

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 736 of the Regular Session

As Engrossed: H2/28/07 S3/23/07

A Bill

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007

HOUSE BILL 1504

4
5 By: Representatives Anderson, T. Baker, E. Brown, Burkes, Cooper, Davis, Dickinson, Dunn, Garner,
6 Glidewell, R. Green, Greenberg, Hall, Hardwick, Harris, D. Hutchinson, Jeffrey, Kenney, Key, Kidd,
7 King, Lamoureux, Lovell, M. Martin, Maxwell, Medley, Norton, Pace, Ragland, Rosenbaum, Sample,
8 Saunders, Shelby, Thyer, Walters, Wells, Wood, Woods, Wyatt

9 By: Senators Altes, Argue, Baker, Bisbee, Bookout, Broadway, Bryles, Capps, Glover, Hendren, Hill, G.
10 Jeffress, Laverty, Malone, Miller, B. Pritchard, Salmon, T. Smith, R. Thompson, Trusty, Whitaker,
11 Wilkins, Wilkinson, Womack

12
13
14 **For An Act To Be Entitled**

15 AN ACT TO AMEND THE PUBLIC CHARTER SCHOOL LAW;
16 AND FOR OTHER PURPOSES.

17
18 **Subtitle**

19 AN ACT TO AMEND THE PUBLIC CHARTER
20 SCHOOL LAW.

21
22
23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

24
25 SECTION 1. Arkansas Code § 6-23-103 is amended to read as follows:

26 As used in this chapter:

27 (1) "Application" means the proposal for obtaining conversion
28 public charter school status, open-enrollment public charter school status,
29 or limited public charter school status;

30 ~~(1)(2)~~ "Charter" means a performance-based contract for an
31 initial five-year period ~~that converts a public school to a charter school or~~
32 ~~authorizes the creation and conditional operation of an open-enrollment~~
33 ~~charter school, which~~ between the State Board of Education and an approved
34 applicant for public charter school status that exempts the public charter
35 school from state and local rules, regulations, policies, and procedures



1 specified in the contract and from the provisions of § 6-1-101 et seq.
2 specified in the contract;

3 ~~(2)~~ "Charter school" means a public school that is operating
4 under the terms of a charter granted by the State Board of Education or an
5 open-enrollment charter school as defined in subdivision (5) of this section;

6 (3) "Conversion public charter school" means a public school
7 that has converted to operating under the terms of a charter approved by the
8 local school board and the state board;

9 ~~(3)~~(4) "Eligible entity" means:

10 (A) a public institution of higher education;

11 (B) a private nonsectarian institution of higher
12 education;

13 (C) a governmental entity; or

14 (D) an organization that:

15 (i) is nonsectarian in its program, admissions
16 policies, employment practices, and operations; and

17 (ii) has applied for tax exempt status from
18 taxation under § 501(c)(3) of the Internal Revenue Code of 1986;

19 (5) "Founding member" means any individual who is either:

20 (A) A member or an employee of the eligible entity
21 applying for the initial charter for an open-enrollment public charter
22 school; or

23 (B) A member of the initial governing nonadvisory board of
24 the open-enrollment public charter school.

25 (6) "Limited public charter school" means a public school that
26 has converted to operating under the terms of a limited public charter
27 approved by the local school board and the state board;

28 ~~(4)~~(7) "Local school board" means a board of directors
29 exercising the control and management of a public school district;

30 ~~(5)~~(8) "Open-enrollment public charter school" means a public
31 school;

32 (A) that That is operating under the terms of a charter
33 granted by the state board on the application of an eligible entity; and

34 (B) That may draw its students from across any public
35 school district boundaries in this state;

36 ~~(6)~~(9) "Parent" means any parent, legal guardian, or other

1 person having custody or charge of a school-age child;

2 ~~(7) "Petition" means a proposal to enter into a performance-~~
 3 ~~based contract between the state board and a public school or eligible entity~~
 4 ~~whereby the proposed school obtains charter school status;~~

5 ~~(8)(A)(10)~~ "Public school" means a school that is part of a
 6 public school district under the control and management of a local school
 7 board; and

8 ~~(B) "Public school" includes the Arkansas School for~~
 9 ~~Mathematics, Sciences, and the Arts; and~~

10 ~~(9) "State board" means the State Board of Education.~~

11 (11) "Public charter school" means a conversion public charter
 12 school, an open-enrollment public charter school, or a limited public charter
 13 school.

14
 15 SECTION 2. Arkansas Code § 6-23-104 is amended to read as follows:

16 6-23-104. Charter form for ~~open-enrollment~~ public charter schools -
 17 Requirements - Revision.

18 (a) A charter for a public charter school shall:

19 (1) Be in the form of a written contract signed by the ~~chairman~~
 20 ~~of the state board~~ Commissioner of Education and the chief operating officer
 21 of the public charter school;

22 (2) Satisfy the requirements of this chapter; and

23 (3) Ensure that the information required under § 6-23-404 is
 24 consistent with the information provided in the application and any
 25 modification which the ~~state board~~ State Board of Education may require.

26 (b) Any revision or amendment of the charter for a public charter
 27 school may be made only with the approval of the ~~State Board of Education~~
 28 state board.

29
 30 SECTION 3. Arkansas Code § 6-23-105 is amended to read as follows:

31 6-23-105. Basis and procedure for public charter school probation or
 32 charter modification, revocation, or denial of renewal.

33 (a) The State Board of Education may place a public charter school on
 34 probation or may modify, revoke, or deny renewal of its charter if the state
 35 board determines that the persons operating the public charter school:

36 (1) Committed a material violation of the charter, including

1 failure to satisfy accountability provisions prescribed by the charter;

2 (2) Failed to satisfy generally accepted accounting standards of
3 fiscal management; ~~or~~

4 (3) Failed to comply with this chapter or other applicable law
5 or regulation; or

6 (4) Failed to meet academic or fiscal performance criteria
7 deemed appropriate and relevant for the public charter school by the state
8 board.

9 (b) Any action the state board may take under this section shall be
10 based on the best interests of the public charter school's students, the
11 severity of the violation, and any previous violation the public charter
12 school may have committed.

13 (c) The state board shall adopt a procedure to be used for placing a
14 public charter school on probation or modifying, revoking, or denying renewal
15 of the school's charter.

16 (d)(1) The procedure adopted under this section shall provide an
17 opportunity for a hearing to the persons operating the public charter school
18 and to the parents of students enrolled in the public charter school.

19 (2)(A) The hearing shall be held at the location of the regular
20 or special meeting of the state board.

21 (B) The state board shall provide sufficient written
22 notice of the time and location of the hearing.

23 (3) There is no further right of appeal beyond the determination
24 of the state board.

25 (4) The Arkansas Administrative Procedure Act, § 25-15-201 et
26 seq., shall not apply to any hearing concerning a public charter school.

27
28 SECTION 4. Arkansas Code § 6-23-106 is amended to read as follows:

29 6-23-106. Impact on school desegregation efforts.

30 (a) The ~~petitioners~~ applicants for a public charter school, the board
31 of directors of the local school district in which a proposed public charter
32 school would be located, and the State Board of Education shall carefully
33 review the potential impact of an application for a public charter school on
34 the efforts of a public school district or public school districts to comply
35 with court orders and statutory obligations to create and maintain a unitary
36 system of desegregated public schools.

1 (b) The state board shall ~~develop a process~~ attempt to measure the
 2 likely impact of a proposed public charter school on the efforts of public
 3 school districts to achieve and maintain a unitary system ~~which shall be~~
 4 ~~similar to the guidelines set forth in § 6-18-206(g).~~

5 (c) The state board shall not approve any public charter school under
 6 this subchapter or any other act or any combination of acts that hampers,
 7 delays, or in any manner negatively affects the desegregation efforts of a
 8 public school district or public school districts in this state.

9
 10 SECTION 5. Arkansas Code § 6-23-201 is amended to read as follows:

11 6-23-201. ~~Petition~~ Application for conversion public charter school
 12 status.

13 (a)(1) Any public school district may apply to the State Board of
 14 Education for ~~charter school status, known as a~~ conversion public charter
 15 school status for a public school in the public school district, in
 16 accordance with a schedule approved by the state board.

17 (2) A public school district's ~~petition~~ application for
 18 conversion public charter school status for the public school may include,
 19 but shall not be limited to, the following purposes:

20 (A) Adopting research-based school or instructional
 21 designs, or both, that focus on improving student and school performance;

22 (B) Addressing school improvement status resulting from
 23 sanctions listed in §§ 6-15-207(c)(8) and 6-15-429(a) and (b); or

24 (C) Partnering with other public school districts or
 25 public schools to address students' needs in a geographical location or
 26 multiple locations.

27 (b) Such ~~petition~~ application shall:

28 (1)(A) Describe the results of a public hearing called by the
 29 local school board for the purpose of assessing support of an application ~~to~~
 30 ~~initiate a petition~~ for conversion public charter school status.

31 (B) Notice of the public hearing shall be:

32 (i) Distributed to the community, certified
 33 personnel and the parents of all students enrolled at the public school for
 34 which the district initiating the petition initiated the application; and

35 (ii) Published in a newspaper having general
 36 circulation in the public school district at least three (3) weeks prior to

1 the date of the meeting;

2 (2) Describe a plan for school improvement that addresses how
3 the conversion public charter school will improve student learning and meet
4 the state education goals;

5 (3) Outline proposed performance criteria that will be used
6 during the initial ~~three-year~~ five-year period of the charter to measure the
7 progress of the conversion public charter school in improving student
8 learning and meeting or exceeding the state education goals;

9 (4) Describe how the certified employees and parents of students
10 to be enrolled in the conversion public charter school will be involved in
11 developing and implementing the school improvement plan and identifying
12 performance criteria;

13 (5) Describe how the concerns of certified employees and parents
14 of students enrolled in the conversion public charter school will be
15 solicited and addressed in evaluating the effectiveness of the improvement
16 plan; and

17 (6) List the specific provisions of ~~§ 6-4-101~~ § 6-1-101 et seq.
18 and the specific rules and regulations promulgated by the state board from
19 which the conversion public charter school will be exempt; ~~and.~~

20 ~~(7) The petition shall be reviewed and approved by the local
21 school board and the state board.~~

22 ~~(c)(1) Any petition to obtain charter school status approved by a
23 local board shall be forwarded by the local board to the state board.~~

24 ~~(2) If a local board disapproves a public school's petition, the
25 local board shall inform the petitioners and faculty of the public school of
26 the reasons for such disapproval.~~

27 ~~(d)(1)~~ (c)(1) A certified teacher employed by a public school in the
28 school year immediately preceding the effective date of a charter for a
29 public school conversion within that public school district may not be
30 transferred to or be employed by the conversion public charter school over
31 the certified teacher's objection, nor shall that objection be used as a
32 basis to deny continuing employment within the public school district in
33 another public school at a similar grade level.

34 (2) If the transfer of a teacher within the public school
35 district is not possible because only one (1) public school exists for that
36 teacher's certification level, then the local school board shall call for a

1 vote of the certified teachers in the proposed conversion public charter
2 school site and proceed, at the local school board's option, with the
3 conversion public charter school application if a majority of the certified
4 teachers approve the proposal.

5
6 SECTION 6. Arkansas Code § 6-23-202 is amended to read as follows:

7 6-23-202. Authorization for conversion public charter school status.

8 As requested by the conversion public charter school ~~petitioner~~
9 applicant, the State Board of Education shall review the ~~petition~~ application
10 for conversion public charter school status and may approve any ~~petition~~
11 application that:

12 (1) Provides a plan for improvement at the school level for improving
13 student learning and for meeting or exceeding the state education goals;

14 (2) Includes a set of performance-based objectives and student
15 achievement objectives for the term of the charter and the means for
16 measuring those objectives on at least a yearly basis;

17 (3) Includes a proposal to directly and substantially involve the
18 parents of students to be enrolled in the conversion public charter school,
19 as well as the certified employees and the broader community, in the process
20 of carrying out the terms of the charter; and

21 (4) Includes an agreement to provide a yearly report to parents, the
22 community, the local school board, and the state board that indicates the
23 progress made by the conversion public charter school in meeting the
24 performance objectives during the previous year.

25
26 SECTION 7. Arkansas Code § 6-23-203 is amended to read as follows:

27 6-23-203. Resubmission of ~~petitions~~ applications.

28 (a) The State Board of Education may allow ~~petitioners~~ applicants to
29 resubmit ~~petitions~~ applications for conversion public charter school status
30 if the original ~~petition~~ application was, in the opinion of the state board,
31 deficient in one (1) or more respects.

32 (b) The Department of Education may provide technical assistance to
33 the conversion public charter school ~~petitioners~~ applicants in the creation
34 or modification of these ~~petitions~~ applications.

35
36 SECTION 8. Arkansas Code § 6-23-204 is amended to read as follows:

1 6-23-204. Charter renewal.

2 The State Board of Education is authorized to renew charters of
3 conversion public charter schools on a one-year or multiyear basis, not to
4 exceed five (5) years, after the initial five-year period if the renewal is
5 approved by the local school board.

6
7 SECTION 9. Arkansas Code § 6-23-205 is amended to read as follows:

8 6-23-205. Teacher hires when charter revoked.

9 If a certified teacher employed by a public school district in the
10 school year immediately preceding the effective date of the charter is
11 employed by a conversion public charter school and the charter is revoked,
12 the certified teacher will receive a priority in hiring for the first
13 available position for which the certified teacher is qualified in the public
14 school district where the certified teacher was formerly employed.

15
16 SECTION 10. Arkansas Code § 6-23-206 is amended to read as follows:

17 6-23-206. Rules and regulations.

18 The State Board of Education is authorized and directed to establish
19 rules and regulations for conversion public charter schools.

20
21 SECTION 11. Arkansas Code § 6-23-207 is amended to read as follows:

22 6-23-207. State Board of Education status report.

23 The State Board of Education shall report on the status of the
24 conversion public charter schools program to the General Assembly each
25 biennium and to the House Interim Committee on Education and the Senate
26 Interim Committees Committee on Education during the interim between sessions
27 of the General Assembly.

28
29 SECTION 12. Arkansas Code § 6-23-301 is amended to read as follows:

30 6-23-301. Application forms and procedures for open-enrollment public
31 charter schools.

32 (a) The State Board of Education shall adopt:

33 (1) An application form, a schedule, and a procedure that must
34 be used to apply for a charter for a an open-enrollment public charter
35 school; and

36 (2) Criteria to use in selecting a program for which a charter

1 may be granted.

2 (b) The application form must provide space for including all
3 information required under this chapter to be contained in the charter.

4 (c) As part of the application procedure, the state board may require
5 a petition supporting a charter for an open-enrollment public charter school
6 signed by a specified number of parents or guardians of school-age children
7 residing in the area in which an open-enrollment public charter school is
8 proposed, or it may hold a public hearing to determine parental support for
9 the school.

10

11 SECTION 13. Arkansas Code § 6-23-302 is amended to read as follows:

12 6-23-302. ~~Petition~~ Application for an open-enrollment public charter
13 school.

14 (a) Pursuant to the provisions of this chapter, an eligible entity may
15 ~~petition~~ apply to the State Board of Education to grant ~~an application a~~
16 charter for an open-enrollment public charter school to operate in a facility
17 of a commercial or nonprofit entity or a public school district.

18 (b) The ~~petition~~ application to the state board for an open-enrollment
19 public charter school shall be made in accordance with a schedule approved by
20 the state board.

21 (c) The ~~petition~~ application shall:

22 (1)(A) Describe the results of a public hearing called by the
23 ~~petitioner~~ applicant for the purpose of assessing support ~~of~~ for an
24 application ~~to initiate a petition~~ for an open-enrollment public charter
25 school ~~status~~.

26 (B)(i) Notice of the public hearing shall be published
27 ~~once~~ one (1) time a week for three (3) consecutive weeks in a newspaper
28 having general circulation in each public school district from which the
29 open-enrollment public charter school is likely to draw students for the
30 purpose of enrollment.

31 (ii) The last publication of notice shall be no less
32 than seven (7) days prior to the public meeting.

33 (iii) The notice shall not be published in the
34 classified or legal notice section of the newspaper.

35 (iv) The notice shall be published in no less than
36 ten-point ~~size~~ type and shall be no less than two by four inches (2" x 4") or

1 four by two inches (4" x 2").

2 (C)(i) Within seven (7) calendar days following the first
3 publication of notice required under subdivision (c)(1)(B) of this section,
4 letters announcing the public hearing shall be sent to the superintendent and
5 school board members of each of the public school districts from which the
6 open-enrollment public charter school is likely to draw students for the
7 purpose of enrollment and the superintendent and school board members of any
8 public school district that is contiguous to the public school district in
9 which the open-enrollment public charter school will be located.

10 (ii) The letters to the school board members
11 required in subdivision (c)(1)(C)(i) of this section shall only be required
12 for each school board member whose name and mailing address is provided by
13 the superintendent of an affected school district or by the Department of
14 Education upon the request of the ~~petitioner~~ applicant.

15 (iii) An affected school district may submit written
16 comments concerning the application to the state board to be considered at
17 the time of the state board's review of the application;

18 (2) Describe a plan for academic achievement that addresses how
19 the open-enrollment public charter school will improve student learning and
20 meet the state education goals;

21 (3) Outline the proposed performance criteria that will be used
22 during the initial ~~three-year~~ five-year period of the open-enrollment public
23 charter school operation to measure its progress in improving student
24 learning and meeting or exceeding the state education goals;

25 (4) List the specific provisions of § 6-1-101 et seq. and the
26 specific rules and regulations promulgated by the state board from which the
27 open-enrollment public charter school seeks to be exempted;

28 (5)(A) Describe the facility to be used for the open-enrollment
29 public charter school and state the facility's current use and the facility's
30 use for the immediately preceding three (3) years.

31 (B) If the facility to be used for an open-enrollment
32 public charter school is a public school district facility, the open-
33 enrollment public charter school must operate in the facility in accordance
34 with the terms established by the board of directors of the public school
35 district in an agreement governing the relationship between the open-
36 enrollment public charter school and the public school district.

1 (C) If the facility that will be used for the open-
 2 enrollment public charter school is owned by or leased from a sectarian
 3 organization, the terms of the facility agreement must be disclosed to the
 4 state board; and

5 (6) Include a detailed budget and a governance plan for the
 6 operation of the open-enrollment public charter school.

7 (d)(1) The ~~petition~~ application shall be first reviewed and approved
 8 by the local school board of the public school district ~~where~~ in which the
 9 proposed open-enrollment public charter school will operate.

10 (2)(A) However, if the local school board disapproves the
 11 ~~petition application~~, the ~~petitioners~~ applicant shall have an immediate right
 12 to proceed with a written notice of appeal to the state board.

13 (B) ~~The state board which~~ shall hold a hearing within
 14 forty-five (45) calendar days after receipt of the notice of appeal. ~~and~~

15 (C) ~~where all~~ All interested parties may appear at the
 16 hearing and present relevant information regarding the ~~proposed open-~~
 17 ~~enrollment charter school petition~~ application.

18 (e) A certified teacher employed by a public school district in the
 19 school year immediately preceding the effective date of a charter for an
 20 open-enrollment public charter school operated at a public school facility
 21 may not be transferred to or be employed by the open-enrollment public
 22 charter school over the certified teacher's objections.

23
 24 SECTION 14. Arkansas Code § 6-23-303 is amended to read as follows:

25 6-23-303. Authorization for an open-enrollment public charter school.

26 As requested by the ~~petitioning~~ applicant for an open-enrollment public
 27 charter school ~~proponents~~, the State Board of Education shall review the
 28 ~~petition~~ application for an open-enrollment public charter school and may
 29 approve any ~~petition~~ application that:

30 (1) Provides a plan for academic achievement that addresses how the
 31 open-enrollment public charter school proposes to improve student learning
 32 and meet the state education goals;

33 (2) Includes a set of performance criteria that will be used during
 34 the initial ~~three-year~~ five-year period of the open-enrollment public charter
 35 school's operation to measure its progress in meeting its academic
 36 performance goals;

1 (3) Includes a proposal to directly and substantially involve the
 2 parents of students to be enrolled in the open-enrollment public charter
 3 school, the certified employees, and the broader community in carrying out
 4 the terms of the open-enrollment charter;

5 (4) Includes an agreement to provide an annual report to parents, the
 6 community, and the state board that demonstrates the progress made by the
 7 open-enrollment public charter school during the previous academic year in
 8 meeting its academic performance objectives; ~~and~~

9 (5) Includes a detailed budget, a business plan, and a governance plan
 10 for the operation of the open-enrollment public charter school; and

11 (6) Establishes the eligible entity's status as a tax-exempt
 12 organization under § 501(c)(3) of the Internal Revenue Code of 1986 prior to
 13 the first day of its operation with students.

14
 15 SECTION 15. Arkansas Code § 6-23-304 is amended to read as follows:
 16 6-23-304. Requirements - Preference for certain districts.

17 (a) The State Board of Education may approve or deny an application
 18 based on:

19 (1) ~~eriteria~~ Criteria provided by law or by rule adopted by the
 20 state board;

21 (2) Findings of the state board ~~which shall include criteria~~
 22 relating to improving student performance and encouraging innovative
 23 programs; and

24 (3) ~~written~~ Written findings or statements received by the state
 25 board from any public school district likely to be affected by the open-
 26 enrollment public charter school.

27 (b) The state board shall give preference in approving an application
 28 for a an open-enrollment public charter school to be located in any public
 29 school district:

30 (1) Where the percentage of students who qualify for free or
 31 reduced-price lunches is above the average for the state;

32 (2) Where the district has been classified by the state board as
 33 in academic distress under § 6-15-428; or

34 (3) Where the district has been classified by the Department of
 35 Education as ~~showing the greatest need for~~ in some phase of school
 36 improvement status under § 6-15-426 or some phase of fiscal distress under §

1 6-20-1902 et seq., if the fiscal distress status is a result of
 2 administrative fiscal mismanagement, as determined by the state board.

3 (c)(1) The state board may grant no more than a total of twenty-four
 4 (24) charters for open-enrollment public charter schools, ~~and a.~~

5 (2) An open-enrollment public charter applicant's school campus
 6 shall be limited to a single open-enrollment public charter school per
 7 charter except as allowed in subdivision ~~(e)(3)~~ (c)(5) of this section.

8 ~~(2) The state board's authority to approve the twenty-four (24)~~
 9 ~~charters for open enrollment status shall be phased in according to the~~
 10 ~~following schedule:~~

11 ~~(A) For the 2005-2006 school year, no more than four (4)~~
 12 ~~such charters may be granted per congressional district in the state;~~

13 ~~(B) For the 2006-2007 school year, no more than five (5)~~
 14 ~~such charters may be granted per congressional district in the state; and~~

15 ~~(C) For the 2007-2008 school year, no more than six (6)~~
 16 ~~such charters may be granted per congressional district in the state.~~

17 (3) An open-enrollment public charter school shall not open in
 18 the service area of a public school district administratively reorganized
 19 pursuant to the provisions of § 6-13-1601 et seq., until after the third year
 20 of the administrative reorganization.

21 ~~(3)(A)(4)~~ The General Assembly hereby recognizes by
 22 established relevant demonstrated educational accountability measures that
 23 the Knowledge Is Power Program (KIPP) Delta College Preparatory Open-
 24 Enrollment Charter School has:

25 ~~(i)(A)~~ Improved student learning through innovative
 26 ideas and techniques;

27 ~~(ii)(B)~~ Increased learning opportunities for all
 28 students; and

29 ~~(iii)(C)~~ Created special emphasis on expanded
 30 learning experiences for students who were previously identified as low-
 31 achieving.

32 ~~(B)(5)~~ As a result, the Knowledge Is Power Program is recognized
 33 as an effective method for:

34 ~~(i)(A)~~ Meeting the statutory intent of ~~the~~ The
 35 Arkansas Charter Schools Act of 1999, § 6-23-102 6-23-101 et seq.;

36 ~~(ii)(B)~~ Closing the achievement gap in public

1 schools for economically disadvantaged, racial, and ethnic subgroups, §§ 6-
2 15-401 et seq. and § 6-15-1601 et seq.; and

3 ~~(iii)~~(C) Otherwise providing an alternative
4 education that has been proven adequate and equitable to Arkansas students.

5 ~~(G)~~(6) Therefore, any charter applicant that receives an
6 approved open-enrollment public charter ~~under subdivision (e)(1) of this~~
7 ~~section~~ may petition the state board for ~~an~~ additional ~~license~~ licenses to
8 establish an open-enrollment public charter school in any of the various
9 congressional districts in Arkansas provided that the applicant meets the
10 following conditions, subject to the normal application, review, and approval
11 process of the state board:

12 ~~(1)~~(A) The approved open-enrollment public charter
13 ~~petitioner applicant is sponsored by and approved by the Knowledge Is Power~~
14 ~~Program~~ has demonstrated success in student achievement gains, as defined by
15 the state board; and

16 ~~(ii)~~(B) The approved open-enrollment public charter
17 ~~petitioner applicant~~ has not:

18 ~~(A)~~(i) Been subject to any disciplinary action by the
19 state board;

20 ~~(B)~~(ii) Been classified as in school improvement or
21 academic or fiscal distress; and

22 ~~(C)~~(iii) Had its open-enrollment public charter placed on
23 probation, suspended, or revoked; and

24 ~~(iii)~~(C) The state board determines in writing by
25 majority of a quorum of the state board present that the open-enrollment
26 public charter ~~petitioner applicant~~ has generally established the educational
27 program results and criteria set forth in this subdivision ~~(e)(3)(c)(4)~~.

28 ~~(d) When approving open enrollment charter applications, the state~~
29 ~~board shall take into consideration successful instructional programs offered~~
30 ~~by traditional public schools in the jurisdiction where the open enrollment~~
31 ~~charter is proposed so as not to replicate existing effective programs but to~~
32 ~~offer alternative methods of delivery to serve students who are currently~~
33 ~~underserved in the traditional district.~~

34 ~~(e)~~(d) No private or parochial elementary or secondary school shall be
35 eligible for open-enrollment public charter school status.

36

1 SECTION 16. Arkansas Code § 6-23-305 is amended to read as follows:

2 6-23-305. Notice of disapproval - Assistance with resubmission of
3 ~~petition~~ application.

4 (a) If the State Board of Education disapproves an application for an
5 open-enrollment public charter school, the state board shall notify the
6 ~~petitioners~~ applicant in writing of the reasons for such disapproval.

7 (b) The state board may allow the ~~petitioners~~ applicant for an open-
8 enrollment public charter school to resubmit ~~their petition~~ its application
9 if the original ~~petition~~ application was found to be deficient by the state
10 board.

11 (c) The Department of Education may provide technical assistance to
12 the ~~petitioners~~ applicant for an open-enrollment public charter school in the
13 creation or modification of ~~these petitions~~ its application.

14
15 SECTION 17. Arkansas Code § 6-23-306 is amended to read as follows:

16 6-23-306. Contents of open-enrollment public charters.

17 ~~Contents of charters~~ An open-enrollment public charter granted under
18 this ~~chapter~~ subchapter shall:

19 (1) Describe the educational program to be offered;

20 (2) Specify the period for which the open-enrollment public charter or
21 any ~~charter~~ renewal is valid;

22 (3) Provide that the continuation or renewal of the open-enrollment
23 public charter is contingent on acceptable student performance on assessment
24 instruments adopted by the State Board of Education and on compliance with
25 any accountability provision specified by the open-enrollment public charter,
26 by a deadline, or at intervals specified by the open-enrollment public
27 charter;

28 (4) Establish the level of student performance that is considered
29 acceptable for purposes of subdivision (3) of this section;

30 (5) Specify any basis, in addition to a basis specified by this
31 chapter, on which the open-enrollment public charter school may be placed on
32 probation or its charter is revoked or on which renewal of the open-
33 enrollment public charter may be denied;

34 (6) Prohibit discrimination in admissions policy on the basis of sex,
35 national origin, race, ethnicity, religion, disability, or academic or
36 athletic eligibility, except as follows:

1 (A) The open-enrollment public charter may allow a weighted
2 lottery to be used in the student selection process when necessary to comply
3 with Title VI of the federal Civil Rights Act of 1964, Title IX of the
4 federal Education Amendments of 1972, the equal protection clause of the
5 Fourteenth Amendment to the United States Constitution, a court order, or a
6 federal or state law requiring desegregation; and

7 (B) The open-enrollment public charter may provide for the
8 exclusion of a student who has been expelled from another public school
9 district in accordance with this title;

10 (7) Specify the grade levels to be offered;

11 (8) Describe the governing structure of the program;

12 (9) Specify the qualifications to be met by professional employees of
13 the program;

14 (10) Describe the process by which the persons providing the program
15 will adopt an annual budget;

16 (11) Describe the manner in which the annual audit of the financial
17 and programmatic operations of the program is to be conducted, including the
18 manner in which the persons providing the program will provide information
19 necessary for the public school district in which the program is located to
20 participate;

21 (12) Describe the facilities to be used, including the terms of the
22 facility utilization agreement if the facility for the open-enrollment public
23 charter school is owned or leased from a sectarian organization;

24 (13) Describe the geographical area, public school district, or school
25 attendance area to be served by the program;

26 (14)(A) Specify methods for applying for admission, enrollment
27 criteria, and student recruitment and selection processes.

28 (B)(i) Except as provided in subdivision (14)(C) of this
29 section, if more eligible students apply for a first-time admission than the
30 open-enrollment public charter school is able to accept, the charter must
31 require the open-enrollment public charter school to use a random, anonymous
32 student selection method which shall be described in the charter application.

33 (ii) However, an open-enrollment public charter school may
34 allow a preference for:

35 (a)(1) Children of the founding members of the
36 eligible entity.

1 (2) The number of enrollment preferences
 2 granted to children of founding members shall not exceed ten percent (10%) of
 3 the total number of students enrolled in the open-enrollment public charter
 4 school; and

5 (b) Siblings of students currently enrolled in the
 6 school.

7 (C) The open-enrollment public charter may allow use of a
 8 weighted lottery in the student selection process when necessary to comply
 9 with Title VI of the federal Civil Rights Act of 1964, Title IX of the
 10 federal Education Amendments of 1972, the equal protection clause of the
 11 Fourteenth Amendment to the United States Constitution, a court order, or a
 12 federal or state law requiring desegregation, as permitted by the Charter
 13 Schools Program, Title V, Part B, Non-Regulatory Guidance of the United
 14 States Department of Education, July, 2004,; and

15 (15) Include a statement that the eligible entity will not
 16 discriminate on the basis of race, sex, national origin, ethnicity, religion,
 17 age, or disability in employment decisions, including hiring and retention of
 18 administrators, teachers, and other employees whose salaries or benefits are
 19 derived from any public moneys.

20
 21 SECTION 18. Arkansas Code § 6-23-307 is amended to read as follows:
 22 6-23-307. Renewal of charter.

23 After the initial five-year period of an open-enrollment public
 24 charter, the State Board of Education is authorized to renew ~~these charters~~
 25 the charter on a one-year or multiyear basis, not to exceed five (5) years.

26
 27 SECTION 19. Arkansas Code § 6-23-308 is amended to read as follows:
 28 6-23-308. Priority hiring for teachers.

29 If a certified teacher employed by a public school district in the
 30 school year immediately preceding the effective date of the charter is
 31 employed by an open-enrollment public charter school and the charter is
 32 revoked, the certified teacher will receive a priority in hiring for the
 33 first available position for which the certified teacher is qualified in the
 34 public school district where the certified teacher was formerly employed.

35
 36 SECTION 20. Arkansas Code § 6-23-309 is amended to read as follows:

1 6-23-309. Rules and regulations.

2 The State Board of Education is authorized to promulgate rules and
3 regulation for the creation of open-enrollment public charter schools.

4
5 SECTION 21. Arkansas Code § 6-23-310 is amended to read as follows:

6 6-23-310. Status report.

7 The State Board of Education shall report on the status of the open-
8 enrollment public charter school programs to the General Assembly each
9 biennium and to the House Interim Committee on Education and the Senate
10 Interim ~~Committees~~ Committee on Education during the interim between regular
11 sessions of the General Assembly.

12
13 SECTION 22. Arkansas Code § 6-23-401 is amended to read as follows:

14 6-23-401. Authority under a charter for open-enrollment public charter
15 schools.

16 (a) An open-enrollment public charter school:

17 (1) Shall be governed by an eligible entity that is fiscally
18 accountable and under the governing structure as described by the charter;

19 (2) Shall provide instruction to students at one (1) or more
20 elementary or secondary grade levels as provided by the charter;

21 (3) Shall retain authority to operate under the charter
22 contingent on satisfactory student performance as provided by the charter and
23 in accordance with this chapter;

24 (4) Shall have no authority to impose taxes;

25 (5) Shall not incur any debts without the prior review and
26 approval of the ~~Director of the Department~~ Commissioner of Education;

27 (6) Shall not charge students tuition or fees that would not be
28 allowable charges in the public school districts; and

29 (7) Shall not be religious in its operations or programmatic
30 offerings.

31 (b) An open-enrollment public charter school is subject to any
32 prohibition, restriction, or requirement imposed by this title and any rule
33 and regulation promulgated by the State Board of Education under this title
34 relating to:

35 (1) Monitoring compliance with this chapter, as determined by
36 the ~~director~~ commissioner;

- 1 (2) Public school accountability under this title;
2 (3) High school graduation requirements as established by the
3 state board;
4 (4) Special education programs as provided by this title;
5 (5) Conducting criminal background checks for employees as
6 provided in this title; and
7 (6) Health and safety codes as established by the state board
8 and local governmental entities.

9

10 SECTION 23. Arkansas Code § 6-23-402 is amended to read as follows:
11 6-23-402. Enrollment numbers and deadline.

12 (a) An open-enrollment public charter school may enroll a number of
13 students not to exceed the number of students specified in its charter.

14 (b)(1) Any student enrolling in an open-enrollment public charter
15 school shall enroll in that school by July ~~± 30 of the~~ for the upcoming
16 school year ~~prior to the school year~~ during which the student will be
17 attending the open-enrollment public charter school.

18 (2) However, if a student enrolled by July ~~± 30~~ should no longer
19 choose to attend the open-enrollment public charter school, the open-
20 enrollment public charter school may enroll a replacement student.

21 (c) Open-enrollment public charter schools shall keep records of
22 attendance in accordance with the law and submit quarterly attendance reports
23 to the Department of Education.

24

25 SECTION 24. Arkansas Code § 6-23-403 is amended to read as follows:

26 6-23-403. Annual audit of open-enrollment public charter school
27 required.

28 ~~(a)~~ Any other provisions of the Arkansas Code ~~Annotated~~
29 notwithstanding, an open-enrollment public charter school shall be subject to
30 the same auditing and accounting requirements as any other public school
31 district in the state.

32 ~~(b) The annual fiscal audit may be performed by the Division of~~
33 ~~Legislative Audit or by a private auditing or accounting firm operating under~~
34 ~~guidelines approved by the division.~~

35

36 SECTION 25. Arkansas Code § 6-23-404 is amended to read as follows:

1 6-23-404. Evaluation of open-enrollment charter schools.

2 (a) The Department of Education shall cause to be conducted an annual
3 evaluation of open-enrollment public charter schools.

4 (b) An annual evaluation shall include, but not be limited to,
5 consideration of:

6 (1) Student scores ~~on~~ under the statewide assessment ~~instruments~~
7 program described in § 6-15-433;

8 (2) Student attendance;

9 (3) Student grades;

10 (4) Incidents involving student discipline;

11 (5) Socioeconomic data on students' families;

12 (6) Parental satisfaction with the schools; and

13 (7) Student satisfaction with the schools.

14 (c) ~~{Repealed.}~~ The State Board of Education may require the charter
15 holder to appear before the state board to discuss the results of the
16 evaluation and to present further information to the state board as the
17 department or the state board deems necessary.

18
19 SECTION 26. Arkansas Code § 6-23-501 is amended to read as follows:

20 6-23-501. Funding for open-enrollment public charter schools.

21 (a)(1) An open-enrollment public charter school shall receive funds
22 equal to the amount that a public school would receive under § 6-20-2305(a)
23 and (b) as well as any other funding that a public charter school is entitled
24 to receive under law or pursuant to rules promulgated by the State Board of
25 Education.

26 (2) Funding for an open-enrollment public charter school shall
27 be based upon the current year three-quarter average daily membership of the
28 open-enrollment public charter school as follows:

29 (A) The initial funding estimate for each school year
30 shall be based on enrollment as of July ± 30 preceding the school year in
31 which the students are to attend;

32 (B) In December, funding will be adjusted based on the
33 ~~first-quarter~~ first-quarter average daily membership; and

34 (C) A final adjustment will be made after the current year
35 three-quarter average daily membership is established.

36 (3) Funding for an open-enrollment public charter school shall

1 be paid in twelve (12) equal installments each fiscal year.

2 (b) ~~Except for state transportation aid funds, an~~ An open-enrollment
3 public charter school may receive ~~other~~ any state and federal aids, grants,
4 and revenue as may be provided by law.

5 (c) Open-enrollment public charter schools may receive gifts and
6 grants from private sources in whatever manner is available to public school
7 districts.

8 (d)(1) An open-enrollment public charter school shall have a right of
9 first refusal to purchase or lease for fair market value a closed public
10 school facility or unused portions of a public school facility located in a
11 public school district from which it draws its students if the public school
12 district decides to sell or lease the public school facility.

13 (2) The public school district may not require lease payments
14 that exceed the fair market value of the property.

15 (3) The application of this subsection (d) is subject to the
16 rights of a repurchaser under § 6-13-103 regarding property taken by eminent
17 domain.

18 (4) A public school district is exempt from the provisions of
19 this subsection (d) if the public school district, through an open bid
20 process, receives and accepts an offer to lease or purchase the property from
21 a purchaser other than the open-enrollment public charter school for an
22 amount that exceeds the fair market value.

23 (5) The purposes of this subsection (d) are to:

24 (A) Acknowledge that taxpayers intended a public school
25 facility to be used as a public school; and

26 (B) Preserve the option to continue that use.

27 (6) Nothing in this subsection (d) is intended to diminish the
28 opportunity for an Arkansas Better Chance program to bid on the purchase or
29 lease of the public school facility on an equal basis as the open-enrollment
30 charter school.

31 SECTION 27. Arkansas Code § 6-23-502(a), concerning the source of
32 funding for open-enrollment public charter schools, is amended to read as
33 follows:

34 (a) Open-enrollment public charter schools shall be funded each year
35 through funds set aside from funds appropriated to state ~~equalization~~
36 foundation funding aid in the Public School Fund.

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SECTION 28. Arkansas Code § 6-23-503 is amended to read as follows:
6-23-503. Use of funding.

(a) An open-enrollment public charter school may not use the moneys that it receives from the state for any sectarian program or activity or as collateral for debt.

(b)(1) No indebtedness of any kind incurred or created by the open-enrollment public charter school shall constitute an indebtedness of the state or its political subdivisions, and no indebtedness of the open-enrollment public charter school shall involve or be secured by the faith, credit, or taxing power of the state or its political subdivisions.

(2) Every contract or lease into which an open-enrollment public charter school enters shall include the wording of subdivision (b)(1) of this section.

SECTION 29. Arkansas Code § 6-23-504 is amended to read as follows:
6-23-504. Employee benefits.

Employees of an open-enrollment public charter school shall be eligible to participate in all benefits programs available to public school employees.

SECTION 30. Arkansas Code § 6-23-505 is amended to read as follows:
6-23-505. Annual audit.

An open-enrollment public charter school shall prepare an annual certified audit of the financial condition and transactions of the open-enrollment public charter school as of June 30 of each year in accordance with generally accepted auditing procedures and containing any other data as determined by the State Board of Education.

SECTION 31. Arkansas Code § 6-23-506 is amended to read as follows:
6-23-506. Assets of school as property of state.

(a) Upon dissolution of the open-enrollment public charter school or upon nonrenewal or revocation of the charter, all net assets of the open-enrollment public charter school, including any interest in real property, purchased with public funds shall be deemed the property of the state, unless otherwise specified in the charter of the open-enrollment public charter school.

1 (b)(1) If the open-enrollment public charter school used state funds
2 to purchase or finance personal property, real property, or fixtures for use
3 by the open-enrollment public charter school, the State Board of Education
4 may require that the property be sold.

5 (2) The state has a perfected priority security interest in the
6 net proceeds from the sale or liquidation of the property to the extent of
7 the public funds used in the purchase.

8
9 SECTION 32. Arkansas Code § 6-23-601 is amended to read as follows:

10 6-23-601. Application for limited public charter school status -
11 Approval - Teacher transfers - Annual evaluation.

12 (a)(1) Any public school may apply to the State Board of Education for
13 a limited public charter school status for alternative comprehensive staffing
14 and compensation programs designed to enhance student and teacher performance
15 and improve employee salaries, opportunities, and incentives, to be known as
16 a limited public charter school.

17 (2) A limited public charter shall be for the purpose of
18 instituting alternative staffing practices in accordance with a schedule
19 approved by the state board.

20 (3) A limited public charter shall be initially established for
21 a period of no more than five (5) years and may be renewed on a one-year or
22 multiyear basis, not to exceed five (5) years per charter renewal.

23 (b) The ~~petition~~ application shall:

24 (1)(A) Contain the provisions of § 6-1-101 et seq. and the
25 specific rules and regulations promulgated by the state board from which the
26 limited public charter school will be exempt.

27 (B) The provisions from which the public school district may be
28 exempt for the limited public charter school only shall be limited to the
29 following:

30 (i) The duty-free lunch period requirements set forth in §
31 6-17-111;

32 (ii) The daily planning period requirements set forth in §
33 6-17-114;

34 (iii) The committee on personnel policies requirements set
35 forth in §§ 6-17-201 et seq.; and

36 (iv) Standards for accreditation set forth in the Arkansas

1 Code, set forth by the Department of Education, or set forth by the state
2 board.

3 (C) No limited public charter school may be allowed an
4 exemption that would allow a full-time certified employee to be paid less
5 than the salary provided in the public school district's salary schedule for
6 that employee;

7 (2) Describe a plan for school improvement that addresses how
8 the limited public charter school will improve student learning and meet the
9 state education goals;

10 (3) Describe how the certified employees at the limited public
11 charter school will be involved in developing and implementing the school
12 improvement plan set forth in subdivision (b)(2) of this section and in
13 identifying performance criteria;

14 (4) Outline proposed performance criteria that will be used
15 during the initial ~~three-year~~ five-year period of the charter to measure the
16 progress of the limited public charter school in improving student learning
17 and meeting or exceeding the state education goals; and

18 (5) Be reviewed as a regular agenda item and approved after
19 sufficient public comment by the local school board and the state board.

20 (c)(1) Any ~~petition~~ application to obtain limited public charter
21 school status approved by a local school board shall be forwarded by the
22 local school board to the state board.

23 (2) If a local school board does not approve a public school's
24 ~~petition~~ application, the local school board shall inform the ~~petitioners~~
25 applicants and faculty of the public school of the local school board's
26 reasons for not approving the application.

27 (d)(1) A certified teacher employed by a public school in the school
28 year immediately preceding the effective date of a limited public charter for
29 a limited public charter school within that public school district may not be
30 transferred to or be employed by the limited public charter school over the
31 certified teacher's objections, nor shall that objection be used as a basis
32 to deny continuing employment within the public school district in another
33 public school at a similar grade level.

34 (2) If the transfer of a teacher within a public school district
35 is not possible because only one (1) public school exists for the teacher's
36 certification level, then the local school board shall call for a vote of the

1 certified teachers in the proposed limited public charter school site and
2 proceed, at the local school board's option, with the limited public charter
3 school ~~petition~~ application if a majority of the certified teachers approve
4 the proposal.

5 (3)(A) A certified teacher choosing to join the staff of a
6 limited public charter school shall be employed by the district by a written
7 contract as set forth in § 6-13-620(4), with the contract being subject to
8 the provisions of ~~the~~ The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et
9 seq.

10 (B)(i) The certified teacher shall also enter into a
11 separate supplemental contract specifically for the teacher's employment in
12 the limited public charter school, with the supplemental contract being
13 exempt from ~~the~~ The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq.,
14 and from § 6-17-807.

15 (ii) Termination of the supplemental contract shall
16 not be used as a basis to deny continued employment of the teacher within the
17 public school district in another public school at a similar grade level.

18 (e)(1) Limited public charter schools shall be evaluated annually by
19 the department based on criteria approved by the state board, including, but
20 not limited to, student performance data in order to determine progress in
21 student achievement that has been achieved by the limited public charter
22 school.

23 (2) The department shall annually report its evaluation to the
24 state board.

25 (3) Based upon that evaluation, the state board may revoke a
26 limited public charter.

27 (f) The state board shall promulgate rules and regulations necessary
28 for the implementation of this subchapter.

29
30 /s/ Anderson

31
32 **APPROVED: 3/30/2007**