



Michigan Charter Schools - Questions and Answers

GENERAL	1
STARTING A CHARTER SCHOOL	2
WORKING WITH AN AUTHORIZER	3
EDUCATIONAL PROGRAM/SUPPORT SERVICES	4
ENROLLMENT	5
FACILITIES	7
FINANCE	7
PROBLEMS/CONCERNS	9
START-UP FUNDING	10
STAFFING	10
AUTHORIZERS	11
SERVICE PROVIDERS	13
CHARTER SCHOOL BOARDS	14
SPECIAL EDUCATION	15

GENERAL

1. What is a public school academy (PSA)?

Pursuant to the Revised School Code (RSC), also known as Public Act 451 of 1976, a PSA is a state-supported public school under the state constitution, operating under a charter contract issued by a public authorizing body [RSC §380.501(1)]. PSAs are also commonly referred to as charter schools.

Charter schools may include grades K-12 or any combination of those grades. They may not charge tuition and must serve anyone who applies to attend up to enrollment capacity; that is, they may not screen out students based on race, religion, gender, or test scores. Students are selected randomly for admission if the number of students applying exceeds the school's enrollment capacity [RSC §380.504(2)]. The Every Student Succeeds Act (ESSA) eliminates the Highly Qualified Teacher (HQT) provision and reverts to state standards. Michigan requires all charter school educators to be certified. Charter school students are assessed annually as part of the Michigan Student Test of Educational progress (M-STEP), and charter schools are required to administer other state-mandated assessments such as the Michigan Merit Exam (MME) and the English Language Proficiency Assessment (ELPA). Charter schools cannot be religiously affiliated [RSC §380.502(1)].

2. What laws govern the establishment and operation of a Michigan charter school?

Part 6A of Michigan's Revised School Code was adopted to allow for the establishment of PSAs in Michigan (MCL 380.501 *et seq*). Following this change, three additional sections of the law were added to provide for the establishment of three additional categories of charter schools:

- Urban High School Academies (UHSAs) chartered under MCL 380.521 – 380.529, commonly referenced as Part 6C of the Revised School Code. These schools can only be authorized by state public universities.
- Schools of Excellence (SOEs) chartered under MCL 380.551 -380.561, commonly referred to as Part 6E of the Revised School Code. Schools of Excellence are established as either (1) a replication of a high performing school (2) a cyber school or (3) a conversion of a 6A PSA based on criteria that define superior academic performance.
- Strict Discipline Academies (SDAs) chartered under the Revised School Code (MCL 380.1311b – 380.1311I). SDAs are established to serve suspended, expelled or incarcerated young people.

In December 2011, the state legislature passed Public Act 277, which contained numerous amendments to sections 6A, 6C, and 6E. Collectively, PSAs, UHSAs, SOEs, and SDAs are called charter schools throughout the remainder of this document. While UHSAs and SDAs are defined as charter schools under certain sections of Michigan law, these entities have some unique statutory features. Individuals and organizations interested in developing schools in any of these three categories should review the documents available at www.michigan.gov/charters, and then contact the MDE Public School Academies Unit at (517) 373-4631 with specific questions.

3. Who may apply for a charter?

Any parent, teacher, group or entity may apply for a charter. Please refer to question six (6) for more details.

4. How are charter schools funded?

All charter schools are funded through the State School Aid Act [1979 PA 94, as amended, Article 1 §388.1606(6)(1)]. A charter school receives funding through the per-pupil base foundation. By law, this amount may not exceed the per-pupil base foundation received by the local school district where the charter school is geographically located [1979 PA 94, as amended, Article 2 §388.1620(6)].

5. Does a charter school qualify for state and federal grant funds in the same manner as a local school district?

Yes, a charter school may access state and federal grants in the same manner as local school districts [RSC §380.504a(f)]. Various factors apply to the eligibility of charter schools and school districts to apply for grants.

STARTING A CHARTER SCHOOL

6. What steps are needed to start a charter school?

A charter school must be chartered by the governing board of a public body that is authorized to issue charter contracts pursuant to Michigan law. In Michigan, an “authorizing body” means any of the following, pursuant to RSC §380.501(1):

- State Public University
- Community College
- K-12 Local Education Agency (Traditional School District)
- Intermediate School District (ISD)

- Two or more of these public agencies exercising power, privilege, or authority jointly pursuant to an interlocal agreement

However, not all potential authorizers take advantage of the opportunity to issue charters. The list of authorizers of current authorizers is located at the MDE PSA unit website (www.michigan.gov/charters) under the Directories and Lists link.

The fact that not all eligible entities choose to authorize does not preclude charter school developers from requesting consideration from any potential authorizer. At one time there was a cap imposed on the number of charter schools that state public universities could authorize. This cap expired as of December 31, 2014. The only remaining caps on the establishment of charter schools apply to cyber schools and their authorizers. See companion FAQ document for Schools of Excellence that are Cyber Schools found at www.michigan.gov/charters.

Interested developers should review and become familiar with all the materials on the MDE PSA website before embarking on the charter school development journey. (www.michigan.gov/charters)

7. May private schools become charter schools?

Private schools may become charter schools only if they cease operating as a private entity, obtain a charter from a qualified authorizer, and re-open as a public school that meets all the requirements of state law (Additional information on this can be found in the 2011 Federal Charter School Program Nonregulatory Guidance located as a link under Information for Developers at the MDE PSA website).

8. May a charter school be religiously affiliated?

No. A charter school must maintain the separation of church and state. If a charter school is utilizing a building that has religious symbols present, they **must** be removed or covered [RSC §380.502(1)].

WORKING WITH AN AUTHORIZER

9. Which authorizers are accepting charter applications?

To determine which authorizers are accepting charter applications, begin with an analysis of where the proposed charter school will be located. There are multiple eligible authorizers to work with each development team. The local school district, intermediate school district, and community college can issue charter school contracts within their geographic boundaries.

The University authorizers along with Bay Mills Community College can issue charters anywhere within the State of Michigan.

10. How does a developer apply for a charter?

Each Michigan authorizer has its process, forms, and requirements. However, the Michigan Council of Charter School Authorizers (MCCSA) has developed a common Phase I charter application that can help developers plan for the types of questions they will be asked. The form is available at any current authorizer's web site. For a list of current authorizers see www.michigan.gov/charters and follow the Directories and Lists link. As chartering opportunities become available, each authorizer will identify the specific process to be used.

11. What should be contained in a contract issued to organize and administer a charter school?

Please refer to the contract checklist available at the MDE PSA website under Charter School Authorizers and Vendors section and/or review RSC §380.503(6). You can also view copies of existing charter school contracts on most authorizers' websites.

EDUCATIONAL PROGRAM/SUPPORT SERVICES

12. Are charter schools required to adopt core content standards?

Local education agencies and public school academies are required to adopt a model core curriculum per Section 380.1278 of the Revised School Code. The curriculum should follow the core content standards adopted by the State of Michigan. Various sections of the Revised School Code require that the written curriculum be part of the charter contract itself. [Part 6a: 502(3)(e)(ii), Part 6c: 522(4)(e)(ii), Part 6e: 552(7)(e)(ii), 1311b et seq: 1311d(3)(e)(ii); 1311e(5)(d)]

13. May a charter school offer a single-gender program?

A charter school may offer a single gender class or program in which enrollment is limited to pupils of a single gender if the charter school permits enrollment of students of both genders. The charter school must also make available to pupils a substantially equal coeducational class or program and a substantially equal class or program for pupils of the other gender or both genders. Also, participation in the single-gender school, class, or program must be voluntary [RSC §380.475 and 380.1146]. In short, a single gender program may be offered if the two other programs (single gender for the opposite gender, and coeducational) are also available, and of equal scope and quality.

Charter schools that opt to pursue a single-gender program are advised to work very closely with legal counsel to determine that all aspects of the program are handled appropriately.

14. May charter schools be granted waivers for rules and regulations?

Waivers may be requested for sections of law or rule where the State Superintendent of Public Instruction has the legal authority to grant such a waiver. Two examples of such authority are the seat time requirement and after Labor Day start requirement. Also, some MDE offices have the waiver programs for administrative fees related to their areas of specialty (For example, Food and Nutrition Services). Requests typically go to the program office. If recommended for approval, it will go to the State Superintendent of Public Instruction for approval. For more information, see <http://www.techplan.org/seat-time-waivers/> AND <http://www.michigan.gov/mde/0,4615,7-140-66254---,00.html> (MDE's Food and Nutrition Office).

15. Who provides transportation to a charter school?

In general, a charter school is considered a local school district and is responsible for following the same legislative guidelines for transporting students as a local traditional school district, except that charter schools are not considered districts under RSC 380.1321, as they have no resident students. Therefore, a charter school may charge for transportation, contract with a 3rd party vendor who charges for this service or opts out of providing transportation. For further information on

transportation issues, call (517) 373-6388 to contact the Office of Grants Coordination and School Support.

16. Does a charter school have to use certified teachers?

Certification requirements for charter school teachers are identical to those of local school district teachers. Special exceptions are made for a charter school that is authorized by a state public university or community college that may wish to use their staff or adjunct professors to teach charter school students (refer to RSC §380.505).

17. Are charter schools required to report immunization regarding their students? If so, how?

Charter schools are required to report immunizations. If the charter school is new, then it **must** report on **all** students. If the charter school has been open for more than a year, it must report only on the **newly enrolled pupils**. For more information on this topic, please contact the Office of Grants Coordination & School Support at (517) 373-1122.

18. Do charter schools have to offer instruction in health and sex education?

Charter schools are bound by the same statutory curricular requirements as any traditional school district. Those regulations are found in various sections of the Revised School Code and School State Aid Act.

ENROLLMENT

19. May a charter school be selective in its admissions policy?

Except as prescribed in law, a charter school may **not** be selective in its enrollment process. It may not screen out students based on disability, race, religion, gender, test scores, etc. It may predetermine the ages, grades, and a number of students it will serve. A random selection process must be used if the number of applicants exceeds the school's enrollment capacity.

20. If a student is enrolled in a charter school during a school year, does the student have to be part of the random selection if the charter school exceeds its enrollment number the following school year?

No, a student is automatically granted enrollment privileges for succeeding school years. Siblings of admitted students are granted enrollment priority, and children of school employees and board members may be offered enrollment priority.

21. If a student voluntarily leaves a charter school, must the student's resident school district enroll the student?

Yes, except expulsion due to possession of weapons, committing arson, or criminal sexual conduct in a school building or on school grounds, as outlined in the Revised School Code, MCL 380.1311. Expulsions should be handled on an individual basis.

20. If a student voluntarily leaves a local school district, must a charter school enroll the student?

Yes, with a couple of notable exceptions. A charter school may deny enrollment if the charter reached its enrollment capacity for that student's age or grade, or the school's total enrollment cap as established by the charter contract. It may also deny enrollment if School Board policy stipulates that the school can no longer accept enrollment applications for the current year.

22. Does a charter school have to enroll a student that has been expelled from another district?

A PSA or UHSA does **not** have to accept the expelled student. The school may choose to enroll a student who was expelled from their resident district only if the student was not expelled under the mandatory expulsions sections described below. In the case of SDAs, the acceptance of expelled or adjudicated students is central to the school's purpose.

It is important to note that Michigan law does provide for permanent expulsion under certain circumstances. Unless the school district operates or participates in an alternative education program appropriate for a student expelled pursuant to RSC §380.1311(2) and at the school district's discretion admits the student to that program or a "strict discipline academy," the student is expelled from all Michigan public schools. The student cannot be enrolled unless reinstated pursuant to the provisions discussed below [RSC §380.1311(2)].

A program operated for expelled students must ensure that a student is physically separated at all times during the school day from the general pupil population. A student who has been suspended or expelled from his or her resident district for any reason may attend a nonresident alternative education program without the resident district's approval [MCL 388.1606(6)(h)]. If the student is not placed in an alternative education program or a "strict discipline academy," the school district may provide or arrange for the intermediate school district to provide to the student appropriate instructional services at home. Homebound services are designed to help students who are unable to attend school to keep up with their studies [MCL 388.1709].

It is the responsibility of the parent or legal guardian to locate a suitable alternative education program and to enroll their child in a program during the expulsion. For further information regarding alternative education programs available in your area, contact your local or intermediate school district or the Office of Safe Schools at (517) 373-1024.

23. When a student transfers from one school to another, how are his/her records handled?

Michigan law requires that within 14 days after enrolling a transfer student, the school shall request the student's record, including any Individualized Educational Plan (IEP) for a special education pupil, in writing from the previous school (RSC §380.1135). The previous school has up to 30 days to comply. All Michigan schools have been advised that they should have procedures in place to facilitate these transfers.

FACILITIES

24. What requirements are in place for charter school facilities?

Michigan law requires that any school operating in the state have a valid Certificate of Occupancy and make available to the public all health and safety reports regarding school facilities. Failure to obtain necessary inspections and obtain this certificate results in a potential withholding of State Aid.

Information about the requirements and procedures for obtaining a Certificate of Occupancy is maintained at the Bureau of Licensing and Regulatory Affairs (LARA). Please feel free to call (517) 241-9302 with specific questions.

25. Are resources available to support charter schools with their facilities costs?

Property occupied by a public school academy and used exclusively for educational purposes is exempt from some real and personal property taxes.

The Michigan Public Educational Facilities Authority is dedicated to providing opportunities for low-cost financing and technical assistance for qualified public educational facilities and public school academies through its bonding and loan programs. Please feel free to call (517) 335-0994 to learn more.

FINANCE

26. Can a charter school charge tuition?

Unlike traditional school districts, a charter school may **not** charge tuition. Charter schools are, by statute, free and open to all Michigan residents.

27. Must all state and federal education dollars be sent directly to the authorizing body of the charter school?

No. The law requires only that payments under the State School Aid Act be sent directly to the authorizing bodies. A charter school may receive federal grant funds directly from the Michigan Department of Education by following the same procedures that traditional school districts are required to follow.

28. Is a charter school considered a constituent district in intermediate school districts for purposes of area vocational/career and technical education millage, and do charter school students have access to the programs and services provided with those funds?

Yes, just as with any other traditional school district located in the intermediate school district. Services funded through vocational/career and technical education millage dollars must be allocated to a charter school on the same proportional basis used for other constituent districts.

29. Is a charter school eligible for categorical vocational/career and technical education state aid payments?

Yes. The program must meet necessary guidelines and be approved by the Office of Career and Technical Education. Please feel free to call (517) 373-3373 with specific questions.

30. Where can a charter school get more information about vocational/career and technical education program approval?

Contact the Office of Career and Technical Education by reviewing their website, or call (517) 373-3373 with specific questions.

31. What are the common responsibilities of charter schools to the Michigan Department of Education (MDE) as they relate to financial reporting?

- Charter schools are required to follow a common fiscal year. That year begins July 1 and ends June 30 of the following calendar year (RSC §380.1133).
- Charter schools are required to follow accepted accounting principles for governmental entities. The [Michigan School Accounting Manual](#) addresses many of these principles and should be used as a reference. Specific questions related to school accounting issues may be directed to the Office of State Aid and School Finance at (517) 335-0524.
- Charter schools are required to follow a uniform chart of accounts. The chart of accounts is found in the [Michigan School Accounting Manual](#). RSC §380.1281(c) of the Revised School Code requires the Michigan Department of Education to:

“Prescribe appropriate uniform pupil and finance accounting records for use in school districts, public school academies, and intermediate school districts and promulgate rules for their adoption.”
- Charter schools are to submit an annual comprehensive financial report into the Financial Information Database (FID) maintained by the Center for Educational Performance and Information (CEPI) using the chart of accounts prescribed in the Michigan School Accounting Manual. The report is submitted electronically and is filed with MDE by November 15 of each year. The penalty for noncompliance is the **withholding** of state school aid payments. See Sections 388.1618(3) and (5) of the State School Aid Act.
- Charter schools are required to have an independent audit of their financial accounting records conducted at least annually by a certified public accountant. The audit reports are filed with MDE no later than November 15 of each year. Guidance for the audit is given in the Michigan School Auditing Manual. The penalty for noncompliance is the withholding of state school aid payments. See Sections 388.1618(2) and (5) of the State School Aid Act.
- All charter school financial audits are subject to Government Auditing Standards (GAS). The book describing the standards is available online by visiting www.gao.gov.
- Charter school boards shall adopt a budget before the commencement of the fiscal year, using the minimum levels of appropriation described in Section IV of the Michigan School Accounting Manual.

- Charter schools are not to adopt or operate under a “deficit budget” (State School Aid Act, MCL 388.1702. MDE closely monitors entities that violate this statute). In the event a charter school falls into a deficit, they are required to file a deficit elimination plan and post it with the transparency items under “the mitten.” Deficit elimination plans are approved by and monitored by the _____ office within MDE. It is important to note that fiscal viability is one of the criteria for reauthorization, and their authorizer may close schools that run a deficit.
- Charter schools should always seek competent legal counsel before entering into any binding legal or borrowing agreement.
- Charter schools must provide the same transparency information on their website that all public schools provide [MCL 388.1618(2) and RSC 380.503(6)(1)].

PROBLEMS/CONCERNS

32. What is the chain of accountability to be used if a problem is identified at the academy?

The school should have in place a student handbook that may address the issue. If not, the protocol for raising issues and concerns are, to begin with, the teacher, then the principal, and then the board of directors of the academy. It is important to give the school and its leadership an opportunity to correct the problem first. If the problem or concern continues after discussing it at the school level, the next step is to contact the school’s authorizer.

33. What question should a parent ask a charter school representative before choosing to send a child to that school?

All charter schools are different, even if they use the same curriculum. Visit the school and ask questions about the school’s educational program, leadership (governing board and administration), faculty, and policies. Most schools will provide a Parent/Student Handbook, which includes general information.

Several online resources for choosing a school are also available, such as http://bridgemi.com/2015/02/caspio_highcharts/ OR <http://www.greatschools.org/michigan/>. You can obtain recent test score averages for any school (and compare them to each other and the state) at www.mischooldata.org.

34. Can a charter school charge for uniforms or badges/emblems to be worn on clothing?

Michigan's State Board of Education has issued the following position statement on clothing and uniforms: It is recommended that any fees be disclosed in a student handbook and that the student handbook is made available to every student and parent. Administrators are encouraged to distribute the handbooks at the beginning of each school year and that they require acknowledgment of the receipt by parents and students.

- A. School districts may require fees for clothing and food which are offered during the regular school program.

- B. Swimming suits, gym clothing, gym shoes, football shoes, baseball shoes, spats, leggings or special shoes to wear with a band uniform need not be supplied by the school district. School districts may make a reasonable charge for the use of any of these items that it supplies to its students. Parents, however, may purchase or supply their own above- mentioned items that are satisfactory for use.
- C. If the school district requires a specific color, style, and the manufacturer, then the school district must supply the item free of charge.
- D. Special clothing (no robes or band uniforms) for extracurricular activities such as choir or band or orchestra need not be supplied or paid for by the school district. Example: For choir, a white blouse or shirt, dark trousers or skirt, and black shoes and stockings.

Emblems or badges to be worn on clothing are to be provided by the school free of charge if they are required.

35. Can a charter school charge parents who do not pick up students on time after school?

This is a local issue to be decided by each school and formalized in a written board policy. It is recommended that school boards that choose to adopt such policies consult their attorneys, ensure adequate notice and information is provided to students and parents, perhaps through publication in the school's student handbook.

START-UP FUNDING

36. Are there federal charter school dollars to help start an academy?

There is currently no federal start-up grants available in the State of Michigan. However, private funders such as the Walton Foundation may have funds available. Typically, charter advocacy organizations such as the Michigan Association of Public School Academies (MAPSA) can provide information on startup funding.
<http://www.charterschools.org/>

STAFFING

37. Are employees of an outside company who are providing instructional services to charter school students members of the Michigan Public School Employees' Retirement System (MPSERS) and local union?

Attorney General Opinion No. 6915 (1996) addressed two issues: whether charter schools are subject to section 380.1231 of the Revised School Code, requiring the board of a school district to "hire and contract with qualified teachers"; and whether employees of an outside company who are providing instructional services to charter school students are members of MPSERS.

Although instruction in charter schools is to be provided by certificated teachers, pursuant to this opinion, charter schools may contract with outside companies for the provision of instructional services. Teachers who are providing instructional services to students of a charter school, who are employed by an outside company rather than by the charter school, are not members of MPSERS.

In December 2011, Public Act 277 removed the requirement that school districts authorizing a PSA must cover PSA staff under that district's current collective bargaining agreements.

38. How does employment as a teacher in a Michigan charter school affect that teacher's college Perkins loan?

A teacher who works in a Michigan charter school that is classified as low-income and non-profit may be eligible for Perkins Loan forgiveness according to all of the following requirements:

- The Perkins Loan Forgiveness is processed (money and request for forgiveness) at the college level, which is based on the input received from the Michigan Department of Treasury.
- Students who have a Perkins Loan can request their loan be forgiven if the school they work for participates in the National School Lunch, School Breakfast, and/or Special Milk Program; and where 30% or more of the enrolled children have been approved for free and/or reduced-price meals or free milk.
- If a teacher works for and receives a paycheck from an educational management organization, then the teacher's Perkins student loan is **NOT** forgiven.
- If a teacher works for a charter school and receives a paycheck from the academy, then the teacher's Perkins student loan may be forgiven. Text from the above link states, "To receive a cancellation, the borrower must be *directly employed* by the school system."
- All college loan related questions/answers should be confirmed by the college that issued the loan.

AUTHORIZERS

39. What are the major responsibilities of an authorizing body?

Pursuant to Section 380.502(4): "An authorizing body shall oversee, or shall contract with an intermediate school district, community college, or state public university to oversee, each public school academy operating under a contract issued by the authorizing body. The authorizing body is responsible for overseeing compliance by the board of directors with the contract and all applicable law."¹ These oversight duties include:

¹ "If the superintendent of public instruction finds that an authorizing body is not engaging in appropriate continuing oversight of 1 or more public school academies operating under a contract issued by the authorizing body, the superintendent of public instruction shall suspend the power of the authorizing body to issue new contracts to organize and operate public school academies. A contract issued by the authorizing body during the suspension is void. A contract issued by the authorizing body before the suspension is not affected by the suspension." [MCL 380.502(5)]

- Thoroughly reviewing the applicant’s educational plan. The plan must address the educational needs of the students, curriculum goals and objectives, teaching methods, and student assessment;²
- Determining if all fire, safety, and health codes are met;
- Developing a description of the methods to be used to monitor the charter school’s compliance with applicable law and its performance in meeting its targeted educational objectives. Authorizers must implement a corrective plan of action for their schools that do not meet those standards;
- Ensure charter school boards operate independently of any educational management company involved in the operation of the school;
- Developing a description of the process for amending the contract during the term of the contract;
- Setting and enforcing the terms of the authorizing contract, including adopting a resolution establishing the method of selection, length of term, and a number of members of the board of directors of the charter school. Authorizers must also ensure the local community is represented on the board and that all board members are US citizens; and
- Within ten days after issuing a charter school contract, a charter school contract must be submitted to the Superintendent of Public Instruction.
 - A contract with a charter school may be revoked by the authorizing body if one or more of the following occurs:
 - failure of the charter school to demonstrate improved academic achievement for all groups of pupils or meet the educational goals outlined in the contract
 - failure of the charter school to comply with applicable law
 - failure of the charter school to meet accepted public sector accounting principles and demonstrate sound fiscal stewardship
 - or other grounds for revocation specified in the contract.

Additional powers granted to authorizing bodies in the RSC §380.507, include acting as fiscal agent for the charter school—the state school aid payment for the charter school is paid to the authorizing body that is the fiscal agent for the charter school, which then forwards the payment, less up to a maximum of 3 percent, to the charter school.

40. If a school district, intermediate school district or community college is interested in becoming an authorizer, what action steps are needed?

No formal MDE filing or approval is required for an organization to become an authorizer. Pursuant to RSC §380.502(3), the organization must notify MDE of its actions and provide copies of the charter application and contract to the Superintendent of Public Instruction within ten (10) days of approval.

It is advisable for an eligible organization considering becoming an authorizer to weigh all aspects of this decision carefully. A wide array of resources and insights are available. Visit www.michigan.gov/charters to learn more, and call MDE at (517) 373-4631 with specific questions after reviewing available online resources.

² The Revised School Code states that to the extent applicable, pupils shall be assessed using at least a Michigan education assessment program (MEAP) test or an assessment instrument developed under section 1279 for a state-endorsed high school diploma. [MCL 380.502(3)(e)(ii)]

41. How do authorizers decide which schools to authorize?

In deciding whether to issue a contract for a proposed public school academy, the authorizing body is required to consider:

- The resources available for the proposed academy;
- The population to be served by the proposed academy;
- The education goals to be achieved by the proposed academy;
- The applicant's track record, if any, in organizing public school academies;
- The graduation rate of a school district in which the proposed academy is proposed to be located;
- The population of a county in which the proposed public school academy is proposed to be located;
- The number of schools in the proximity of a proposed location of the proposed public school academy that is identified as among the lowest achieving 5% of all public schools in the state;
- The number of pupils on waiting lists of public school academies in the proximity of the proposed location of the Academy.

Also, authorizer decisions related to contract renewal must include increases in student academic achievement for all groups of pupils as "the most important" factor [RSC §380.503(6)(h)].

SERVICE PROVIDERS

42. What does an education service provider (also known as an ESP or management company) do for a school?

Michigan law permits charter school boards to contract with service providers/management companies for various school staffing and support functions, which may include facility management, personnel management, payroll and accounting, curriculum development, and professional development services for staff and teachers. Roughly four out of five charter schools in Michigan have contracted with a service provider.

Each charter school/service provider agreement is unique. Some charter school boards contract for only one or two services, such as human resources or accounting, whereas others choose to contract for all day-to-day staff functions. The variation in service provider/management company arrangements is broad and difficult to quantify. Some service providers/management companies work with only one charter school, while others contract with multiple charter schools in Michigan and across the country. Some act in only a limited capacity, while others offer complete "turn-key" operations. This widely varied approach to charter school contracting has allowed for the creation of a diverse service provider/management company marketplace in Michigan.

Service providers/management companies are accountable to the non-profit charter school boards that hire them. The boards are responsible for setting policy, directing operational and academic performance, and ensuring fiscal stability. Regardless of the type or level of support for which it is contracted, each service provider/management company operates under the direction of the charter school board.

43. How accountable are service providers/management companies in Michigan?

Many aspects of service provider/management company spending are already reported through their schools' data submissions to the state. Michigan's Center for Educational Performance and Information (CEPI) maintains academic, personnel and financial information about each of the service provider-managed schools, just as it does for all other schools. Charter schools are required to report salaries of staff who work at the school, even if they are employed by a 3rd party. Additionally, service providers/management companies are vendors, hired and overseen by the charter school board through a performance agreement, often referred to as a management contract. There are no current statutes that specify requirements for contracts between PSA boards and the management companies they hire. However, best practice dictates that management contracts should contain specific performance targets, aligned to the goals (and other provisions) in the charter contract. Charter school boards should hold all vendors, including service providers/management companies, accountable for the services they provide.

CHARTER SCHOOL BOARDS

44. How are charter school board members appointed?

Charter school board members are public officials that have sworn a constitutional oath of office in Michigan. Each board member undergoes a selection and appointment process established by the charter school's authorizer before being named by the authorizer's governing board. Boards must have representation from the local community, and board members must be citizens of the United States.

Some concerns have been raised about whether or not service providers/management companies in Michigan can name their governing boards and thus exercise some undue level of influence or control over these boards once a school is established. While Michigan law permits the developer of a new charter school to name the members of an initial governing board, it is up to the authorizer to ensure that those board members are qualified, independent voices on behalf of the charter schools they serve.

To ensure procedural consistency across Michigan's authorizing community, the Michigan Council of Charter School Authorizers (MCCSA) has adopted standards for this selection and appointment process. At a minimum, these standards presume written application for a board appointment, criminal records check, and a personal interview.

The standards also discuss potential conflict of interest issues and recommend the use of a disclosure form be completed by charter school board members on an annual basis. These procedures are designed to ensure board member quality and autonomy and prevent inappropriate charter school board member/service provider relationships. Visit www.mccsa.us to learn more.

45. Can the board and/or staff of a school be family members, or otherwise closely related to members of the board?

No. The December 2011 amendment to the Revised School Code requires the academy board to prohibit specified family relationships among board members, individuals who have an ownership interest in or who are officers or employees of an ESP involved in the operation of the academy and employees of the academy. The potential for or existence of conflicts of interest among board members are items that are carefully monitored by Michigan authorizers.

As mentioned, MCCSA oversight and accountability standards recommend the use of a disclosure form be completed by charter school board members on an annual basis. These procedures are designed to ensure board member quality and autonomy and prevent inappropriate charter school board member/service provider relationships. Visit www.mccsa.us to learn more.

SPECIAL EDUCATION

46. What options may a charter school use to meet its responsibilities to provide a free appropriate public education, as required by state and federal law, to a student with a disability?

As provided in §380.1751 of the Revised School Code:

The board of a local school district [or charter school] shall provide special education programs and services designed to develop the maximum potential of each disabled person in its district on record...for whom an appropriate educational or training program can be provided by the intermediate school district special education plan, in either of the following ways or a combination thereof:

- Operate the special education program or service.
- Contract with its intermediate school board, another intermediate school board, another local school district board, and adjacent school district board in a bordering state, the Michigan School for the Blind, the Michigan School for the Deaf, the Department of Community Health (DCH), or the Department of Human Services. The intermediate school district where the local school district [or charter school] is located shall be a party to each contract even if the intermediate school district does not participate in the delivery of the program or services.

Pursuant to Attorney General Opinion No. 6915 (1996), charter schools are not required directly to employ teachers. Instruction at charter schools is to be provided by certificated teachers (exception-refer to Section 380.505) however; charter schools may contract with outside companies for the provision of instructional services. Therefore, "a public school academy is not subject to Section 380.1231 of the Revised School Code, which requires the board of a school district to 'hire and contract with qualified teachers' and it may contract with an outside company for the provision of instructional services by employees of that company."

In addition to the methods listed above, a charter school may contract with an agency approved by the State Board of Education for delivery of ancillary or related professional education services

47. If a charter school chooses to hire staff or contract with a private agency for “services,” is the charter school entitled to apply for reimbursement under the State School Aid Act (Section 388.1651a, special education funding) and the intermediate school district special education millage?

Yes. A charter school is considered to be a local school district under Section 388.1603(5) of the State School Aid Act and is considered a local district to be included in the intermediate school district plan for special education programs and services. Therefore, charter schools have the same right to participate in state school aid and intermediate school district special education funding as any other local school district, by the provisions to the intermediate school district plan for special education programs and services.

48. If a charter school is entitled to intermediate school district special education millage funds, is the charter school held to the same limitations as other local districts, i.e., the cap on student-staff ratio used for certain categories of programming?

Yes. For purposes of special education services, a charter school is bound to the same requirements as other local constituent districts served by their respective intermediate school districts. To participate, the charter school, just as any other constituent district, must be recognized in its respective intermediate school district plan for special education programs and services.

49. Is a charter school eligible for Individuals with Disabilities Education Act funds?

Yes. Federal special education funds under the Individuals with Disabilities Education Act (IDEA) are granted to the intermediate school districts. These funds are distributed to constituent local school districts according to the intermediate school district plan for special education programs and services, which must comply with state and federal regulations controlling use and distribution of the funds. The intermediate school district plan for special education programs and services is developed cooperatively with local constituent school districts, including charter schools.

50. If a charter school is eligible for intermediate school district special education millage and Individuals with Disabilities Education Act Funds, must a charter school follow the same requirements as other local educational agencies for obtaining funds, e.g., the filing of forms and applications?

Yes. A charter school must follow the same requirements as other local educational agencies. Both state and federal funds are appropriated under Article 5 of the State School Aid Act of 1979, *as amended*, MCL 388.1651a *et seq.*

- Article 5 of the State School Aid Act indicates the funds may be used to reimburse districts and intermediate school districts for special education programs, services, and special education personnel.
- Article 5 of the State School Aid Act allocates funds for:
 - i. Special education programs and services as defined in Article 3 of the RSC §380.1701, *et seq.*

- ii. A total of salaries and other compensation paid to approved special education personnel. Rule 340.1771 through Rule 340.1799g provide personnel approval criteria.
- Section 388.1658 of the State School Aid Act, allocates funds to districts and intermediate districts for providing specialized transportation services, as determined by MDE, for pupils in special education programs and services as defined in Section 388.6 of the Revised School Code. Specialized transportation services are defined in Rule 388.371 of the Michigan Administrative Code Rules governing State Aid for Transportation of School Children.

51. Must a charter school adhere to all provisions of IDEA, the Michigan Revised Administrative Rules for Special Education, the Family Education Rights and Privacy Act, and other state and federal statutes?

Yes. The IDEA considers the entire state. If the state (as a whole) receives federal funds, then all entities of the public education system are responsible for complying with IDEA provisions, including ensuring that each eligible child with a disability is provided a “free appropriate public education.” Michigan complies with the IDEA in its implementing regulations. A charter school is required to adhere to Michigan statutes and rules for special education, as well as the federal requirements.

The Family Education Rights and Privacy Act (34 CFR Part 99) (FERPA) has broader applicability than special education; it applies to all public educational entities and their students, whether or not special education is at issue. The purpose of FERPA is to protect the confidentiality of student educational records. FERPA is a federal law that affords parents the right to have access to their children’s education records, the right to seek to have the records amended, and the right to have some control over the disclosure of information from the records. Educational institutions shall not release educational records to non-school employees without the consent of the parents. FERPA does permit schools to work with juvenile justice system agencies. Failure of an educational agency or institution to comply with FERPA can result in loss of federal funding.

Section 504 of the Rehabilitation Act of 1973, *as amended*, P.L. 93-112, requires that “no qualified handicapped person shall, by handicap, be excluded from participation in, be denied the benefits from Federal financial assistance....” The Office for Civil Rights of the U.S. Department of Education enforces the law prohibiting specific discriminatory activities. The law applies to elementary and secondary, as well as postsecondary schools. The Act was reauthorized in 1998 with amendments and added links to the Workforce Investment Partnership Act of 1998. The Rehabilitation Act Amendments of 1998 included extensive links between vocational rehabilitation agencies and state workforce systems.

Section 504 also includes “hidden disabilities,” such as physical and mental impairments that are not clear to others (i.e., learning disabilities, diabetes, epilepsy, heart disease, and chronic illness).

52. Is the intermediate school district required to monitor special education programs and services?

Yes. A charter school is identified in statute as a local public school district and has the same rights and responsibilities as any other school district. MDE is required to monitor local and intermediate school districts for compliance with the IDEA and with

Michigan's Administrative Rules for Special Education. This activity includes a charter school.

The intermediate school districts are an integral part of the monitoring process. As such, intermediate school districts must monitor a charter school to ensure their compliance with pertinent special education requirements.

53. To what extent is an intermediate school district responsible for charter schools serving pupils whose parents reside outside of the intermediate school district where the charter school is located?

For purposes of special education, the charter school is a constituent district of the intermediate school district in which it is located. The intermediate school district has the same responsibility to the charter school as it does to any other constituent district. It is not unusual for a public school district to serve pupils who come from other districts, including pupils whose parents live in another intermediate school district. The intermediate school district has the same obligation to pupils whose parents live elsewhere as it does to any other pupil legally enrolled by a constituent district.

Section 51a (15) of the State School Aid Act (MCL 388.1651a(15)) further clarifies:

(15) If a public school academy enrolls pursuant to this section a pupil who resides outside of the intermediate district in which the public school academy is located and who is eligible for special education programs and services according to statute or rule, or who is a child with disabilities, as defined under the individuals with disabilities education act, Public Law 108-446, the provision of special education programs and services and the payment of the added costs of special education programs and services for the pupil are the responsibility of the district and intermediate district in which the pupil resides unless the enrolling district or intermediate district has a written agreement with the district or intermediate district in which the pupil resides, or the public school academy for providing the pupil with a free appropriate public education and the written agreement includes at least an agreement on the responsibility for the payment of the added costs of special education programs and services for the pupil.

54. Is there a need to certify charter school students for special education services and identify them as such on the enrollment count if the charter school is not planning to claim additional state funding or federal funding?

If "certify" refers to the process of identifying children who are suspected to have a disability under state or federal law, the response is yes. This is called Child Find under the federal regulations. There is a need to complete the "child find" requirements irrespective of application or claim for additional state or federal funding.

The State of Michigan is responsible for ensuring a free and appropriate public education for every student with a disability who is enrolled in its public school system. Since a charter school is a public school, it is bound by the same requirements as other public intermediate and local school districts within the state. The determination of a charter school to seek no state or federal funds related to special education does not exempt it from this obligation.

55. If a charter school contracts with a private entity to provide speech, psychological, and social work services: (a) must the credentials of the providers be the same as those employed by public schools in general; and (b) must the charter school submit its personnel inventory to the intermediate school district?

This response is intended to refer only to professional personnel related to "special education programs or services."

In response to part "(a)" of the question, the answer is yes. Standards are articulated in the Administrative Rules for Special Education and the rules governing different professional specialties.

In response to part "(b)" of the question, to meet federal reporting requirements prerequisite to receipt of federal funds requires reporting information about public school students and professional personnel to the federal government on an annual basis. This information is collected through the Michigan Department of Education's Registry of Education Personnel (REP). REP data are collected semi-annually in December and June. This process is implemented through the local school districts procedures for data collection. If there are students with individualized education programs enrolled in a charter school, then the information about special education programs or services to those students must be reported as part of the "December One Count" through the Michigan Compliance Information System (MICIS).

For further information regarding special education, you may contact MDE's Office of Special Education & Early Intervention Services at (517) 373-0923.