



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

Memo No. 14-3

TO: MEMBERS OF THE SPECIAL COMMITTEE ON STATE-TRIBAL RELATIONS

FROM: David L. Lovell, Principal Analyst

RE: Establishment and Operation of a Charter School by an American Indian Tribe or Band

DATE: October 9, 2014

This Memo provides a brief overview of the statutes governing the establishment and operation of charter schools, with particular attention to those statutes that would apply to a school chartered by an American Indian tribe or band, if that were allowed.

Charter schools are designed to create innovative educational options for students and parents. They are nonsectarian and are created through a contract, or charter, between an operator and a chartering authority. The charter defines the school's mission and methods and describes how the school will meet the special needs and interests of its community, parents, and students. The statutes exempt charter schools from most state rules and regulations in exchange for greater accountability with regard to results. The principal statute governing charter schools is s. 118.40, Stats.

CREATION OF CHARTER SCHOOLS

The statutes provide three mechanisms by which a charter school can be established.

Petition by Teachers

Teachers may petition their school board to create a charter school. The petition must be signed by at least 10% of the teachers of the district or at least 50% of the teachers of a school in the district. Certain information must be included in the petition, much of which constitutes a plan for the proposed charter school.

The school board must hold a hearing on the petition within 30 days of receiving the petition, and must act to grant or deny the petition within 30 days of holding the hearing.

A school board may grant a petition to convert all the schools in the district to charter schools if the petition is signed by at least 50% of the teachers in the district and the board provides alternative public school attendance arrangements for pupils who do not wish to attend or are not admitted to a charter school.

School Board Initiative

A school board may establish a charter school. At least 30 days before entering into a contract with the proposed school operator, the school board must hold a hearing on the contract. The contract must include all the elements that must be in a petition, under the petition process, described above. At the hearing, the board must consider the level of parental and employee support for the proposed school and the fiscal impact the school would have on the school district. If a school board converts all schools within the district to charter schools, it must provide alternative public school attendance arrangements for pupils who do not wish to attend or are not admitted to a charter school.

Initiative of Independent Authorizer

Four entities are authorized by statute to establish charter schools. They are commonly referred to as “independent authorizers.” They are:

- The common council of the City of Milwaukee.
- The chancellor of the University of Wisconsin (UW)-Milwaukee.
- On a pilot basis, the chancellor of the UW-Parkside.
- The Milwaukee area technical college district board.

Again, the contract establishing the school must include all the elements that must be in a petition, under the petition process, described above. It must also specify the effect of the establishment of the charter school on the liability of the contracting entity. The statutes include a number of requirements that apply specifically to the establishment of a charter school by each of these entities.

If the Legislature were to enact legislation authorizing tribes to charter schools, it most likely would be as independent authorizers.

OPERATION OF CHARTER SCHOOLS

A charter school must be non-sectarian in all aspects of school operations, and non-discriminatory in its admissions policies. If a charter school replaces an existing public school, it must give enrollment preference to students living in the district of the school it replaced. Charter schools may not charge tuition.

Charter schools are exempt from all statutes and administrative rules applicable to public schools, with the following exceptions:

- A charter school must administer state standardized pupil assessments to 3rd through 8th grade pupils and to 10th grade pupils, and adopt pupil academic standards in mathematics, science, reading and writing, geography, and history.
- A charter school must develop and enforce a policy specifying criteria for promoting a pupil from 4th grade to 5th grade, from 8th grade to 9th grade, and for granting a high school diploma. A charter school cannot promote a pupil from 4th to 5th grade or from 8th grade to 9th grade unless the pupil satisfies the promotion criteria, and cannot grant a high school diploma unless the pupil has satisfied these criteria.
- A charter school is included in a school district's annual school performance report.
- All instructional staff of a charter school must hold a license or permit to teach issued by the Department of Public Instruction (DPI).

If a school district determines that a charter school is an instrumentality of the district, all personnel of the school must be employed by the district; otherwise, the district may not employ any of the school's personnel. A school chartered by an independent authorizer is not an instrumentality of the school district in which it is located.

A school chartered by an independent authorizer is not part of any school district. The independent authorizer is responsible for ensuring that the operator complies with the charter (contract) and with state law and that the school meets state standards of accountability.

FUNDING OF CHARTER SCHOOLS

A school district is responsible for funding a school it charters. The contract specifies the amount of funding the district will provide to the operator of the charter school in each school year. The funding is on a per-pupil basis.

Schools chartered by independent authorizers receive funding directly from the state, in an amount calculated according to a statutory formula, which is also on a per-pupil basis.

In addition, charter schools may apply for grants. In particular, the U.S. Department of Education has provided funding to DPI to fund grants to charter schools.

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