

Section 118.40, Stats.

*(Unofficial Text Released by the Revisor of Statutes, August 21, 2006;
Incorporates all Enactments to Date of the 2005-06 Legislative Session)*

118.40 Charter schools. (1) NOTICE TO STATE SUPERINTENDENT. Whenever a school board intends to establish a charter school, it shall notify the state superintendent of its intention. Whenever one of the entities under sub. (2r) (b) intends to establish a charter school, it shall notify the state superintendent of its intention by February 1 of the previous school year. A notice under this subsection shall include a description of the proposed school.

(1m) PETITION. (a) A written petition requesting the school board to establish a charter school under this section may be filed with the school district clerk. The petition shall be signed by at least 10% of the teachers employed by the school district or by at least 50% of the teachers employed at one school of the school district.

(b) The petition shall include all of the following:

1. The name of the person who is seeking to establish the charter school.
2. The name of the person who will be in charge of the charter school and the manner in which administrative services will be provided.
3. A description of the educational program of the school.
4. The methods the school will use to enable pupils to attain the educational goals under s. 118.01.
5. The method by which pupil progress in attaining the educational goals under s. 118.01 will be measured.
6. The governance structure of the school, including the method to be followed by the school to ensure parental involvement.
7. Subject to sub. (7) (a) and (am) and ss. 118.19 (1) and 121.02 (1) (a) 2., the qualifications that must be met by the individuals to be employed in the school.
8. The procedures that the school will follow to ensure the health and safety of the pupils.
9. The means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the school district population.
10. The requirements for admission to the school.

11. The manner in which annual audits of the financial and programmatic operations of the school will be performed.

12. The procedures for disciplining pupils.

13. The public school alternatives for pupils who reside in the school district and do not wish to attend or are not admitted to the charter school.

14. A description of the school facilities and the types and limits of the liability insurance that the school will carry.

15. The effect of the establishment of the charter school on the liability of the school district.

(2) PUBLIC HEARING; GRANTING OF PETITION. (a) Within 30 days after receiving a petition under sub. (1m) the school board shall hold a public hearing on the petition. At the hearing, the school board shall consider the level of employee and parental support for the establishment of the charter school described in the petition and the fiscal impact of the establishment of the charter school on the school district. After the hearing, the school board may grant the petition.

(b) A school board may grant a petition that would result in the conversion of all of the public schools in the school district to charter schools if all of the following apply:

1. At least 50% of the teachers employed by the school district sign the petition.

2. The school board provides alternative public school attendance arrangements for pupils who do not wish to attend or are not admitted to a charter school.

(c) The school board of the school district operating under ch. 119 shall either grant or deny the petition within 30 days after the public hearing. If the school board of the school district operating under ch. 119 denies a petition, the person seeking to establish the charter school may, within 30 days after the denial, appeal the denial to the department. The department shall issue a decision within 30 days after receiving the appeal. The department's decision is final and not subject to judicial review under ch. 227.

(2m) SCHOOL BOARD INITIATIVE. (a) A school board may on its own initiative contract with a person to operate a school as a charter school. The contract shall include all of the provisions specified under sub. (1m) (b) and may include other provisions agreed to by the parties.

(am) At least 30 days before entering in a contract under this subsection that would convert a private school to a charter school or that would establish a charter school that is not an instrumentality of the school district, the school board shall hold a public hearing on the contract. At the hearing, the school board shall consider the level of employee and

parental support for the establishment of the charter school and the fiscal impact of the establishment of the charter school on the school district.

(b) A school board may not enter into a contract under par. (a) that would result in the conversion of all of the public schools in the school district to charter schools unless the school board complies with sub. (2) (b) 2.

(2r) OTHER INITIATIVES. (a) In this subsection, "instructional staff" has the meaning given in the rules promulgated by the department under s. 121.02 (1) (a) 2.

(b) 1. All of the following entities may establish by charter and operate a charter school or, on behalf of their respective entities, may initiate a contract with an individual or group to operate a school as a charter school:

- a. The common council of the city of Milwaukee.
- b. The chancellor of the University of Wisconsin-Milwaukee.
- c. On a pilot basis, the chancellor of the University of Wisconsin-Parkside.
- d. The Milwaukee area technical college district board.

2. A charter shall include all of the provisions specified under sub. (1m) (b) 3. to 14. A contract shall include all of the provisions specified under sub. (1m) (b) 1. to 14. and shall specify the effect of the establishment of the charter school on the liability of the contracting entity under this paragraph. The contract may include other provisions agreed to by the parties. The chancellor of the University of Wisconsin-Milwaukee or of the University of Wisconsin-Parkside may not establish or enter into a contract for the establishment of a charter school under this paragraph without the approval of the board of regents of the University of Wisconsin System.

3. If the chancellor of the University of Wisconsin-Parkside contracts for the establishment of a charter school, the contract shall also provide that the charter school must be operated by a governing board and that the chancellor or his or her designee must be a member of the governing board. In addition, if the contract provides that the instructional staff of the charter school shall consist of employees of the board of regents of the University of Wisconsin System, the contract shall also include provisions that do all of the following:

- a. Delegate to the governing board of the charter school the board of regents' authority to establish and adjust all compensation and fringe benefits of instructional staff, subject to the terms of any collective bargaining agreement under subch. V of ch. 111 that covers the instructional staff. In the absence of a collective bargaining agreement, the governing board may establish and adjust all compensation and fringe benefits of the instructional staff only with the approval of the chancellor of the University of Wisconsin-Parkside.

b. Authorize the governing board of the charter school to perform specified duties for the board of regents with respect to the instructional staff. This authorization may include duties related to supervising the instructional staff, taking disciplinary actions with respect to the instructional staff, recommending new hires or layoffs, collective bargaining, claims, complaints, or benefits and records administration.

(bm) The common council of the city of Milwaukee, the chancellor of the University of Wisconsin-Milwaukee, and the Milwaukee area technical college district board may only establish or enter into a contract for the establishment of a charter school located in the school district operating under ch. 119. The chancellor of the University of Wisconsin-Parkside may only establish or enter into a contract for the establishment of a charter school located in a unified school district that is located in the county in which the University of Wisconsin-Parkside is situated or in an adjacent county.

(c) 1. Except as provided in subd. 3., only pupils who reside in the school district in which a charter school established under this subsection is located may attend the charter school.

3. A pupil may attend Woodlands School, a charter school established in the school district operating under ch. 119 under this subsection, regardless of the pupil's school district of residence, if any of the following applies:

a. The pupil attended Woodlands School in the 2003-04 school year and, beginning in the 2005-06 school year, in the previous school year.

b. A member of the pupil's family who resides in the same household as the pupil attended Woodlands School in the 2003-04 school year.

(cm) The chancellor of the University of Wisconsin-Parkside may establish or enter into a contract for the establishment of only one charter school under this subsection, which may not operate high school grades and which may not accommodate more than 480 pupils.

(d) The chartering or contracting entity under par. (b) shall do all of the following:

1. Ensure that all instructional staff of charter schools under this subsection hold a license or permit to teach issued by the department.

2. Administer the examinations under ss. 118.30 (1r) and 121.02 (1) (r) to pupils enrolled in charter schools under this subsection.

(e) 1. From the appropriation under s. 20.255 (2) (fm), the department shall pay to the operator of the charter school an amount equal to the sum of the amount paid per pupil under this subdivision in the previous school year and the increase in the per pupil amount paid to private schools under s. 119.23 (4) (b) 2. in the current school year as compared to the previous school year, multiplied by the number of pupils attending the

charter school. The amount paid per pupil may not be less than the amount paid per pupil under this subdivision in the previous school year. The department shall pay 25% of the total amount in September, 25% in December, 25% in February, and 25% in June. The department shall send the check to the operator of the charter school.

2. If the chancellor of the University of Wisconsin-Parkside establishes or contracts for the establishment of a charter school under this subsection, in March the department shall pay to the unified school district in which the charter school is located, from the appropriation under s. 20.255 (2) (fm), an amount equal to the amount of school aid per pupil to which the unified school district is eligible in the current school year multiplied by the number of pupils attending the charter school who were previously enrolled in the unified school district.

(f) If the chancellor of the University of Wisconsin-Parkside establishes or contracts for the establishment of a charter school under this subsection, biennially the chancellor shall submit a report to the legislature under s. 13.172 (2). The report shall include information on the academic performance of the pupils who attend the charter school and on the success of the governance structure of the charter school.

(3) Contract. (a) If the school board grants the petition under sub. (2), the school board shall contract with the person named in the petition under sub. (1m) (b) 1. to operate the school as a charter school under this section. The contract shall include all of the provisions specified in the petition and may include other provisions agreed to by the parties.

(b) A contract under par. (a) or under subs. (2m) or (2r) may be for any term not exceeding 5 school years and may be renewed for one or more terms not exceeding 5 school years. The contract shall specify the amount to be paid to the charter school during each school year of the contract.

(c) A school board may not enter into a contract for the establishment of a charter school located outside the school district, except that if 2 or more school boards enter into an agreement under s. 66.0301 to establish a charter school, the charter school shall be located within one of the school districts, and if one or more school boards enter into an agreement with the board of control of a cooperative educational service agency to establish a charter school, the charter school shall be located within the boundaries of the cooperative educational service agency. A school board may not enter into a contract that would result in the conversion of a private, sectarian school to a charter school.

(d) A school board or an entity under sub. (2r) (b) shall give preference in awarding contracts for the operation of charter schools to those charter schools that serve children at risk, as defined in s. 118.153 (1) (a).

(4) CHARTER SCHOOL DUTIES AND RESTRICTIONS. (a) *Duties.* A charter school shall do all of the following:

1. If the charter school replaces a public school in whole or in part, give preference in admission to any pupil who resides within the attendance area or former attendance area of that public school.

2. Be nonsectarian in its programs, admissions policies, employment practices and all other operations.

(b) *Restrictions.* A charter school may not do any of the following:

1. Charge tuition.

2. Except as provided in par. (c), discriminate in admission or deny participation in any program or activity on the basis of a person's sex, race, religion, national origin, ancestry, pregnancy, marital or parental status, sexual orientation or physical, mental, emotional or learning disability.

(c) *Single-sex schools and courses.* A school board may enter into a contract for, and an entity under sub. (2r) may establish or enter into a contract for, the establishment of a charter school that enrolls only one sex or that provides one or more courses that enroll only one sex if the school board or entity under sub. (2r) makes available to the opposite sex, under the same policies and criteria of admission, schools or courses that are comparable to each such school or course.

(5) Charter revocation. A charter may be revoked by the school board or the entity under sub. (2r) (b) that contracted with the charter school if the school board or, if applicable, the entity under sub. (2r) (b) finds that any of the following occurred:

(a) The charter school violated its contract with the school board or the entity under sub. (2r) (b).

(b) The pupils enrolled in the charter school failed to make sufficient progress toward attaining the educational goals under s. 118.01.

(c) The charter school failed to comply with generally accepted accounting standards of fiscal management.

(d) The charter school violated this section.

(6) Program voluntary. No pupil may be required to attend a charter school without his or her approval, if the pupil is an adult, or the approval of his or her parents or legal guardian, if the pupil is a minor.

(7) Legal status; applicability of school laws. (a) Except as provided in par. (am), the school board of the school district in which a charter school is located shall determine whether or not the charter school is an instrumentality of the school district. If the school board determines that the charter school is an instrumentality of the school district, the

school board shall employ all personnel for the charter school. If the school board determines that the charter school is not an instrumentality of the school district, the school board may not employ any personnel for the charter school.

(am) 1. Except as provided in subds. 2. and 3., if a charter school is established under sub. (2m) and located in the school district operating under ch. 119, the school board of that school district shall determine whether or not the charter school is an instrumentality of the school district. If the school board determines that a charter school is an instrumentality of the school district, the school board shall employ all personnel for the charter school. If the school board determines that a charter school is not an instrumentality of the school district, the school board may not employ any personnel for the charter school.

2. A charter school established under sub. (2r) or a private school located in the school district operating under ch. 119 that is converted to a charter school is not an instrumentality of any school district and no school board may employ any personnel for the charter school. If the chancellor of the University of Wisconsin-Parkside contracts for the establishment of a charter school under sub. (2r), the board of regents of the University of Wisconsin System may employ instructional staff for the charter school.

3. Notwithstanding subd. 2., if the city of Milwaukee contracts with an individual or group operating for profit to operate a school as a charter school, the charter school is an instrumentality of the school district operating under ch. 119 and the board of the school district operating under ch. 119 shall employ all personnel for the charter school.

(ar) Nothing in this subsection affects the rights of personnel of a charter school that is an instrumentality of the school district in which it is located to engage in collective bargaining pursuant to subch. IV of ch. 111.

(b) Except as otherwise explicitly provided, chs. 115 to 121 do not apply to charter schools.

History: 1993 a. 16, 490; 1995 a. 27 ss. 3983m to 3992m, 9145 (1); 1997 a. 27, 238, 252; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 16, 105; 2003 a. 33, 156; 2005 a. 25, 111, 346.