



CHARTER SCHOOLS

OVERVIEW OF CHARTER SCHOOLS

[R.S. 17:3972, et seq](#)

A. Overview of Charter Schools

1. Types of Charter Schools

[Louisiana Revised Statutes 17:3972, et seq.](#) (“Charter School Laws”) authorize the establishment of charter schools, which are public schools that are run by a private entity through a contract called a “charter.” Under the Charter School Laws, there are two entities that are empowered to authorize the creation of charter schools; local school boards and the Louisiana Board of Elementary and Secondary Education (BESE). In the context of charter schools, local school boards and BESE are referred to as “Charter Authorizers.”

The Charter School Laws establish five charter school types that may be authorized and operated as independent public schools in the State. [R.S. 17:3973\(2\)\(b\)](#). These charter school types are largely defined by (1) their status as either a newly established charter school or conversion from a pre-existing traditional public school and (2) the entity authorizing the creation of the charter school.

The five types of charter schools are as follows:

- **Type 1 Charter Schools** – a new school established through a charter between a non-profit corporation and a local school board.
- **Type 2 Charter Schools** – a new school or pre-existing public school converted and operated through a charter between a non-profit corporation and BESE.
- **Type 3 Charter Schools** – a pre-existing public school converted and operated through a charter between a non-profit corporation and a local school board.
- **Type 4 Charter Schools** – a pre-existing public schools converted and operated or a new school operated through a charter jointly between a local school board and BESE.
- **Type 5 Charter Schools** – a pre-existing public school that was transferred to the Recovery School District and operated under a charter between a non-profit corporation and BESE. Most type 5 charter schools, including all in Orleans Parish, have been transferred back under the oversight of the local school board.

Therefore, Type 1 and 3 charters are authorized by local school boards. Type 2 and 5 charters are authorized by BESE. Type 4 charters are authorized by local school boards and BESE jointly.

2. Charter Authorizers and Charter Operators

The local school boards and BESE, in their roles as Charter Authorizers, are tasked with reviewing applications by non-profit corporations for the creation of new charter schools and the renewal of existing charter schools. See [R.S. 17:3983\(A\)\(3\)&\(A\)\(4\)](#), [R.S. 17:3992\(A\)](#), and [R.S. 17:3998\(B\)](#). Upon approval of an application, the Charter Authorizer enters into a contractual relationship (i.e. the Charter Agreement) with the non-profit corporation for the establishment of the charter school (the Charter Operator).

Unless otherwise provided in the Charter Agreement, the Charter Operator is the final authority in matters affecting the charter school, including staffing and curriculum. Charter Authorizers continue to maintain oversight of the charter schools. BESE is charged with the duty to timely review and determine if the proposed charter schools that it authorizes, i.e. Type 2, 4, and 5 charter schools, comply with the law and rules, including the Charter School Laws. [R.S. 17:3981\(4\)](#). Local school boards are similarly charged with reviewing and determining this for the charter schools they authorize, i.e. Type 1, 3, & 4 charter schools. [R.S. 17:3982\(A\)\(1\)\(a\)\(i\)](#).

B. The Charter Schools Laws

[Revised Statute 17:3996](#) of the Charter Law provides that charter schools are generally not required to comply with either the rules and regulations or the laws governing public schools except for those specifically enumerated in that statute. However, there are many exceptions in this statute. These exceptions apply to all charter schools regardless of the charter authorizer.

Subparagraph A of that statute provides that the rules and regulations governing public schools on the following matters are applicable to charter schools:

- Building maintenance.
- Facility accessibility.
- Asbestos detection and abatement.
- The Sanitary Code.
- Pesticide use and safety.
- Fire safety.
- Safe work environments.
- The possession and safe use of weapons and hazardous materials.
- Adolescent health initiatives and school health centers.
- Hearing and vision screenings.
- Immunizations and health records.
- Communicable disease prevention.
- Drug use prevention.
- Eye safety and the use of protective goggles.
- Missing children identification procedures.
- School and district accountability system.
- School bus specifications and inspection requirements.
- School bus operational procedures.

- School bus operator and bus attendant pre-employment screening and training requirements.

Subparagraph B of [R.S. 17:3996](#), as amended, provides that 76 different laws governing public schools are applicable to charter schools as follows:

- School entrance age, R.S. 17:222.
- Corporal punishment, R.S. 17:416.1(B), and suspension of students, R.S. 17:223.
- Expulsion of students, R.S. 17:224.
- In-service training regarding suicide prevention, R.S. 17:437.1.
- Attendance reporting, R.S. 17:232.
- Admission of home study students, R.S. 17:236.2.
- Unauthorized use of electronic communication devices, R.S. 17:239.
- Smoking, R.S. 17:240.
- **Open meetings, R.S. 42:11 et seq.**
- **Public records, R.S. 44:1 et seq.**
- Teaching regarding the United States Constitution, R.S. 17:261.
- Teaching regarding the Federalist Papers and the Declaration of Independence, R.S. 17:268.
- Administration of medication and exceptions thereto, R.S. 17:436.1.
- Teaching regarding Civics and Free Enterprise, R.S. 17:274.1.
- Teaching regarding sex, R.S. 17:281.
- Religious liberty of students, R.S. 17:2115 et seq.
- Pupil assessment, R.S. 17:24.4.
- Any school and district accountability system required by law of a public school of similar grade or type.
- **Public bids for the erection, construction, alteration, improvement, or repair of a public facility or immovable property, Part II of Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950.**
- **Code of Governmental Ethics, R.S. 42:1101 et seq., with the exception of R.S. 42:1119 as it applies to any person employed by a charter school prior to August 15, 2003.**
- Electronic communication by an employee at a school to a student enrolled at that school, R.S. 17:81(Q).
- Inspection and operation of fire safety and prevention equipment, R.S. 17:81(S).
- Reporting by a school bus operator employed by the governing authority of a public elementary or secondary school of his arrest for one or more of the specified offenses relative to operating a vehicle, R.S. 17:491.3.
- School master plans for supporting student behavior and discipline, R.S. 17:252.
- Data collection system, R.S. 17:3911.
- Reporting by a school employee employed by the governing authority of a public elementary or secondary school of his arrest for one or more of the specified offenses relative to sexual morality affecting minors, R.S. 17:16, any of the crimes provided in R.S. 15:587.1, or any justified complaint of

- child abuse or neglect on file in the central registry pursuant to Article 615 of the Children's Code.
- Seclusion and physical restraint of students with exceptionalities, R.S. 17:416.21.
 - Instruction on the Founding Principles of the United States of America in American history and civics courses, R.S. 17:265.
 - Procedures on bullying pursuant to R.S. 17:416.14.
 - School crisis management and response plans, R.S. 17:416.16.
 - Instruction and hotline number posting requirements relative to child assault awareness and prevention, R.S. 17:81(Y).
 - Deferred compensation plans, R.S. 17:81(Z).
 - School bus loading and unloading provisions, R.S. 17:158(J).
 - Student information, R.S. 17:3913 and 3914.
 - Notification of homework assistance services, R.S. 17:182.1.
 - Discipline of students, R.S. 17:416 and 416.2.
 - Deaf Child's Bill of Rights, R.S. 17:1960.
 - Instruction in cursive writing, R.S. 17:266.
 - Louisiana Expectant and Parenting Students Act, R.S. 17:221.7.
 - Authorization to teach, R.S. 17:7(10).
 - Criminal history review, R.S. 17:15.
 - Immunization information, influenza, R.S. 17:170.5.
 - Behavioral health services for students, R.S. 17:173.
 - Administration of literacy screening and literacy screening reports, R.S. 17:182.
 - Instruction in personal financial management, R.S. 17:270.
 - Parents' Bill of Rights for Public Schools, R.S. 17:406.9.
 - Threats of violence or terrorism, R.S. 17:409.1 *et seq.*
 - Regulations for the construction, design, equipment, and operation of school buses, R.S. 17:164.
 - Student fees, R.S. 17:177.
 - School supplies, R.S. 17:178.
 - Youth suicide prevention programs, R.S. 17:282.4.
 - Special education advisory councils, R.S. 17:1944.1.
 - Quality early literacy initiative, R.S. 17:24.9.
 - Early literacy instruction, R.S. 17:24.10.
 - Early literacy professional development, R.S. 17:24.12.
 - Expanded academic support, R.S. 17:100.13.
 - Remote school registration and enrollment of children of military personnel transferring to the state, R.S. 17:101.
 - Cameras in special education classrooms, R.S. 17:1948.
 - Learning pods, R.S. 17:4036.1.
 - Students who are pregnant or parenting, R.S. 17:221.8.
 - Posting and distribution of information relative to parental rights, R.S. 17:354.
 - Parental access to instructional materials, R.S. 17:355.
 - Screening and intervention, R.S. 17:392.1.
 - Voter registration, R.S. 17:2121.
 - Numeracy professional development, R.S. 17:24.13.

- Elective course on the history and literature of the Bible, R.S. 17:282.
 - Dyslexia screening and reporting, R.S. 17:392.11.
 - Carpool and bus line policies, R.S. 17:81(CC).
 - **Posting of public school governing authority fiscal information, R.S. 17:88.1.**
 - Flag and patriotic customs of the United States, R.S. 17:262.
 - Requirements for participation in the LA GATOR Scholarship Program, R.S. 17:4037.1 et seq., if a charter school opts to participate in the program.¹
 - Computer Science; required instruction, R.S. 17:280.3.²
 - Sickle cell disease training for school nurses, R.S. 17:436.5.³
 - Uniform ten-point grading scale, R.S. 17:184.⁴
 - Ten Commandment; displays, R.S. 17:2122.⁵
 - Names and pronouns, R.S. 17:2122.⁶
- (emphasis added).

The following *former* requirements of R.S. 17:3996(B) were *repealed* pursuant to Act 686 of the 2024 Regular session and are no longer applicable to charter schools:

- In-service training regarding suicide prevention, R.S. 17:437.1.
- Teaching regarding the state's Safe Haven Law, R.S. 17:81(R).
- Teaching regarding dating violence, R.S. 17:81(T).
- Teaching regarding Internet and cell phone safety, R.S. 17:280.
- Instruction relative to cardiopulmonary resuscitation and the use of automatic external defibrillators, R.S. 17:81(X).
- Instruction in litter prevention and awareness, R.S. 17:267.
- Instruction relative to shaken baby syndrome, R.S. 17:271.
- In-service training regarding adverse childhood experiences and trauma-informed education, R.S. 17:437.2.
- Mental health instruction, R.S. 17:271.1.
- Water safety instruction, R.S. 17:276.1.
- Sudden cardiac arrest education for certain staff and volunteers, R.S. 17:440.2.
- Organ donation instruction, R.S. 17:280.2.

Subparagraph C of the statute makes federal and state civil rights and anti-discrimination laws that govern public schools applicable to charter schools.

Subparagraph D of the statute provides that any collective bargaining agreement entered into by the local school board whose jurisdiction a charter school is located within shall apply to that charter school.

¹ 2024 La. Sess. Law Serv. Act 1.

² 2024 La. Sess. Law Serv. Act 211.

³ 2024 La. Sess. Law Serv. Act 375 & 2024 La. Sess. Law Serv. Act 748.

⁴ 2024 La. Sess. Law Serv. Act 428.

⁵ 2024 La. Sess. Law Serv. Act 676.

⁶ 2024 La. Sess. Law Serv. Act 680.

Subparagraph E of the statute provides relative to competency in content required for high school graduation.

Subparagraph F of the statute applies the **Audit Law ([R.S. 24:513, et seq.](#))** to charter schools.

Subparagraph G of the statute applies the **Local Government Budget Act ([R.S. 39:1301, et seq.](#))** to Types 1, 3, 3B and 4 charter schools.

Subparagraph H of the statute provides that BESE shall adopt rules and regulations for budgeting, accounting and financial reporting for Type 2 and 5 charter schools.

C. Common Issues When Auditing Charter Schools

Two of the most common issues that arise when auditing charter schools involve MFP Funds and the Public Bid Law.

1. What are MFP Funds?

[Article VIII, §13 of the Louisiana Constitution of 1974](#) establishes the Minimum Foundation Program⁷ (MFP). This article requires the state establish a formula to determine the cost of education in all public elementary and secondary schools and the equitable allocation of MFP funds to parish and city school systems. The MFP is Louisiana's principal source for funding public elementary and secondary education and are intended to support the basic educational needs of students in public schools. AG Op. No. 05-0081.

The MFP formula, developed and adopted by BESE, takes into consideration the number of students in each school district and the special characteristics of those students. These funds are allocated to school districts to cover various expenses, including teacher salaries, instructional materials, technology, transportation, and other operational costs. The Louisiana Department of Education (LDOE) provides guidelines and regulations on how MFP funds should be utilized by schools. Districts have some flexibility in how they allocate these funds based on their specific needs and priorities, but they are generally expected to use them to enhance the quality of education and support student achievement.

In *Iberville Parish School Board v. Louisiana State Board of Elementary and Secondary Education, et al*, 2007-0257 p.13 (La. 3/13/18, 248 So.3d 299, 308, the Louisiana Supreme Court held that for purposes of MFP funds, Type 2 charter schools are public schools. Therefore, once a school system receives its MFP allocation from the state, individual charter schools, because of their public school status, are

⁷ See, <https://bese.louisiana.gov/current-initiatives/minimum-foundation-program>

allocated their share of those funds pursuant to R.S. 17:3995. Therefore, MFP funds can be allocated to charter schools, without violating La. Const. art. VIII, Sec. 13(B).

While R.S. 17:3991(H) provides that assets acquired by a charter school “are the property of that charter school for the duration of that school’s charter agreement,” the provision also requires that at the end of the charter, “all assets purchased with any public funds become the property of the chartering authority.” Additionally, this provision of law requires that charter schools maintain a separate accounting of assets acquired with private funds.

Therefore, as a “public school” for funding purposes, the MFP funds allocated to the Charter Operator, while the property of the charter school during the duration of the charter, remain public funds.

2. MFP Funds and Art. VII, §14

As public funds, MFP funds are subject to [Art. VII, §14 of the Louisiana Constitution](#). This constitutional provision sets out the limits for the use of public funds and public property.

The Attorney General (AG) has provided a three-pronged test, also known as the *Cabela’s* test, to determine if an expenditure of public funds violates the prohibitions of Article VII, §14. In order for an expenditure of public funds to not be considered a prohibited donation under Article VII, §14, all of the following must be met:

- The expenditure must be for a public purpose, for which the public entity is authorized to carry out;
- The expenditure must not appear to be gratuitous on its face. Generally, this is met through a showing of reciprocal obligations between the parties; and
- The public entity must have a reasonable expectation of receiving an equal or greater benefit than the amount expended at the time of the expenditure.

For more information on the Art. VII, §14 and the use of public funds, please see the [LLA’s *Cabela’s* Test and Cooperative Endeavor Agreements FAQ](#).

3. Public Bid Law

Charter schools are specifically required to comply with the Public Bid Law for the “erection, construction, alteration, improvement, or repair of a public facility or immovable property.” R.S. 17:3996(B)(19). Therefore, charter schools must comply with the Public Bid law for public works projects. For the purchase of materials and supplies, however, charter schools are not required to comply with the Public Bid Law. For more information on the Public Bid Law, please see the LLA’s [Public Bid Law FAQ](#).

The Attorney General has opined that this requirement does not extend to private support organizations for charter schools. In [A.G. Op. No. 18-0006](#), a foundation formed to support a charter school undertook the construction of a new building for the charter school that would then be subleased back to the charter school. Even though the construction was funded, in part, with the lease payments from the charter school to the foundation, the Attorney General opined that the foundation itself was a private entity and not subject to the Public Bid Law. See also, [AG Op. No. 18-0128](#)