

EDUCATION  
DIVISION II. ELEMENTARY AND SECONDARY EDUCATION  
TITLE 9. MARYLAND PUBLIC CHARTER SCHOOL PROGRAM

Md. EDUCATION Code Ann. § 9-101 (2016)

§ 9-101. Maryland Public Charter School Program

(a) Established. -- There is a Maryland Public Charter School Program.

(b) Purpose. -- The general purpose of the Program is to establish an alternative means within the existing public school system in order to provide innovative learning opportunities and creative educational approaches to improve the education of students.

§ 9-102. "Public school charter" defined

In this title, "public charter school" means a public school that:

- (1) Is nonsectarian in all its programs, policies, and operations;
- (2) Is a school to which parents choose to send their children;
- (3) Except as provided in §§ 9-102.1, 9-102.2, and 9-102.3 of this title, is open to all students on a space-available basis and admits students on a lottery basis if more students apply than can be accommodated;
- (4) Is a new public school or a conversion of an existing public school;
- (5) Provides a program of elementary or secondary education or both;
- (6) Operates in pursuit of a specific set of educational objectives;
- (7) Is tuition-free;
- (8) Is subject to federal and State laws prohibiting discrimination;
- (9) Is in compliance with all applicable health and safety laws;
- (10) Is in compliance with § 9-107 of this title;
- (11) Operates under the supervision of the public chartering authority from which its charter is granted and in accordance with its charter and, except as provided in §§ 9-104.1 and 9-106 of this title, the provisions of law and regulation governing other public schools;
- (12) Requires students to be physically present on school premises for a period of time substantially similar to that which other public school students spend on school premises;

and

(13) Is created in accordance with this title and the appropriate county board policy.

§ 9-102.1. Waiver from § 9-102(3)

(a) Grounds. -- The State Board may grant a waiver from § 9-102(3) of this title to a public charter school if the public charter school:

(1) Is located on property within a federal military base in the State; and

(2) Will admit students with parents who are not assigned to the base to at least 35% of its total available space as part of the initial cohort of students in a grade.

(b) Admission of students on lottery basis; maintenance of ratio of students. -- If a public charter school is granted a waiver under subsection (a) of this section, subject to the requirement set forth in subsection (a)(2) of this section, the public charter school shall:

(1) Admit all students on a lottery basis in accordance with § 9-102.2 of this title; and

(2) Take reasonable steps to maintain the 35% to 65% ratio intended as part of the initial cohort of students in a grade.

§ 9-102.2. Lottery -- Weighting and guaranteed placement.

(a) Weighting factors to student's lottery status. -- A public charter school may give greater weight to a student's lottery status as part of a lottery held under § 9-102(3) of this title and in accordance with an application submitted under § 9-104 of this title if the student is:

(1) Eligible for free or reduced price meals;

(2) A student with disabilities;

(3) A student with limited English proficiency;

(4) Homeless, as defined under the federal McKinney-Vento Homeless Assistance Act; or

(5) A sibling of a student currently enrolled in the public charter school for which the sibling is applying.

(b) Priorities to siblings. -- Notwithstanding § 9-102(3) of this title, a public charter school may give priority to the sibling of a student admitted through the lottery process or a currently enrolled student for any spaces in the school that become available throughout the school year.

(c) Geographic attendance area. --

(1) Subject to the approval of the public chartering authority and § 9-104 of this title, a public charter school may propose a geographic attendance area with a median income that is equal to or less than the median income of the county for the public charter school.

(2) Subject to paragraph (4) of this subsection, a public charter school may provide guaranteed placement through a lottery to students who live within the geographic attendance area for up to 35%, as proposed by the public charter school and approved by the public chartering authority, of the available space of the public charter school.

(3) Subject to paragraphs (2) and (4) of this subsection, the public charter school shall:

(i) Admit students on a lottery basis to its remaining available space; and

(ii) Take reasonable steps to maintain the ratio intended under paragraph (2) of this subsection as part of the initial cohort of students accepted through the lottery process.

(4) If a public charter school does not fill 100% of its available space under paragraphs (2) and (3) of this subsection, the public charter school may admit more than the percentage of students established under paragraph (2) of this subsection from the geographic attendance area established under this section.

(d) Priority to students previously attending public charter school. --

(1) Subject to the approval of the public chartering authority, paragraph (2) of this subsection, and § 9-104 of this title, a public charter school may provide guaranteed placement through a lottery to up to 35%, as proposed by the public charter school and approved by the public chartering authority, of the available space of the public charter school to students who attended a public charter school during the previous school year that is operated by the same operator.

(2) A public charter school shall qualify under paragraph (1) of this subsection if:

(i) The operator operates two or more public charter schools in the county; and

(ii) When combined, the public charter schools operated by the operator form an integrated multiyear academic program.

(3) Subject to paragraph (1) of this subsection, the public charter school shall:

(i) Admit students on a lottery basis to its remaining available space; and

(ii) Take reasonable steps to maintain the ratio intended under paragraph (1) of this subsection as part of the initial cohort of students accepted through the lottery process.

(4) If a public charter school does not fill 100% of its available space under paragraphs (1) and (3) of this subsection, the public charter school may admit more than the percentage of students established under paragraph (1) of this subsection.

§ 9-102.3. Waiver -- Converted public charter school providing guaranteed placement within geographic attendance area.

(a) In general. -- In accordance with § 9-104 of this title, a county board may grant a waiver from § 9-102(3) of this title to:

(1) A converted public charter school that:

(i) Subject to subsection (b) of this section, provides guaranteed placement through a lottery to students who live within the geographic attendance area established by the county board;

(ii) Is a low-performing school as identified by the county board;

(iii) Is above the county average rate for the percentage of students who are eligible for free and reduced price meals; and

(iv) Meets a strategic need of the local school system, as identified in the county board's public charter school policy developed under § 9-110 of this title, that shall include at least one of the following elements:

1. Serving a high-need population;
2. Increasing student performance;
3. Increasing enrollment; or
4. Increasing student diversity; or

(2) A converted public charter school that is seeking renewal of an existing charter contract that was granted under item (1) of this subsection.

(b) Lottery to fill available space. -- If a public charter school does not fill 100% of its available space under subsection (a)(1) of this section, the public charter school shall admit students on a lottery basis to its remaining available space.

§ 9-103. Public chartering authority

The public chartering authority for the granting of a charter shall be a county board of education.

§ 9-104. Public charter school -- Application

(a) In general. --

(1) An application to establish a public charter school shall be submitted to the county board of the county in which the charter school will be located.

(2) An application to establish a public charter school may be submitted to a county board by:

(i) The staff of a public school;

(ii) A parent or guardian of a student who attends a public school in the county;

(iii) A nonsectarian nonprofit entity;

(iv) A nonsectarian institution of higher education in the State; or

(v) Any combination of persons specified in items (i) through (iv) of this paragraph.

(3) An application shall include:

(i) A plan to provide a rigorous program of instruction that includes an equivalent method for satisfying any requirements from which the public charter school operator intends to seek a waiver under § 9-106 of this title; and

(ii) A description of how a weighted lottery or the provision of guaranteed placement will be implemented under §§ 9-102.2 and 9-102.3 of this title.

(4) A public chartering authority may not grant a charter under this title to:

(i) A private school;

(ii) A parochial school;

(iii) A home school; or

(iv) A school that operates fully online.

(5) (i) Except as provided in subparagraph (ii) of this paragraph, the county board shall review the application and render a decision within 120 days of receipt of the application and in accordance with the application procedures adopted by the county board.

(ii) For a restructured school:

1. The county board shall review the application and render a decision within 30 days of receipt of the application;

2. The county board may apply to the State Board for an extension of up to 15 days from the time limit imposed under item 1 of this subparagraph;

3. If an extension is not granted, and 30 days have elapsed, the decision may be appealed to the State Board in accordance with § 4-205(c) of this article; and

4. If an extension has been granted, and 45 days have elapsed, the decision may be appealed to the State Board in accordance with § 4-205(c) of this article.

(6) (i) A public chartering authority may approve an application to operate a public charter school on a contingent basis subject to the conditions of subparagraph (ii) of this paragraph.

(ii) The contingent approval granted under subparagraph (i) of this paragraph may be contingent on:

1. A public charter school's ability to meet any timelines established by the public chartering authority for the securing of a facility; and

2. Final approval by the public chartering authority regarding the suitability of the facility secured by the public charter school.

(b) Application including specific geographic attendance area provision. --

(1) If an application to establish a public charter school includes a description of the implementation of a weighted lottery that gives priority to students in a specific geographic attendance area in accordance with § 9-102.2 or § 9-102.3 of this title, the public chartering authority may approve or reject this provision separately from the application as a whole.

(2) A decision of a public chartering authority under paragraph (1) of this subsection may not be appealed to the State Board.

(c) Application including staffing model. --

(1) An application to establish a public charter school may include a staffing model, including provisions for staff recruitment, training, evaluation, and professional development.

(2) A public charter school may submit a staffing model as provided in paragraph (1) of this subsection with a renewal application or with an amendment to an existing charter.

(d) Denial and appeal. --

(1) If the county board denies an application to establish a public charter school, the applicant may appeal the decision to the State Board, in accordance with § 4-205(c) of this article.

(2) The State Board shall render a decision within 120 days of the filing of an appeal under this subsection.

(3) If the county board denies an application to establish a public charter school and the State Board reverses the decision, the State Board shall remand the matter to the county board and may direct the county board to grant a charter and may, if necessary, mediate with the county board and the applicant to implement the charter.

§ 9-104.1. Public Charter School -- Assessments.

(a) "Eligible public charter school" defined. -- In this section, "eligible public charter school" means a public charter school that has been in existence for at least 5 years and demonstrates to the public chartering authority a history of:

(1) Sound fiscal management; and

(2) Student achievement that exceeds the average in the local school system in which the public charter school is located on:

(i) Statewide assessments; and

(ii) Other measures developed by the State Board.

(b) in general. -- The State Board shall develop standards and criteria by which an eligible public charter school shall be assessed by a public chartering authority.

(c) Submissions by school. --

(1) An eligible public charter school may submit to a public chartering authority:

(i) An application for renewal of an existing charter contract that incorporates the provisions of subsection (e) of this section; or

(ii) Subject to paragraph (2) of this subsection, an application for an addendum to an existing charter contract that incorporates the provisions of subsection (e) of this section.

(2) An eligible public charter school may not submit an application under paragraph (1)(ii) of this subsection more than one time during the duration of an existing charter contract.

(d) Appeals. -- If the public chartering authority determines that a public charter school is

not an eligible public charter school, the public charter school may appeal the decision to the State Board in accordance with § 4-205(c) of this article.

(e) Mutual agreement to alternative means for qualifying; exemptions. -- If an eligible public charter school and a public chartering authority mutually agree to an alternative means by which the eligible public charter school will satisfy the intent of the policies of the public chartering authority, an eligible public charter school is exempt from:

(1) Textbook, instructional program, curriculum, professional development, and scheduling requirements;

(2) A requirement to establish a school community council;

(3) Except for Title I schools, a requirement to establish a school improvement plan;

(4) Except for schools with a school activity fund, a requirement to provide school activity fund disclosure statements; and

(5) Except for prekindergarten classes, class size or staffing ratios.

(f) Mutual agreement for communication processes and supervision methodology. -- A public chartering authority and an eligible public charter school may jointly develop and mutually agree to a communication process and supervision methodology that flows among the county board, the operator, and the administration of the eligible public charter school.

(g) Consent required for assignment of principal; staffing. --

(1) An eligible public charter school may not be assigned a principal without the written consent of the operator of the eligible public charter school.

(2) (i) Staff members shall be assigned or transferred to an eligible public charter school if the staff member expresses in writing that the staff member wants to work in that eligible public charter school and the eligible public charter school requests in writing that the staff member be assigned or transferred to the eligible public charter school, provided there is an existing vacancy.

(ii) A transfer authorized under subparagraph (i) of this paragraph shall take place as designated by the agreement of the local bargaining unit in the local school system.

(h) Construction. -- Nothing in this section may be construed to take precedence over an agreement of a local bargaining unit in a local school system.

(i) Provisions of title applicable. -- Except as otherwise provided in this section, an eligible public charter school is subject to the provisions of this title.



§ 9-105. Public charter school -- Professional staff

A member of the professional staff of a public charter school shall be subject to the same certification provisions established in regulations for the professional staff of other public schools.

§ 9-106. Public charter school -- Obligations and waiver

(a) In general. -- Subject to subsection (b) of this section, a public charter school shall comply with the provisions of law and regulation governing other public schools.

(b) Waiver -- Request. -- Subject to subsection (d) of this section, a public charter school may seek a waiver of the requirements under subsection (a) of this section from:

- (1) A county board for policies that are the policies of the county board; and
- (2) The State Board for policies that are the policies of the State Board.

(c) Waiver -- Denial. -- If a waiver is denied under this section, the county board or the State Board, as appropriate, shall provide the reason for the denial in writing to the public charter school.

(d) Waiver -- Exceptions. -- A waiver may not be granted from provisions of law or regulation relating to:

- (1) Audit requirements;
- (2) The measurement of student academic achievement, including all assessments required for other public schools and other assessments mutually agreed upon by the public chartering authority and the school; or
- (3) The health, safety, or civil rights of a student or an employee of the public charter school.

§ 9-107. Responsibilities of public chartering authority

(a) Granting charters. -- A public chartering authority may not grant a charter to a public charter school whose operation would be inconsistent with any public policy initiative, court order, or federal improvement plan governing special education that is applicable to the State.

(b) Authorizing process and application. -- A public chartering authority shall ensure that the authorizing process for a public charter school and the charter application address the roles and responsibilities of the county board and the applicants and operators of the public

charter school with respect to children with disabilities.

(c) Operators of school. -- The public chartering authority shall ensure that, prior to opening a public charter school, the operators of the school are informed of the human, fiscal, and organizational capacity needed to fulfill the school's responsibilities related to children with disabilities.

#### § 9-108. Rights of employees of a public charter school

(a) In general. -- Employees of a public charter school:

- (1) Are public school employees, as defined in §§ 6-401(e) and 6-501(g) of this article;
- (2) Are employees of a public school employer, as defined in §§ 6-401(f) and 6-501(h) of this article, in the county in which the public charter school is located; and
- (3) Shall have the rights granted under Title 6, Subtitles 4 and 5 of this article.

(b) Collective bargaining agreement. -- If a collective bargaining agreement under Title 6, Subtitle 4 or Subtitle 5 of this article is already in existence in the county where a public charter school is located, the employee organization, public school employer, and the public charter school may mutually agree to negotiate amendments to the existing agreement to address the needs of the particular public charter school, including amendments to work days, work hours, school year, procedures for transfers that are consistent with the instructional mission of the school, and extra duty assignments.

#### § 9-109. Disbursement of funds

A county board shall disburse to a public charter school an amount of county, State, and federal money for elementary, middle, and secondary students that is commensurate with the amount disbursed to other public schools in the local jurisdiction.

#### § 9-110. Public charter school policy

(a) In general. --

- (1) Each county board shall develop a public charter school policy and provide it to the State Board.
- (2) The policy required under paragraph (1) of this subsection shall include guidelines and procedures regarding:
  - (i) Evaluation of public charter schools;

(ii) Revocation of a charter;

(iii) Reporting requirements; and

(iv) Financial, programmatic, or compliance audits of public charter schools.

(3) The policy required under paragraph (1) of this subsection, including any updates or amendments made to the policy, shall be provided to the Department and made available on request and posted on the Web site of the county board.

(b) Contact person. --

(1) The Department shall designate a staff person to function as a contact person for the Maryland Public Charter School Program.

(2) The staff person designated as a contact person under paragraph (1) of this subsection shall:

(i) Provide technical assistance to the operator of a public charter school to help the school meet the requirements of federal and State laws, including 20 U.S.C. § 1400, et seq. and § 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; and

(ii) Gather information from public charter schools in the State regarding innovative approaches to education and best practices taking place at public charter schools that may be shared with and disseminated to other public schools in the State.

(c) Report. -- The Department shall report annually by December 1 to the General Assembly in accordance with § 2-1246 of the State Government Article regarding:

(1) Any updates or amendments made to a public charter school policy under subsection (a) of this section; and

(2) Implementation of this title.

§ 9-111. Use of school site or building for public charter school

(a) In general. --

(1) If, with the approval of the State Superintendent, a county board determines that a school site or building no longer is needed for school purposes and after the county commissioners or county council have provided the required notice under § 4-115 of this article, the county board shall inform the public charter schools in the county that the school site or building is available for occupation and use by a public charter school on the terms determined by the county board.

(2) Each county board:

(i) Shall establish a procedure to determine which public charter school may occupy and use an available school site or building if more than one public charter school notifies the county board of an interest in occupying and using a school site or building; and

(ii) May consider the utilization rate of surrounding school sites and buildings when authorizing a public charter school to occupy a school site or building.

(b) Prohibition of sale or transfer of school site or building. -- A public charter school that occupies or uses a school site or building under subsection (a) of this section may not sell, dispose of, or otherwise transfer the school site or building.

§ 9-112. Tax exemption

Any portion of a building or property occupied and used by a public charter school shall be exempt from property taxes under § 7-202 of the Tax - Property Article for the duration of the occupation and use of the building or property as a public charter school.