

## CHAPTER 140

**AN ACT** concerning the conversion of certain nonpublic schools into charter schools and amending and supplementing P.L.1995, c.426.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

C.18A:36A-4.1 Conversion to charter school by certain nonpublic schools.

1. a. The governing body of a high-performing nonpublic school that is located in a failing school district may submit an application to the Commissioner of Education to convert the school to a charter school. The application of a nonpublic school to convert to a charter school shall certify that upon conversion to charter school status the school shall prohibit religious instruction, events, and activities that promote religious views, and the display of religious symbols. The name of the proposed charter school shall not include any religious reference.

b. The Commissioner of Education shall establish a process for the review of charter school conversion applications. The commissioner may grant an application if the school is a high-performing nonpublic school and located in a failing school district.

As used in this subsection:

“Failing school district” means a school district in need of improvement pursuant to the provisions of the “No Child Left Behind Act of 2001,” Pub.L.107-110;

“High-performing nonpublic school” means a nonpublic school that ranked in the 66th percentile or higher on a norm-referenced achievement test in the school year prior to the school year in which a conversion application is submitted pursuant to subsection a. of this section;

“Norm-referenced achievement test” means the California Achievement Test (CAT), Metropolitan Achievement Test (MAT), Stanford Achievement Test (SAT), or the Comprehensive Test of Basic Skills (CTBS) or one of the tests within the CTBS.

c. Students enrolled in the nonpublic school in the school year preceding its conversion to a charter school shall be eligible to continue enrollment at the school after its conversion. Preference for any remaining enrollment spaces for the charter school for its first year, and for all enrollment spaces in each successive year, shall be provided pursuant to the provisions of section 8 of P.L.1995, c.426 (C.18A:36A-8).

d. Teaching staff and other employees of the nonpublic school may continue employment at the charter school upon its conversion. Any employee who is not certified in accordance with the provisions of subsection c. of section 14 of P.L.1995, c.426 (C.18A:36A-14) shall take immediate action towards receiving appropriate New Jersey certification and shall be in full compliance with all certification requirements within two years of the school’s conversion. Any employee hired following the conversion of the nonpublic school to charter school status shall meet the requirements of subsection c. of section 14 of P.L.1995, c.426 (C.18A:36A-14).

e. Except as otherwise provided in this section, the provisions of P.L.1995, c.426 (C.18A:36A-1 et seq.) shall apply in the case of a nonpublic school applying for conversion or having undergone conversion to charter school status.

2. Section 4 of P.L.1995, c.426 (C.18A:36A-4) is amended to read as follows:

C.18A:36A-4 Establishment of charter school.

4. a. A charter school may be established by teaching staff members, parents with children attending the schools of the district, or a combination of teaching staff members and parents.

A charter school may also be established by an institution of higher education or a private entity located within the State in conjunction with teaching staff members and parents of children attending the schools of the district. If the charter school is established by a private entity, representatives of the private entity shall not constitute a majority of the trustees of the school, and the charter shall specify the extent to which the private entity shall be involved in the operation of the school. The name of the charter school shall not include the name or identification of the private entity, and the private entity shall not realize a net profit from its operation of a charter school.

b. A currently existing public school is eligible to become a charter school if the following criteria are met:

(1) At least 51% of the teaching staff in the school shall have signed a petition in support of the school becoming a charter school; and

(2) At least 51% of the parents or guardians of pupils attending that public school shall have signed a petition in support of the school becoming a charter school.

c. An application to establish a charter school shall be submitted to the commissioner and the local board of education or State district superintendent, in the case of a school district under full State intervention, in the school year preceding the school year in which the charter school will be established. Notice of the filing of the application shall be sent immediately by the commissioner to the members of the State Legislature, school superintendents, and mayors and governing bodies of all legislative districts, school districts, or municipalities in which there are students who will be eligible for enrollment in the charter school. The board of education or State district superintendent shall review the application and forward a recommendation to the commissioner within 60 days of receipt of the application. The commissioner shall have final authority to grant or reject a charter application.

d. The local board of education or a charter school applicant may appeal the decision of the commissioner to the Appellate Division of the Superior Court.

e. A charter school established during the 48 months following the effective date of this act, other than a currently existing public school which becomes a charter school pursuant to the provisions of subsection b. of section 4 of this act, shall not have an enrollment in excess of 500 students or greater than 25% of the student body of the school district in which the charter school is established, whichever is less.

Any two charter schools within the same public school district that are not operating the same grade levels may petition the commissioner to amend their charters and consolidate into one school. The commissioner may approve an amendment to consolidate, provided that the basis for consolidation is to accommodate the transfer of students who would otherwise be subject to the random selection process pursuant to section 8 of P.L.1995, c.426 (C.18A:36A-8).

3. Section 10 of P.L.1995, c.426 (C.18A:36A-10) is amended to read as follows:

C.18A:36A-10 Location of charter school.

10. A charter school may be located in part of an existing public school building, in space provided on a public work site, in a public building, or any other suitable location. In the case of a nonpublic school that converts to a charter school pursuant to the provisions of section 1 of P.L.2011, c.140 (C.18A:36A-4.1), the charter school may be located in the same school building in which the nonpublic school was located. The facility shall be exempt from public school facility regulations except those pertaining to the health or safety of the

pupils. A charter school shall not construct a facility with public funds other than federal funds.

4. This act shall take effect immediately.

Approved November 10, 2011.