

(F)(2) Ensuring successful conditions for high-performing charter schools and other innovative schools (40 points)

The extent to which—

- (i) The State has a charter school law that does not prohibit or effectively inhibit increasing the number of high-performing charter schools (as defined in this notice) in the State, measured (as set forth in Appendix B) by the percentage of total schools in the State that are allowed to be charter schools or otherwise restrict student enrollment in charter schools;
- (ii) The State has laws, statutes, regulations, or guidelines regarding how charter school authorizers approve, monitor, hold accountable, reauthorize, and close charter schools; in particular, whether authorizers require that student achievement (as defined in this notice) be one significant factor, among others, in authorization or renewal; encourage charter schools that serve student populations that are similar to local district student populations, especially relative to high-need students (as defined in this notice); and have closed or not renewed ineffective charter schools;
- (iii) The State's charter schools receive (as set forth in Appendix B) equitable funding compared to traditional public schools, and a commensurate share of local, State, and Federal revenues;
- (iv) The State provides charter schools with funding for facilities (for leasing facilities, purchasing facilities, or making tenant improvements), assistance with facilities acquisition, access to public facilities, the ability to share in bonds and mill levies, or other supports; and the extent to which the State does not impose any facility-related requirements on charter schools that are stricter than those applied to traditional public schools; and
- (v) The State enables LEAs to operate innovative, autonomous public schools (as defined in this notice) other than charter schools.

In the text box below, the State shall describe its current status in meeting the criterion. The narrative or attachments shall also include, at a minimum, the evidence listed below, and how each piece of evidence demonstrates the State's success in meeting the criterion. The narrative and attachments may also include any additional information the State believes will be helpful to peer reviewers. For attachments included in the Appendix, note in the narrative the location where the attachments can be found.

Evidence for (F)(2)(i):

- A description of the State's applicable laws, statutes, regulations, or other relevant legal documents. (See Appendix F-1)
- The number of charter schools allowed under State law and the percentage this represents of the total number of schools in the State.
- The number and types of charter schools currently operating in the State.

Evidence for (F)(2)(ii):

- A description of the State's approach to charter school accountability and authorization, and a description of the State's applicable laws, statutes, regulations, or other relevant legal documents.
- For each of the last five years:
 - The number of charter school applications made in the State.

- The number of charter school applications approved.
- The number of charter school applications denied and reasons for the denials (academic, financial, low enrollment, other).
- The number of charter schools closed (including charter schools that were not reauthorized to operate).

Evidence for (F)(2)(iii):

- A description of the State’s applicable statutes, regulations, or other relevant legal documents.
- A description of the State’s approach to charter school funding, the amount of funding passed through to charter schools per student, and how those amounts compare with traditional public school per-student funding allocations.

Evidence for (F)(2)(iv):

- A description of the State’s applicable statutes, regulations, or other relevant legal documents.
- A description of the statewide facilities supports provided to charter schools, if any.

Evidence for (F)(2)(v):

- A description of how the State enables LEAs to operate innovative, autonomous public schools (as defined in this notice) other than charter schools.

Recommended maximum response length: Six pages

(F)(2)(i) The State has a charter school law that does not prohibit or effectively inhibit increasing the number of high-performing charter schools (as defined in this notice) in the State, measured (as set forth in Appendix B) by the percentage of total schools in the State that are allowed to be charter schools or otherwise restrict student enrollment in charter schools.

Since 1999, Arkansas has supported the innovation that charter schools may provide.⁴ Arkansas law currently provides for three types of charter schools: (1) “Conversion” public charter schools; (2) “Limited” public charter schools, and (3) “Open-enrollment” public charter schools.

An “Open-enrollment public charter school” is a public school sponsored and operated by an eligible entity⁵ that operates under the terms of a charter granted by the State Board of Education.⁶ Such a school may educate students who reside within any public school district in the State. A “Conversion public charter school” is defined as an existing public school which has converted to operating under the terms of a charter approved by the local school board and the State Board of Education. A “Limited public charter school” is defined as a public school that has converted to operating under the terms of a limited public charter approved by the local school Board and the State Board of Education, Limited public charter school status is specifically designed for those public school who

wish to adopt “alternative comprehensive staffing and compensation programs designed to enhance student and teacher performance and improve employee salaries, opportunities, and incentives,” in accordance with a schedule approved by the State Board of Education.

For all three types of charter schools, the “charter” is defined as a performance-based contract between the State Board of Education and an approved applicant that exempts the public charter school from State and local rules, regulations, policies, and procedures specified in the charter contract.

Conversion public charter schools and Limited public charter schools are operated by public school districts and subject to the administrative control of locally-elected school boards and public school district administrators, but the relevant schools or school campuses are permitted to operate free from the otherwise-applicable State laws, rules and regulations that are specified in the charter contract. Such schools are (subject to other applicable laws that may allow students to attend public school in a district other than the district in which they reside) attended by students who reside in the applicant school district. By contrast, Open-enrollment public charter schools are operated by the eligible sponsoring entity, any may draw students from anywhere in the State.

Arkansas law does not place a limit or “cap” on the number of Conversion public charter schools or Limited public charter schools that may be approved by the State Board of Education, Arkansas law does currently provide that the State Board of Education may approve no more than twenty-four (24) Open-enrollment charters. Ark. Code Ann. § 6-23-304(c)(1). However, for purposes of this application it is important to keep in mind the history of this “cap” and how it operates in practice.

First, the Arkansas General Assembly has increased the “cap” as the number of Open-enrollment charters approved by the State Board of Education increased. The Arkansas General Assembly, by Act 890 of 1999, initially provided for a maximum of twelve (12) Open-enrollment charter schools, with no more than three in any of the State’s congressional districts. Arkansas Act 890 of 1999, § 5. In 2005, the General Assembly increased the cap to twenty-four and phased in an increase in the number of charters that could be granted within a congressional district. Arkansas Act 2005 of 2005, § 8. In 2007, the General Assembly removed the limitation on the number of charters that could be granted within any particular congressional district. Arkansas Act 736 of 2007, § 15. As of this writing, the State Board of Education has approved a total of 20 Open-enrollment charters (8 percent

of Arkansas's total LEAs). As of the date of this submission, no applicant for an Open-enrollment charter has had its application denied due to the existing "cap" of 24. While no applicant State or State agency can guarantee the future adoption of any type of legislation, we anticipate that, as has occurred in the past, when the number of high-performing Open-enrollment charters approaches the current "cap" the question of increasing or eliminating the cap to accommodate additional high-performing Charter will be given serious consideration.

Second, the "cap" on Open-enrollment charters discussed above does not mean that there may be only 24 school campuses operating as Open-enrollment public charter schools in the State. As a result of legislation passed in 2005⁷, any charter applicant that receives an approved Open-enrollment public charter from the Arkansas State Board of Education may petition the State Board at any time for additional "licenses" to establish additional Open-enrollment public charter school campuses throughout the State. Such licenses may be approved if the applicant has demonstrated success in student achievement gains; has not been subject to any disciplinary action by the State Board; has not been classified as in school improvement, academic or fiscal distress, and if it has not had its open-enrollment public charter revoked, placed on probation, or suspended. See Ark. Code Ann. §§ 6-23-304(c)(2), (d)(3). Thus, approved Open-enrollment charter holders may be granted a license to open and operate additional Open-enrollment charter school campuses that do not count against the State "cap" of 24.

Evidence (F)(2)(i)

- **The number of charter schools allowed under State law and the percentage this represents of the total number of schools in the State:** 24 open-enrollment charters (8 percent of the total number of LEAs - 244), unlimited number of licenses for high-performing charters, unlimited number of conversion or limited charters
- **The number and types of charter schools currently operating in the State:** 20 open enrollment charters, 1 licensed charter campus, 11 conversion charters, 0 limited charters

(F)(2)(ii) The State has laws, statutes, regulations, or guidelines regarding how charter school authorizers approve, monitor, hold accountable, reauthorize, and close charter schools; in particular, whether authorizers require that student achievement (as defined in this notice) be one significant factor, among others, in authorization or renewal; encourage charter schools that serve student populations that are similar to local district student populations, especially relative to

high-need students (as defined in this notice); and have closed or not renewed ineffective charter schools.

Arkansas laws governing Public Charter Schools were provided to improve student learning, increase opportunities for all students with an emphasis on low achieving subgroups, encourage innovative teaching methods, create additional professional opportunities for educators, provide expanded public educational choices, and hold schools accountable for meeting student achievement standards (See Ark. Code Ann. § 6-23-102). Arkansas law requires eligible entities to follow an established application process for approval. Applications are performance based contracts which are first reviewed at the local district level for approval. If approved at the local level, an application then proceeds to the State board for final authorization. If denied at the local level, an applicant has the right to proceed with a hearing before the State board regarding the matter. (See Ark. Code Ann. § 6-23-302 (d)). The State Board may give preference to Open-Enrollment Public Charter Schools to be placed in a district when the percentage of students who qualify for free or reduced price lunches is above the average for the State, or if the district of location has been classified by the State board as in academic distress, or if the district of location has been classified as in some form of school improvement or fiscal distress. (See Ark. Code Ann. 6-23-304 (b)). Public Charter School applications must provide a plan for improving student achievement, include performance based objectives and criteria for the length of the contract, and provide for the involvement of school, parents, students and community stakeholders (See Ark. Code Ann. 6-23-202 and 6-23-303)).

Arkansas laws clarify that all charter schools are public schools. As such, all public charter schools are included in the public school monitoring processes of the State which include but are not limited to: fiscal oversight and reporting, meeting standards, maintaining and reporting adequate yearly progress, reporting annually to the public, maintaining a consolidated school improvement plan, providing a curriculum that aligns with State frameworks, utilizing the Arkansas Public School Computer Network for daily operations and reporting, and participating in the State mandated testing program. Public Charter Schools are also monitored by the various federal programs for compliance and reporting. Initial public charter school applications are granted for five (5) years. However, the State board may place a public charter school on probation, may modify, revoke or deny the renewal if the board determines fiscal mismanagement, failure to comply with laws and regulations, and failure to meet academic performance criteria. The State board may grant renewal applications from one to five years in length (See Ark. Code Ann. § 6-23-307).

Evidence (F)(2)(ii)

- For each of the last five years:

- **The number of charter school applications made in the State.**
For the 2004-05 cycle, 5 open enrollment and 2 conversion applications were submitted.
For the 2005-06 cycle, 2 open enrollment and 0 conversion applications were submitted.
For the 2006-07 cycle, 13 open enrollment and 2 conversion applications were submitted.
For the 2007-08 cycle, 13 open enrollment and 1 conversion applications were submitted.
For the 2008-09 cycle, 8 open enrollment and 2 conversion applications were submitted.
For the 2009-10 cycle, 8 open enrollment and 4 conversion applications were submitted.
- **The number of charter school applications approved.**
For the 2004-05 cycle, 1 open enrollment and 1 conversion applications were approved.
For the 2005-06 cycle, 0 open enrollment and 0 conversion applications were approved.
For the 2006-07 cycle, 6 open enrollment and 2 conversion applications were approved.
For the 2007-08 cycle, 7 open enrollment and 0 conversion applications were approved.
For the 2008-09 cycle, 4 open enrollment and 2 conversion applications were approved.
For the 2009-10 cycle, 2 open enrollment and TBD conversion applications were approved.
- **The number of charter school applications denied and reasons for the denials (academic, financial, low enrollment, other).**
For the 2004-05 cycle, 4 open enrollment and 1 conversion applications were denied.
For the 2005-06 cycle, 2 open enrollment and 0 conversion applications were denied.
For the 2006-07 cycle, 7 open enrollment and 0 conversion applications were denied.
For the 2007-08 cycle, 6 open enrollment and 1 conversion applications were denied.
For the 2008-09 cycle, 4 open enrollment and 0 conversion applications were denied.
For the 2009-10 cycle, 6 open enrollment and TBD conversion applications were denied.

Reasons for denials:

Lack of 501 (c) (3) status; potential negative impact on desegregation efforts in the local district; lack of evidence of additional educational opportunity; lack of availability of students; potential negative impact of the charter school on a newly consolidated district; inadequate facilities; lack of a sound management plan; violation of State's limit of 500 students in virtual learning; withdrawn; not meeting the definition of a charter school; lack of confidence that the charter will address needs of underserved students.

- **The number of charter schools closed (including charter schools that were not reauthorized to operate).**
For the 2004-05 cycle, 0 open enrollment and 0 conversion charter schools were closed.
For the 2005-06 cycle, 2 open enrollment and 2 conversion charter schools were closed.
For the 2006-07 cycle, 2 open enrollment and 0 conversion charter schools were closed.
For the 2007-08 cycle, 1 open enrollment and 1 conversion charter schools were closed.

For the 2008-09 cycle, 1 open enrollment and 0 conversion charter schools were closed.

(F)(2)(iii) The State's charter schools receive (as set forth in Appendix B) equitable funding compared to traditional public schools, and a commensurate share of local, State, and Federal revenues. (Includes evidence (F)(2)(iii).)

Public Charter Schools are funded as any other public school with regard to per pupil allocation amounts of State foundation funding (See Ark. Code Ann. §§ 6-23-103, 6-23-501 and 6-23-502), and funding regarding federal aid, grants and revenue as may be provided by law. Arkansas law provides additional supports for open-enrollment public charter schools which include; providing funding to open-enrollment schools based on current year student enrollment, receiving twelve (12) equal funding installments, and the right to receive gifts and grants from private sources (See Ark. Code Ann. § 6-23-501).

Arkansas is charged with providing an adequate and equitable education for all students. The State's funding formula was devised to accomplish that goal. All Arkansas public schools, including public charter schools, receive "foundation funding," a set amount of funding per student. In some fiscal years, the State also provides "enhancement funding," which allow the State to fund education at an amount above what is required for adequacy. In addition, all public schools including public charter schools receive State moneys to compensate for growth or loss of student membership, and for special categories of students such as English Language Learners, those who qualify for free or reduced meals under the National School Lunch Act, and students attending Alternative Learning Environments. Below are the components of the State's funding formula for the 2008-09 and 2009-10 school years.

| Funding Category | 2008-09 | 2009-10 |
|-------------------------|---------------------|---------------------|
| Foundation | \$5,789 per student | \$5,905 per student |
| Enhanced | \$87 per student | \$35 per student |

Categorical Funding:

- Alternative Learning Environment - \$4,063 per ALE student
- English Language Learners - \$293 per ELL student
- NSLA – \$1,488 per student for schools with >90 percent free and reduced
 - \$ 992 per student for schools with 70-89 percent free and reduced
 - \$ 496 per student for schools with <70 percent free and reduced

(F)(2)(iv) The State provides charter schools with funding for facilities (for leasing facilities, purchasing facilities, or making tenant improvements), assistance with facilities acquisition, access to public facilities, the ability to share in bonds and mill levies, or other supports; and the extent to which the State does not impose any facility-related requirements on charter schools that are stricter than those applied to traditional public schools. (Includes evidence (F)(2)(iv).)

Conversion and limited public charter schools have access to district funding which includes bonds and mill levies with regard to facilities, however, because open enrollment charter schools do not collect local property taxes they do not receive facilities funding locally or through the State's Facilities Partnership Program. Arkansas law allows for facilities offerings to open-enrollment public charter schools through the right of first refusal to purchase or lease closed or unused portions of public school facilities. Further safeguards include that the district may not lease or sell for more than the fair market value of the property. This also includes properties that are taken by eminent domain (See Ark. Code Ann, 6-23-501(d)).

Arkansas open-enrollment public charter schools often utilize local and national financial institutions that specialize in obtaining funding for educational facilities such as public charter schools. In doing so, an open-enrollment entity may apply for bond sources such as Qualified School Construction Bonds (QSCBs) that provide a tax incentive to lending financial institutions.

(F)(2)(v) The State enables LEAs to operate innovative, autonomous public schools (as defined in this notice) other than charter schools. (Includes evidence (F)(2)(v).)

Currently, the State does not provide LEAs the ability to operative any other kind of public school other than what is "traditionally" allowed or through open enrollment, conversion or limited charter school status.