art 3 s 5; 2013 c 116 art 5 s 2; 1Sp2015 c 3 art 4 s 10; art 5 s 5-7

#### **124E.22 BUILDING LEASE AID.**

(a) When a charter school finds it economically advantageous to rent or lease a building or land for any instructional purpose and it determines that the total operating capital revenue under section 126C.10, subdivision 13, is insufficient for this purpose, it may apply to the commissioner for building lease aid. The commissioner must review and either approve or deny a lease aid application using the following criteria:

(1) the reasonableness of the price based on current market values;

(2) the extent to which the lease conforms to applicable state laws and rules; and

(3) the appropriateness of the proposed lease in the context of the space needs and financial circumstances of the charter school. The commissioner must approve aid only for a facility lease that has (i) a sum certain annual cost and (ii) a closure clause to relieve the charter school of its lease obligations at the time the charter contract is terminated or not renewed. The closure clause under item (ii) must not be constructed or construed to relieve the charter school of its lease obligations in effect before the charter contract is terminated or not renewed.

(b) A charter school must not use the building lease aid it receives for custodial, maintenance service, utility, or other operating costs.

(c) The amount of annual building lease aid for a charter school shall not exceed the lesser of (1) 90 percent of the approved cost or (2) the product of the charter school building lease aid pupil units served for the current school year times \$1,314.

(d) A charter school's building lease aid pupil units equals the sum of the charter school pupil units under section 126C.05 and the pupil units for the portion of the day that the charter school's enrolled students are participating in the Postsecondary Enrollment Options Act under section 124D.09 and not otherwise included in the pupil count under section 126C.05.

**History:** 1Sp1997 c 4 art 5 s 13; 1998 c 397 art 2 s 164; art 11 s 3; 1998 c 398 art 1 s 12; 1999 c 241 art 5 s 12; 1Sp2001 c 6 art 2 s 27; 1Sp2003 c 9 art 2 s 28; 1Sp2011 c 11 art 2 s 30; 2013 c 116 art 4 s 4; 2014 c 272 art 3 s 42; 1Sp2015 c 3 art 4 s 10; 2016 c 189 art 26 s 14; 1Sp2017 c 5 art 2 s 42

#### **124E.23 TRANSPORTATION REVENUE.**

Transportation revenue must be paid to a charter school that provides transportation services according to section 124E.15, according to this section. Transportation aid shall equal transportation revenue.

In addition to the revenue under section 124E.20, a charter school providing transportation services must receive general education aid equal to the sum of the product of (1) an amount equal to the product of the formula allowance according to section 126C.10, subdivision 2, times .0466, plus the transportation

sparsity allowance for the school district in which the charter school is located times (2) the adjusted pupil units, plus the product of \$223 times the extended time pupil units.

**History:** *1Sp1995 c 3 art 8 s 4; 1996 c 412 art 7 s 6; 1998 c 397 art 2 s 90,164; art 11 s 3; 1998 c 398 art 1 s 11; 1Sp2003 c 9 art 2 s 27; 1Sp2005 c 5 art 2 s 64; 2013 c 116 art 4 s 3; 1Sp2015 c 3 art 4 s 10*

#### **124E.24 OTHER AID, GRANTS, AND REVENUE.**

(a) A charter school is eligible to receive other aids, grants, and revenue according to chapters 120A to 129C, as though it were a district.

(b) Notwithstanding paragraph (a), a charter school may not receive aid, a grant, or revenue if a levy is required to obtain the money, or if the aid, grant, or revenue replaces levy revenue that is not general education revenue, except as otherwise provided in this chapter.

(c) Federal aid received by the state must be paid to the school, if it qualifies for the aid, as though it were a school district.

(d) A charter school may receive money from any source for capital facilities needs. In the year-end report to the commissioner, the charter school shall report the total amount of funds it received from grants and other outside sources.

**History:** *1991 c 265 art 9 s 43; 1994 c 647 art 9 s 10; 1Sp1995 c 3 art 8 s 4; 1Sp1997 c 4 art 5 s 14; 1998 c 397 art 2 s 92,164; art 11 s 3; 1998 c 398 art 5 s 55; 1999 c 241 art 5 s 13; 2000 c 489 art 6 s 24; 1Sp2003 c 9 art 2 s 29; 1Sp2005 c 5 art 2 s 65; 1Sp2015 c 3 art 4 s 10; 2016 c 189 art 26 s 15*

#### **124E.25 PAYMENT OF AIDS TO CHARTER SCHOOLS.**

Subdivision 1. **Payments.** Notwithstanding section 127A.45, subdivision 3, if the current year aid payment percentage under section 127A.45, subdivision 2, paragraph (d), is 90 or greater, aid payments for the current fiscal year to a charter school shall be of an equal amount on each of the 24 payment dates. Notwithstanding section 127A.45, subdivision 3, if the current year aid payment percentage under section 127A.45, subdivision 2, paragraph (d), is less than 90, aid payments for the current fiscal year to a charter school shall be of an equal amount on each of the 16 payment dates in July through February.

Subd. 1a. **School closures; payments.** (a) Notwithstanding subdivision 1 and section 127A.45, for a charter school ceasing operation on or before June 30, for the payment periods occurring after the school ceases serving students, the commissioner shall withhold the estimated state aid owed the school. The charter school board of directors and authorizer must submit to the commissioner a closure plan under chapter 308A or 317A, and financial information about the school's liabilities and assets. After receiving the closure plan, financial information, an audit of pupil counts, and documented lease expenditures from the charter school and monitoring special education expenditures, the commissioner may release cash withheld and may continue regular payments up to the current year payment percentages if further amounts are owed. If, based on audits and monitoring, the school received state aid in excess of the amount owed, the commissioner shall retain aid withheld sufficient to eliminate the aid overpayment.

(b) For a charter school ceasing operations before or at the end of a school year, notwithstanding section 127A.45, subdivision 3, the commissioner may make preliminary final payments after the school submits the closure plan, an audit of pupil counts, documented lease expenditures, and Uniform Financial Accounting and Reporting Standards (UFARS) financial data and the commissioner monitors special education expenditures for the final year of operation. The commissioner may make the final payment after receiving audited financial statements under section 123B.77, subdivision 3.

(c) Notwithstanding sections 317A.701 to 317A.791, after closing a charter school and satisfying creditors, remaining cash and investment balances shall be returned by the commissioner to the state general fund.

Subd. 2. **Requirements.** (a) To receive state aid payments under this section, a charter school in its first three years of operation must submit to the commissioner a school calendar in the form and manner requested by the commissioner and a quarterly report. The quarterly report must list each student by grade, show the student's start and end dates, if applicable, and, for any student participating in a learning year program, the report must list the hours and times of learning year activities. The charter school must submit the report to the commissioner not more than two weeks after the end of the calendar quarter. The commissioner must develop a web-based reporting form for charter schools to use when submitting quarterly enrollment reports.

(b) To receive state aid payments under this section, a charter school in its fourth and subsequent year of operation must submit a school calendar and enrollment information to the commissioner in the form and manner requested by the commissioner.

(c) A charter school must have a valid, signed contract under section 124E.10, subdivision 1, on file with the commissioner at least 15 days before the date of first payment of state aid for the fiscal year.

(d) The commissioner shall compute state aid entitlements for a charter school only for the portion of a school year for which it has a valid, signed contract under section 124E.10, subdivision 1.

Subd. 3. **Aid reductions.** (a) The commissioner may reduce a charter school's state aid under section 127A.42 or 127A.43 if the charter school board fails to correct a violation under this chapter.

(b) The commissioner may reduce a charter school's state aid by an amount not to exceed 60 percent of the charter school's basic revenue for the period of time a law was violated.

Subd. 4. **Aid withholding.** (a) If a charter school fails to comply with the commissioner's directive to return, for cause, federal or state funds administered by the department, the commissioner may withhold an amount of state aid sufficient to satisfy the directive.

(b) If after receiving an undisputed invoice for goods and services, a charter school fails to pay the state of Minnesota, a school district, intermediate school district, or service cooperative within the timeline under section 471.425, the commissioner may withhold an amount of state aid sufficient to satisfy the claim and shall distribute the withheld aid to the interested state agency, school district, intermediate school district, or service cooperative. An interested state agency, school district, intermediate school district, or education cooperative shall notify the commissioner when a charter school fails to pay an undisputed invoice within 75 business days of when it received the original invoice.

**History:** 1999 c 241 art 5 s 14; 1Sp2001 c 6 art 2 s 28; 2002 c 374 art 1 s 1; 2003 c 130 s 12; 1Sp2003 c 9 art 5 s 5; 2004 c 294 art 2 s 14; 2006 c 263 art 2 s 16; 2009 c 96 art 2 s 41,42; 1Sp2011 c 11 art 2 s 31; art 5 s 3; 1Sp2015 c 3 art 4 s 8,10; 2016 c 189 art 26 s 16

#### 124E.26 USE OF STATE MONEY.

A charter school may not use state money to purchase land or buildings. The charter school may own land and buildings if obtained through nonstate sources.

**History:** 1991 c 265 art 9 s 43; 1998 c 397 art 2 s 164; 1Sp2015 c 3 art 4 s 10; 2016 c 189 art 26 s 17