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4

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# A Bill

HOUSE BILL 1528

5 By: Representatives Biviano, Baine, Clemmer, Cozart, Deffenbaugh, Eubanks, Hobbs, Lenderman,  
6 Lowery  
7 By: Senator A. Clark  
8

## For An Act To Be Entitled

10 AN ACT TO DESIGNATE THE DEPARTMENT OF EDUCATION AS  
11 THE PRIMARY CHARTER SCHOOL AUTHORIZER; AND FOR OTHER  
12 PURPOSES.  
13  
14

### Subtitle

15 TO DESIGNATE THE DEPARTMENT OF EDUCATION  
16 AS THE PRIMARY CHARTER SCHOOL AUTHORIZER.  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Arkansas Code § 6-23-101 is amended to read as follows:  
23 6-23-101. Title.

24 This chapter shall be known and cited as the "Arkansas Quality Charter  
25 Schools Act of ~~1999~~ 2013".  
26

27 SECTION 2. Arkansas Code §§ 6-23-103 - 6-23-106 are amended to read as  
28 follows:

29 6-23-103. Definitions.

30 As used in this chapter:

31 (1) "Application" means the proposal for obtaining conversion  
32 public charter school status, open-enrollment public charter school status,  
33 or limited public charter school status;

34 (2) "Authorizer" means an entity that authorizes a charter,  
35 which may be either the:

36 (A) Department of Education; or



1                    (B) State Board of Education acting under § 6-23-703;

2                    (3) “Charter” means a performance-based contract for an initial  
3 five-year period between the ~~State Board of Education~~ authorizer and an  
4 approved applicant for public charter school status that exempts the public  
5 charter school from state and local rules, regulations, policies, and  
6 procedures specified in the contract and from the provisions of this title  
7 specified in the contract;

8                    ~~(3)~~(4) “Conversion public charter school” means a public school  
9 that has converted to operating under the terms of a charter approved by the  
10 local school board and the ~~state board~~ authorizer;

11                   ~~(4)~~(5) “Eligible entity” means:

12                    (A) A public institution of higher education;

13                    (B) A private nonsectarian institution of higher  
14 education;

15                    (C) A governmental entity; or

16                    (D) An organization that:

17                    (i) Is nonsectarian in its program, admissions  
18 policies, employment practices, and operations; and

19                    (ii) Has applied for tax exempt status under §  
20 501(c)(3) of the Internal Revenue Code of 1986;

21                   ~~(5)~~(6) “Founding member” means any individual who is either:

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

25                    (B) A member of the initial governing nonadvisory board of  
26 the open-enrollment public charter school;

27                   ~~(6)~~(7) “Limited public charter school” means a public school  
28 that has converted to operating under the terms of a limited public charter  
29 approved by the local school board and the ~~state board~~ authorizer;

30                   ~~(7)~~(8) “Local school board” means a board of directors  
31 exercising the control and management of a public school district;

32                   ~~(8)~~(9)(A) “Open-enrollment public charter school” means a public  
33 school that:

34                    (i) Is operating under the terms of a charter  
35 granted by the ~~state board~~ authorizer on the application of an eligible  
36 entity;

1 (ii) May draw its students from any public school  
2 district in this state; and

3 (iii) Is a local educational agency under the  
4 Elementary and Secondary Education Act of 1965, 20 U.S.C. § 7801, as it  
5 existed on April 10, 2009,

6 (B) "Open-enrollment public charter school" also possesses  
7 the same meaning as given the term "charter school" in the Elementary and  
8 Secondary Education Act of 1965, 20 U.S.C. § 7221i, as it existed on April  
9 10, 2009;

10 ~~(9)~~(10) "Parent" means any parent, legal guardian, or other  
11 person having custody or charge of a school-age child;

12 ~~(10)~~(11) "Public school" means a school that is part of a public  
13 school district under the control and management of a local school board; and

14 ~~(11)~~(12) "Public charter school" means a conversion public  
15 charter school, an open-enrollment public charter school, or a limited public  
16 charter school.

17  
18 6-23-104. Charter form for public charter schools – Requirements –  
19 Revision.

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

21 (1) Be in the form of a written contract signed by the  
22 ~~Chair of the State Board~~ Commissioner of Education and the chief operating  
23 officer of the public charter school;

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

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

28 (b) Any revision or amendment of the charter for a public charter  
29 school may be made only with the approval of the ~~state board~~ authorizer.

30  
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~~ authorizer may place a public charter  
34 school on probation or may modify, revoke, or deny renewal of its charter if  
35 the ~~state board~~ authorizer determines that the persons operating the public  
36 charter school:

1 (1) Committed a material violation of the charter, including  
2 failure to satisfy accountability provisions prescribed by the charter;

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

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

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

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

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

17 (d)(1) The procedure adopted under this section shall provide an  
18 opportunity for a hearing to the persons operating 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~~ Department of Education.

21 (B) The ~~state board~~ authorizer shall provide sufficient  
22 written 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~~ authorizer.

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

27  
28 6-23-106. Impact on school desegregation efforts.

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

36 (b) The ~~state board~~ authorizer shall attempt to measure the likely

1 impact of a proposed public charter school on the efforts of public school  
2 districts to achieve and maintain a unitary system.

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

7  
8 SECTION 3. Arkansas Code § 6-23-201(a)(1), concerning an application  
9 for a conversion public charter, is amended to read as follows:

10 (a)(1) Any public school district may apply to the ~~State Board of~~  
11 ~~Education~~ authorizer for conversion public charter school status for a public  
12 school in the public school district in accordance with a schedule approved  
13 by the ~~state board~~ authorizer.

14  
15 SECTION 4. Arkansas Code § 6-23-202 - 204 are amended to read as  
16 follows:

17 6-23-202. Authorization for conversion public charter school status.

18 As requested by the conversion public charter school applicant, the  
19 ~~State Board of Education~~ authorizer shall review the application for  
20 conversion public charter school status and may approve any application that:

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

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

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

31 (4) Includes an agreement to provide a yearly report to parents,  
32 the community, the local school board, and the ~~state board~~ authorizer that  
33 indicates the progress made by the conversion public charter school in  
34 meeting the performance objectives during the previous year.

35  
36 6-23-203. Resubmission of applications.

1 (a) The ~~State Board of Education~~ authorizer may allow applicants to  
2 resubmit applications for conversion public charter school status if the  
3 original application was, in the opinion of the ~~state board~~ authorizer,  
4 deficient in one (1) or more respects.

5 (b) The Department of Education may provide technical assistance to  
6 the conversion public charter school applicants in the creation or  
7 modification of these applications.

8  
9 6-23-204. Charter renewal.

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

14  
15 SECTION 5. Arkansas Code § 6-23-301(a)(1), concerning application  
16 forms and procedures for open-enrollment public charter schools, is amended  
17 to read as follows:

18 (a) The ~~State Board of Education~~ authorizer shall adopt:

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

22  
23 SECTION 6. Arkansas Code § 6-23-302(a) and (b), concerning an  
24 application for an open-enrollment public charter school, is amended to read  
25 as follows:

26 (a) Pursuant to the provisions of this chapter, an eligible entity may  
27 apply to the ~~State Board of Education~~ authorizer to grant a charter for an  
28 open-enrollment public charter school to operate in a facility of a  
29 commercial or nonprofit entity or a public school district.

30 (b) The application to the ~~state board~~ authorizer for an open-  
31 enrollment public charter school shall be made in accordance with a schedule  
32 approved by the ~~state board~~ authorizer.

33  
34 SECTION 7. Arkansas Code § 6-23-302(c)(1), concerning an application  
35 for an open-enrollment public charter, is amended to read as follows:

36 (1)(A) Describe the results of a public hearing called by the

1 applicant for the purpose of assessing support for an application for an  
2 open-enrollment public charter school.

3 (B)(i) Notice of the public hearing shall be published one  
4 (1) time a week for three (3) consecutive weeks in a newspaper having general  
5 circulation in the public school district in which the open-enrollment public  
6 charter school is likely to be located.

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

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

11 (C)(i) Within seven (7) calendar days following the first  
12 publication of notice required under subdivision (c)(1)(B) of this section,  
13 letters announcing the public hearing shall be sent to the superintendent of  
14 each of the public school districts from which the open-enrollment public  
15 charter school is likely to draw students for the purpose of enrollment and  
16 the superintendent of any public school district that is contiguous to the  
17 public school district in which the open-enrollment public charter school  
18 will be located.

19 (ii) An affected school district may submit written  
20 comments concerning the application to the ~~state board~~ authorizer to be  
21 considered at the time of the ~~state board's~~ authorizer's review of the  
22 application;  
23

24 SECTION 8. Arkansas Code § 6-23-302(c)(5)(C), concerning an  
25 application for an open-enrollment public charter school, is amended to read  
26 as follows:

27 (C) If the facility that will be used for the open-  
28 enrollment public charter school is owned by or leased from a sectarian  
29 organization, the terms of the facility agreement must be disclosed to the  
30 ~~state board~~ authorizer; and  
31

32 SECTION 9. Arkansas Code § 6-23-302(d), concerning an application for  
33 an open-enrollment public charter school, is amended to read as follows:

34 (d)(1)(A) The application may be reviewed and approved by the local  
35 school board of the public school district in which the proposed open-  
36 enrollment public charter school will operate.

1 (B) The applicant may submit to the ~~state board~~ authorizer  
2 for expedited review an application approved by the local school board under  
3 subdivision (d)(1)(A) of this section.

4 (2)(A) However, if the local school board disapproves the  
5 application, the applicant shall have an immediate right to proceed with a  
6 written notice of appeal to the ~~state board~~ authorizer.

7 (B) The ~~state board~~ authorizer shall hold a hearing within  
8 forty-five (45) calendar days after receipt of the notice of appeal or a  
9 request for review.

10 (C) All interested parties may appear at the hearing and  
11 present relevant information regarding the application.

12  
13 SECTION 10. Arkansas Code § 6-23-303 - 305 are amended to read as  
14 follows:

15 6-23-303. Authorization for an open-enrollment public charter school.

16 As requested by the applicant for an open-enrollment public charter  
17 school, the ~~State Board of Education~~ authorizer shall review the application  
18 for an open-enrollment public charter school and may approve any application  
19 that:

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

23 (2) Includes a set of performance criteria that will be used  
24 during the initial five-year period of the open-enrollment public charter  
25 school's operation to measure its progress in meeting its academic  
26 performance goals;

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

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

35 (5) Includes a detailed budget, a business plan, and a  
36 governance plan for the operation of the open-enrollment public charter



1 school; and

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

5

6 6-23-304. Requirements – Preference for certain districts.

7 (a) The ~~State Board of Education~~ authorizer may approve or deny an  
8 application based on:

9 (1) Criteria provided by law or by rule adopted by the *state*  
10 *board*;

11 (2) Findings of the ~~state board~~ authorizer relating to improving  
12 student performance and encouraging innovative programs; and

13 (3) Written findings or statements received by the ~~state board~~  
14 authorizer from any public school district likely to be affected by the open-  
15 enrollment public charter school.

16 (b) The ~~state board~~ authorizer shall give preference in approving an  
17 application for an open-enrollment public charter school to be located in any  
18 public school district:

19 (1) When the percentage of students who qualify for free or  
20 reduced-price lunches is above the average for the state;

21 (2) When the district has been classified by the state board as  
22 in academic distress under § 6-15-428; or

23 (3) When the district has been classified by the Department of  
24 Education as in some phase of school improvement status under § 6-15-426 or  
25 some phase of fiscal distress under the Arkansas Fiscal Assessment and  
26 Accountability Program, § 6-20-1901 et seq., if the fiscal distress status is  
27 a result of administrative fiscal mismanagement, as determined by the state  
28 board.

29 (c)(1)(A) ~~Beginning with the 2011-2012 school year, the state board~~  
30 The department, the State Board of Education, or a combination of the  
31 department and state board may grant no more than a total of twenty-four (24)  
32 charters for open-enrollment public charter schools except as provided under  
33 subdivision (c)(1)(B) of this section.

34 (B) If the cap on the number of charters available for an  
35 open-enrollment public charter school is within two (2) charters of meeting  
36 any existing limitation or cap on available open-enrollment charters, the

1 number of available charters shall automatically increase by five (5) slots  
2 more than the most recent existing limitation or cap on open-enrollment  
3 charters.

4 (C) By March 1 each year, the department shall issue a  
5 commissioner's memo stating the existing limitation on the number of charters  
6 available for open-enrollment public charter schools and the number of  
7 charters available for open-enrollment public charter schools during the next  
8 application cycle.

9 (2) An open-enrollment public charter applicant's school campus  
10 shall be limited to a single open-enrollment public charter school per  
11 charter except as allowed in subdivision (d)~~(3)~~ of this section.

12 (3) An open-enrollment public charter school shall not open in  
13 the service area of a public school district administratively reorganized  
14 under § 6-13-1601 et seq., until after the third year of the administrative  
15 reorganization.

16 (4) A private or parochial elementary or secondary school shall  
17 not be eligible for open-enrollment public charter school status.

18 (d) A charter applicant that receives an approved open-enrollment  
19 public charter may petition the ~~state board~~ authorizer for additional  
20 licenses to establish an open-enrollment public charter school in any of the  
21 various congressional districts in Arkansas if the applicant meets the  
22 following conditions:

23 (1) The approved open-enrollment public charter applicant has  
24 demonstrated academic success ~~in student achievement gains~~, as defined by the  
25 state board for all public schools;

26 (2) The approved open-enrollment public charter applicant has  
27 not:

28 (A) Been subject to any disciplinary action by the ~~state~~  
29 ~~board~~ authorizer;

30 (B) Been classified as in ~~school improvement or~~ academic  
31 or fiscal distress; and

32 (C) Had its open-enrollment public charter placed on  
33 charter school probation or suspended or revoked under § 6-23-105; and

34 (3) The ~~state board~~ authorizer determines in writing by majority  
35 of a quorum ~~of the state board~~ present that the open-enrollment public  
36 charter applicant has generally established the educational program results

1 and criteria set forth in this subsection.

2  
3 6-23-305. Notice of disapproval – Assistance with resubmission of  
4 application.

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

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

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

15  
16 SECTION 11. Arkansas Code § 6-23-307 is amended to read as follows:

17 6-23-307. Renewal of charter.

18 After the initial five-year period of an open-enrollment public  
19 charter, the ~~State Board of Education~~ authorizer may renew the open-  
20 enrollment public charter on a one-year or multiyear basis, not to exceed  
21 twenty (20) years.

22  
23 SECTION 12. Arkansas Code § 6-23-310 is amended to read as follows:

24 6-23-310. Status report.

25 The ~~State Board of Education~~ authorizer shall report on the status of  
26 the open-enrollment public charter school programs to the General Assembly  
27 each biennium and to the House ~~Interim~~ Committee on Education and the Senate  
28 ~~Interim~~ Committee on Education during the interim between regular sessions of  
29 the General Assembly.

30  
31 SECTION 13. Arkansas Code § 6-23-404(c), concerning evaluations of  
32 open-enrollment public charter schools, is amended to read as follows:

33 (c) The ~~State Board of Education~~ authorizer may require the charter  
34 holder to appear before the ~~state board~~ authorizer to discuss the results of  
35 the evaluation and to present further information to the ~~state board~~  
36 authorizer as the ~~department or the state board~~ authorizer deems necessary.

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SECTION 14. Arkansas Code § 6-23-406(2), concerning a Department of Education review, is amended to read as follows:

(2) Report to the State Board of Education and the Commissioner of Education on the open-enrollment public charter school's:

(A) Overall financial condition; and

(B) Overall condition of student enrollment.

SECTION 15. 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 for all public schools.

SECTION 16. Arkansas Code § 6-23-506(b)(1), concerning assets of a school, is amended to read as follows:

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

SECTION 17. Arkansas Code § 6-23-601 is amended to read as follows:  
6-23-601. Application for limited public charter school status – Approval – Teacher transfers – Annual evaluation.

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

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

(3) A limited public charter shall be initially established for

1 a period of no more than five (5) years and may be renewed on a one-year or  
2 multiyear basis, not to exceed five (5) years per charter renewal.

3 (b) The application shall:

4 (1)(A) Contain the provisions of this title and the specific  
5 rules and regulations promulgated by the state board from which the limited  
6 public charter school will be exempt.

7 (B) The provisions from which the public school district  
8 may be exempt for the limited public charter school only shall be limited to  
9 the following:

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

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

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

16 (iv) Standards for accreditation set forth in the  
17 Arkansas Code, set forth by the Department of Education, or set forth by the  
18 ~~state board~~ State Board of Education.

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

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

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

30 (4) Outline proposed performance criteria that will be used  
31 during the initial five-year period of the charter to measure the progress of  
32 the limited public charter school in improving student learning and meeting  
33 or exceeding the state education goals; and

34 (5) Be reviewed as a regular agenda item and approved after  
35 sufficient public comment by the local school board and the ~~state board~~  
36 authorizer.

1 (c)(1) Any application to obtain limited public charter school status  
2 approved by a local school board shall be forwarded by the local school board  
3 to the ~~state board~~ authorizer.

4 (2) If a local school board does not approve a public school's  
5 application, the local school board shall inform the applicants and faculty  
6 of the public school of the local school board's reasons for not approving  
7 the application.

8 (d)(1) A certified teacher employed by a public school in the school  
9 year immediately preceding the effective date of a limited public charter for  
10 a limited public charter school within that public school district may not be  
11 transferred to or be employed by the limited public charter school over the  
12 certified teacher's objections, nor shall that objection be used as a basis  
13 to deny continuing employment within the public school district in another  
14 public school at a similar grade level.

15 (2) If the transfer of a teacher within a public school district  
16 is not possible because only one (1) public school exists for the teacher's  
17 certification level, then the local school board shall call for a vote of the  
18 certified teachers in the proposed limited public charter school site and  
19 proceed, at the local school board's option, with the limited public charter  
20 school application if a majority of the certified teachers approve the  
21 proposal.

22 (3)(A) A certified teacher choosing to join the staff of a  
23 limited public charter school shall be employed by the district by a written  
24 contract as set forth in § ~~6-13-620(4)~~ 6-13-620(5), with the contract being  
25 subject to the provisions of The Teacher Fair Dismissal Act of 1983, § 6-17-  
26 1501 et seq.

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

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

35 (e)(1) Limited public charter schools shall be evaluated annually by  
36 the department based on criteria approved by the ~~state board~~ authorizer

1 including without limitation:

2 (A) Student performance data in order to determine  
3 progress in student achievement that has been achieved by the limited public  
4 charter school; and

5 (B) The limited public charter school's compliance with §  
6 6-23-107.

7 (2) The department shall annually report its evaluation to the  
8 state board and the Commissioner of Education.

9 (3) Based upon that evaluation, the ~~state board~~ authorizer may  
10 revoke a limited public charter.

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

13

14 SECTION 18. Arkansas Code Title 6, Chapter 23, is amended to add an  
15 additional subchapter to read as follows:

16 Subchapter 7 – Public Charter School Authorizer

17

18 6-23-701. Designated public charter authorizer.

19 (a) The Department of Education is the designated public charter  
20 authorizer with jurisdiction and authority over all public charters issued in  
21 this state to take the following action on a proposed or established public  
22 charter:

23 (1) Approve;

24 (2) Reject;

25 (3) Renew;

26 (4) Non-renew;

27 (5) Place on probation;

28 (6) Modify;

29 (7) Revoke; or

30 (8) Deny.

31 (b)(1) The department shall exercise authority over public charter  
32 schools under this chapter through a public charter authorizing panel  
33 established within the department.

34 (2)(A) The Commissioner of Education shall appoint a public  
35 charter authorizing panel that consists of professional staff employed at the  
36 department to serve at the pleasure of the commissioner.

1                   (B) The commissioner may elect to serve as a member on the  
2 charter authorizing panel as the chair.

3                   (3) The public charter authorizing panel is composed of an odd  
4 number of members and consists of no less than five (5) members and no more  
5 than eleven (11) members.

6                   (c) The department may waive provisions of Title 6 or State Board of  
7 Education rules as allowed by law for public charters.

8                   (d)(1) The department shall conduct all hearings on public charter  
9 school matters as required by law, rule, and process and make final  
10 determinations as allowed by law.

11                   (2)(A) A hearing under this chapter conducted by the department  
12 shall be an open meeting under the Freedom of Information Act of 1967, § 25-  
13 19-106.

14                   (B) For the purposes of § 25-19-106, the members of the  
15 public charter authorizing panel shall be considered a governing body only in  
16 regards to actions specifically authorized by this subchapter.

17                   (3)(A) All decisions of the panel shall be made by majority vote  
18 of the quorum.

19                   (B) A decision of the department is final except as  
20 provided under § 6-23-703.

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

23                   (e) The department shall be the primary authorizer of public charters  
24 except as provided under § 6-23-703.

25  
26                   6-23-702. Public charter authorizing procedures – Notification.

27                   (a) The State Board of Education shall adopt rules as necessary to  
28 administer this subchapter, including without limitation the procedure for:

29                   (1) Hearings; and

30                   (2) Administration of the public charter authorizing panel.

31                   (b)(1) The department shall notify in writing the State Board of  
32 Education, charter applicant, public charter school, and affected schools  
33 districts, if any, of final decisions made by the department no less than  
34 fourteen (14) calendar days before the next regularly scheduled State Board  
35 of Education meeting after the final decision is made by the department.

36                   (2)(A) A charter applicant, public charter school, and affected



1 school district, if any, may submit in writing a request that the state board  
2 review the final decision of the department under § 6-23-703.

3 (B) The written request submitted under subdivision  
4 (b)(2)(A) of this section shall state the specific reasons supporting a  
5 review by the state board.

6 (3) The decision of whether to review a final decision of the  
7 department is discretionary by the state board and the provisions of this  
8 section and § 6-23-703 do not grant any right of appeal to a charter  
9 applicant, public charter school, or affected school district.

10  
11 6-23-703. State Board of Education optional review.

12 (a) On a motion approved by a majority vote, the State Board of  
13 Education may exercise a right of review of a charter determination made by  
14 the Department of Education at the next regularly scheduled state board  
15 meeting after receiving notice provided under § 6-23-702(b).

16 (b) If the state board votes to review a final decision made by the  
17 department, the state board shall:

18 (1) State the specific additional information the state board  
19 requires from the department, public charter school, public charter school  
20 applicant, or affected school district;

21 (2) Conduct a full hearing regarding a final decision by the  
22 department under § 6-23-701(a); and

23 (3) Hold the hearing at the earlier of:

24 (A) The next regularly scheduled state board meeting  
25 following the state board meeting during which the state board voted to  
26 authorize a review; or

27 (B) A special board meeting called by the state board.

28 (c)(1) At the conclusion of the hearing, the state board may issue a  
29 final decision by state board vote.

30 (2) The state board may decide by majority vote of the quorum  
31 to:

32 (A) Affirm the decision of the department;

33 (B) Take other lawful action on the public charter;

34 (C)(i) Request additional information from the department,  
35 public charter school, public charter school applicant, or affected school  
36 district, if needed.

1 (ii) If the state board request additional  
2 information under subdivision (c)(2)(C)(i) of this section, the state board  
3 shall hold a subsequent hearing at the earlier of:

4 (a) The next regularly scheduled state board  
5 meeting; or

6 (b) A special board meeting called by the  
7 state board.

8 (3) A decision made by the state board is final with no right of  
9 appeal.

10 (d) The state board may promulgate rules as necessary to implement  
11 this section.

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