



How are charter schools held accountable?

Florida law establishes a comprehensive system of statutory requirements designed to hold charter schools and charter technical career centers (center) accountable both financially and academically.¹ This system includes:

- ❖ A thorough application evaluation and approval process.²
- ❖ Detailed procedures for the execution and maintenance of charter agreements between the charter school and its sponsor.³
- ❖ Annual reporting,⁴ annual financial audits,⁵ and sponsor monitoring of monthly financial statements.⁶
- ❖ Requirements that charter schools participate in statewide assessments and Florida's school grading system.⁷
- ❖ Required interventions for unsatisfactory academic performance and financial instability.⁸
- ❖ Providing student performance information to parents and the public.⁹
- ❖ Ethical standards for charter school and center employees and governing board members.¹⁰

Parental choice also acts to hold charter schools accountable. Parents choose whether to enroll their children in a charter or traditional public school. Dissatisfied parents of charter school students may withdraw them from the school. This creates an incentive for the charter school to provide quality educational programs for its students. Parental choice also fosters healthy competition between charter schools and traditional public schools, improving the performance of both.¹¹

¹ Sections 218.39, 218.503, 1002.33, 1002.34, and 1002.345, F.S. There are three charter technical career centers operating in Florida – the Advanced Technology College in Volusia County, the First Coast Technical College in St. Johns County, and the Lake Technical Center in Lake County. Florida Department of Education, *List of Charter Technical Career Centers* (2010), available at <http://www.fldoe.org/workforce/pdf/chartertechnicalcenterlist.pdf>; see also Charter Schools Overview Fact Sheet.

² Sections 1002.33(6) and 1002.34(4) and (5), F.S.

³ Sections 1002.33(6)(h) and (7) and 1002.34(4) and (15), F.S.

⁴ Sections 1002.33(9)(g) and 1002.34(11)(f), F.S.

⁵ Sections 218.39(1)(e) and (f), 1002.33(9)(j)1. and 2., and 1002.34(10)(f), F.S.

⁶ Sections 1002.33(9)(g) and 1002.34(11)(f), F.S.

⁷ Section 1002.33(7)(a)4. and (16)(a)2., F.S.

⁸ Section 1002.345, F.S.

⁹ Sections 1002.33(21)(b) and (23) and 1002.34(19), F.S.

¹⁰ Sections 1002.33(24) and 1002.34(10)(c), F.S.

¹¹ Florida Department of Education, Office of Independent Education and Parental Choice, *Florida's Charter Schools: A Decade of Progress* (Nov. 2006) available at http://www.floridaschoolchoice.org/information/charter_schools/files/Charter_10Year_Book.pdf.

How does the application process enable sponsors to evaluate the long term academic and financial success of charter schools and centers?

An application for a new charter school or center must be submitted to, and approved by, the sponsor before the school may begin operations.¹² Each application must include information that allows the sponsor to evaluate the charter school or center's potential for long term academic and financial success.¹³ For example, a charter school application must include:

- ❖ A detailed curriculum plan aligned with the Sunshine State Standards.
- ❖ Goals and objectives for improving student learning and measuring improvement. The goals and objectives must indicate how much academic improvement students are expected to show each year, how success will be evaluated, and the specific results to be obtained through instruction.
- ❖ The reading curriculum and differentiated strategies that will be used for students who read at grade level or higher and a separate curriculum and strategies for students who read below grade level.
- ❖ An annual financial plan for each year of operation requested (up to five years) which sets forth the school's anticipated funds and assets, a spending plan, and sound fiscal policies for managing the school.¹⁴

Prior to submitting a charter school or center application, the applicant must participate in training provided by the Department of Education (DOE) or, under specified circumstances, by the sponsor before filing an application. The training must include instruction in accurate financial planning and good business practices.¹⁵

How does the charter hold charter schools and centers accountable?

Each charter school or center must enter into a performance contract with its sponsor, known as a charter. The charter lists specific objectives that the charter school or center must meet to remain in operation. A sponsor may terminate or not renew a charter school's charter if the school:

- ❖ Fails to participate in Florida's accountability system;
- ❖ Fails to meet the student performance outcomes agreed upon in the charter;
- ❖ Fails to meet generally accepted standards of fiscal management; or

¹² Sections 1002.33(6)(b) and 1002.34(5), F.S. Charter schools may be sponsored by district school boards, and in the case of charter lab schools, state universities. Section 1002.33(5)(a), F.S. Centers may be sponsored by a district school board, community college board of trustees, or a consortium comprised of one or more of each. A sponsoring consortium must include the school district in which the facility is located. Section 1002.34(3)(a)-(b), F.S.; *see also* Charter School Overview Fact Sheet.

¹³ Section 1002.33(6)(b), F.S. The sponsor must review the application using a DOE - approved application evaluation instrument. Sections 1002.33(6)(b) and 1002.34(5), F.S.

¹⁴ Section 1002.33(6)(a), F.S. Like charter schools, a center's application must specify the curriculum, academic and workforce goals, method for assessing progress towards goals, and budget projections. Section 1002.34(4), F.S.

¹⁵ Sections 1002.33(6)(f) and 1002.34(6)(d), F.S. If a charter school applicant is a management company or other nonprofit organization, the charter school principal and chief financial officer must participate in the training. Section 1002.33(6)(f)2., F.S.

❖ Violates the law.¹⁶

A center may be placed on probation or have its charter terminated or not renewed by the sponsor if it breaches any provision in the charter. A center that is placed on probation may be required to implement a remedial plan. If deficiencies are not corrected at the expiration of the plan, the center's charter may be summarily revoked.¹⁷ For both charter schools and centers, the sponsor may immediately terminate the charter if it determines that such termination is necessary to protect the health, safety, or welfare of students.¹⁸

A total of 163 charter schools were closed between 1996 and 2010. Of this number, 60 were closed by the sponsor; 96 were closed by the charter school governing board; four were closed pursuant to mutual agreement between the sponsor and charter school governing board; and three closures are of unknown origin. No charter technical career centers have been closed.¹⁹

What information is included in a charter school or center's annual report?

Each charter school and center is required to submit an annual report to its sponsor. At a minimum, each charter school's annual report must include student achievement and financial data, the facilities currently used or planned for use by the school, and descriptive information about the charter school's personnel.²⁰ A center's annual report must include a financial statement documenting the center's revenues and expenditures and a discussion of the center's progress toward meeting the goals expressed in its charter.²¹

Is the financial standing of a charter school or center monitored by the sponsor?

Yes. Under Florida law, each charter school and center is required to submit monthly financial statements to its sponsor, as well as provide for an annual financial audit.²² A monthly statement must include the projected enrollment for which the school or center's annual budget is based, current enrollment, year-to-date comparison of budgeted versus actual revenues and expenditures, and other material information relevant to the school or center's financial standing.²³

¹⁶ Section 1002.33(8)(a), F.S.

¹⁷ Section 1002.34(15), F.S.

¹⁸ Sections 1002.33(8)(d) and 1002.34(15), F.S. Absent a health, safety, or welfare emergency, due process in the form of notice and, if requested, hearings and appeals must be provided to the charter school or center prior to a charter termination or nonrenewal. Sections 1002.33(6)(c) and (8)(c) and 1002.34(15), F.S.

¹⁹ Email, Florida Department of Education, Legislative Affairs Director (Sept. 3, 2010). There are only three charter technical career centers. Florida Department of Education, *List of Charter Technical Career Centers* (2010), available at <http://www.fldoe.org/workforce/pdf/chartertechnicalcenterlist.pdf>

²⁰ Section 1002.33(9)(k), F.S. The sponsor must submit the report to the Commissioner of Education. *Id.*

²¹ Section 1002.34(14), F.S.

²² Sections 218.39(1)(e) and (f), 1002.33(9)(j)1. and 2., and 1002.34(10)(f), F.S.

²³ Rule 6A-1.0081(1)(a), F.A.C.

Additionally, each charter school and center must provide for an annual audit.²⁴ The Auditor General may choose to conduct the audit. If not, the charter school or center must arrange for an audit by an independent certified public accountant.²⁵ The audit must include an examination of the school or center's financial statements in order to determine if its financial position, any changes in financial position, and cash flow comply with generally accepted accounting principles. It must also examine the conduct of the school's operations for compliance with legal and regulatory requirements.²⁶ Each charter school and center must file a copy of its audit report with the sponsor; the district school board, if not the sponsor; the Auditor General; and DOE.²⁷

Is intervention required when financial monitoring detects financial instability?

Yes. Each charter school and center is subject to an expedited review of its financial condition when one of the following conditions occurs:

- ❖ Failure to provide for an annual audit;
- ❖ Failure to comply with requirements for annual financial reporting, monthly financial statements, program cost reporting, and annual school accountability reporting;
- ❖ A monthly financial statement or annual audit reveals a deteriorating financial condition;²⁸ or
- ❖ Notification that a financial emergency condition has occurred or will occur if action is not taken.²⁹

The sponsor must notify the charter school or center's governing board within seven business days of finding that one of these four conditions has occurred. The sponsor and governing board must develop, and file with the Commissioner of Education, a corrective action plan.³⁰ If the sponsor and governing board are unable to agree on the components or necessity of the plan, the commissioner determines the plan. If a governing board fails to implement the plan within one year, the State Board of Education must prescribe steps for compliance. In such cases, the chair

²⁴ Sections 218.39(1)(e) and (f), 1002.33(9)(j)1. and 2., and 1002.34(10)(f), F.S.

²⁵ Sections 11.45(3)(c) and 218.39(1)(e) and (f), F.S.

²⁶ Rule 10.855(2), Rules of the Auditor General.

²⁷ Section 219.39(9), F.S.

²⁸ A deteriorating financial condition is a circumstance that significantly impairs the ability of a charter school or center to generate enough revenue to meet its expenditures without causing the occurrence of a financial emergency condition. Such conditions include, without limitation, circumstances in which actual enrollment is 70 percent less than the enrollment projection for which its annual budget is based, enrollment is insufficient to generate enough revenue to meet expenditures, actual expenses exceed budgeted expenses for a period of three months or more and there are insufficient reserves to compensate, or an unbudgeted financial event occurs and there are insufficient reserves to compensate. Section 1002.345(1)(a)3., F.S.; rule 6A-1.0081(2)(a), F.A.C.

²⁹ Section 1002.345(1)(a)1.-4., F.S.; rule 6A-1.0081(2)(a)1. and 2., F.A.C. If an annual audit by a certified public accountant (CPA) reveals that a financial emergency condition has occurred or will occur if action is not taken, the CPA must notify the charter school or center's governing board, the sponsor, and the Commissioner of Education within seven days of such finding. Section 1002.345(2)(a)1., F.S.

³⁰ The corrective action plan must state the financial conditions which must be corrected, the actions the board will take to correct the conditions, the board's procedures for monitoring plan implementation and providing progress reports, and any other components deemed necessary by the board and sponsor. Rule 6A.1.0081(3)(c), F.A.C.

of the governing board must annually appear before the state board to report on the implementation of the state board's requirements.³¹ The sponsor may choose to terminate or not renew the charter school or center's charter if financial deficiencies noted in the corrective action plan are not corrected within one year or if the school or center exhibits one or more financial emergency conditions for two consecutive years.³²

When an annual financial audit reveals a financial emergency condition, the auditor must notify the governing board, the sponsor, and the commissioner within seven business days of the finding.³³ A financial emergency is determined to exist when any one of the following conditions occurs due to lack of funds:

- ❖ Failure to pay short-term loans or make bond debt service or other long-term debt payments when due;
- ❖ Failure to pay uncontested claims from creditors within 90 days after the claim is presented;
- ❖ Failure to timely transfer taxes withheld from employees or employer or employee contributions for federal social security, pension, or retirement plans;
- ❖ Failure for one pay period to pay wages, salaries, or retirement benefits; or
- ❖ An unreserved or total fund balance or retained earnings deficit, or unrestricted or total net assets deficit, as reported on the charter school or center's balance sheet or statement of net assets, for which sufficient resources are not available to cover the deficit.³⁴

The commissioner must determine whether the charter school or center is in a state of emergency and, if so, require the school or center to implement a financial recovery plan.³⁵ The plan must be filed with the sponsor and the commissioner within 30 days. The governing board must annually report on the status of plan implementation to its sponsor.³⁶

The commissioner must annually report each charter school and center that is subject to a financial recovery or corrective action plan to the state board.³⁷ DOE must provide technical assistance to governing boards and sponsors in developing financial recovery and corrective action plans.³⁸

³¹ Section 1002.345(1)(b)-(f), F.S.

³² Section 1002.345(6), F.S.

³³ Section 1002.345(2)(a)1., F.S.

³⁴ Section 218.503(1)(a)-(e), F.S.

³⁵ Sections 218.503(4) and 1002.345(2)(a)2., F.S. The financial recovery plan must state the financial conditions which must be corrected, the actions the board will take to correct the conditions, the board's procedures for monitoring plan implementation and providing progress reports, and any other components deemed necessary by the board and sponsor. Rule 6A.1.0081(5)(b), F.A.C.

³⁶ Section 1002.345(2), F.S.

³⁷ Section 1002.345(3), F.S.

³⁸ Section 1002.345(5), F.S.

Are charter schools subject to state and federal education accountability requirements?

Yes. Charter schools are subject to the same academic accountability requirements applicable to traditional public schools.³⁹ Charter school students must participate in statewide assessments.⁴⁰ Charter schools receive school grades and are subject to federal adequate yearly progress (AYP) accountability requirements on the same basis as traditional public schools.⁴¹

Charter School Grades and AYP Status⁴²							
Year	A	B	C	D	F	AYP Yes	AYP No
2002-03	42%	11%	18%	13%	16%	32%	68%
2003-04	38%	11%	24%	13%	14%	29%	71%
2004-05	36%	15%	22%	14%	12%	44%	56%
2005-06	50%	20%	21%	6%	3%	42%	58%
2006-07	48%	21%	19%	8%	5%	46%	54%
2007-08	52%	20%	19%	4%	5%	40%	60%
2008-09	63%	16%	12%	6%	3%	36%	64%
2009-10	59%	13%	16%	7%	6%	30%	70%

State law prescribes certain interventions to improve student performance at charter schools graded “D” for two consecutive years or “F.”⁴³ If a charter school receives a school grade of “D,” the school’s director and a representative of the governing board must appear before the sponsor at least once a year to address any noted deficiencies. At this meeting and in writing, the

³⁹ Section 1002.33(9)(l)1., F.S.

⁴⁰ Section 1008.22(3), F.S. Statewide assessments include the Florida Comprehensive Assessment Test (FCAT) and, at the high school level, state standardized end-of-course examinations. Section 1008.22(3)(c), F.S.; *see also* Statewide Assessment Program Fact Sheet.

⁴¹ Sections 1002.33(7)(a)4. and (16)(a)2. and 1008.34(3), F.S.; 20 U.S.C. s. 6311(2)(B), (C), and (K); *see also* School Grades Fact Sheet and No Child Left Behind Fact Sheet. A charter schools that are classified as an alternative schools receive a school improvement rating in lieu of a school grade. Section 1008.341, F.S.

⁴² *See* Florida Department of Education, *Student Achievement in Florida’s Charter Schools: A Comparison with Achievement in Traditional Public Schools*, at 3 (Nov. 2009), *available at* https://www.floridaschoolchoice.org/pdf/Charter_Student_Achievement_2009.pdf (provides school grade data for 2002-03 through 2008-09)[hereinafter *Student Achievement in Florida’s Charter Schools*]; Email, Florida Department of Education, Legislative Affairs Director (Sept. 3, 2010)(provides 2009-10 school grade data and provides AYP data for 2002-03 through 2009-10; 2009-10 school grade and AYP data is pre-appeals data).

⁴³ *See* s. 1002.33(9)(n)-(p), F.S.

sponsor must communicate what services will be provided to help the school address these deficiencies. The governing board must work with the sponsor to improve the school's academic performance.⁴⁴

The sponsor of a charter school graded "D" for two consecutive years or "F" must require the governing board to implement a school improvement plan to improve student performance the following year.⁴⁵ If poor performance persists, the sponsor must place the school on probation and require it to take one of the following corrective actions:

- ❖ Contract with an outside provider to provide educational services at the school;
- ❖ Reorganize the school, make necessary staffing changes, and implement a plan that addresses the causes of inadequate progress; or
- ❖ Reconstitute the school.

The school must continue with corrective action until student performance improves.⁴⁶

The director and a representative of any charter school that has submitted a school improvement plan or has been put on probation must appear before its sponsor at least once a year to inform the sponsor of the corrective strategies being implemented to improve student performance in accordance with the school improvement plan. At this meeting and in writing, the sponsor must communicate the services that will be provided to help the school address any deficiencies.⁴⁷ If poor performance persists, the sponsor may terminate the school's charter.⁴⁸

Public schools, including charter schools, that fail to make AYP for two consecutive years are required to implement differentiated accountability interventions.⁴⁹ Under differentiated accountability, such a school is placed in one of six categories based upon the school's grade, progress towards AYP, and declines in student performance. A school's categorization determines the type and intensity of the intervention and whether the intervention is directed by the school, school district, or DOE. Schools placed in the lowest performing categories are subject to the most intensive interventions and may be restructured if initial interventions fail to improve student performance at the school.⁵⁰

⁴⁴ Section 1002.33(9)(n), F.S.

⁴⁵ Section 1002.33(9)(p), F.S.

⁴⁶ Section 1002.33(9)(o), F.S.

⁴⁷ Section 1002.33(9)(p), F.S.

⁴⁸ Section 1002.33(8) and (9)(o)3., F.S.

⁴⁹ 20 U.S.C. s. 6316(b); s. 1008.33(3)(b) and (4), F.S.; rule 6A-1.099811(3), F.A.C. These schools are classified as "schools in need of improvement" under the federal No Child Left Behind Act of 2001. 20 U.S.C. s. 6316(b).

⁵⁰ Section 1008.33(3)(b), (4), and (5)(a), F.S.; rule 6A-1.099811(3), F.A.C.; see Florida Department of Education, *Differentiated Accountability Strategies for Charter Schools*, Form DA-5 (June 2010), http://www.flbsi.org/pdf/Final%202010-2011%20Strategies%20and%20Support%20Document%20for%20Charter%20Schools_June_18.pdf; see also Differentiated Accountability Fact Sheet.

How is the public informed of the academic performance of charter schools and centers?

DOE must annually provide a statewide analysis and comparison of charter school students and traditional public school students. The comparison is based upon the student performance of charter school students as measured by the statewide assessment program and information reported in each school's annual progress report.⁵¹

Charter schools with less than 30 students do not receive school grades because at least 30 students are required in order to obtain a valid sample size for school grading purposes.⁵² DOE must report student assessment data to these charter schools, which in turn must report the data to parents of students attending the charter school, parents of children on the charter school's waiting list, the district in which the charter school is located, and the governing board of the charter school.⁵³ DOE must also compare this data with that of students at traditional public schools in the district. Comparison data must be broken down by the following grade groupings:

- ❖ Grades 3 through 5;
- ❖ Grades 6 through 8; and
- ❖ Grades 9 through 11.⁵⁴

The charter school must post both student performance and comparison data on its internet website and also provide notice to the public at large.⁵⁵ Reporting of data must comply with federal law governing education records privacy.⁵⁶

DOE must also provide for an annual comparative evaluation of centers and school district career centers. At a minimum, the evaluation must address the demographic and socioeconomic characteristics of students served, types and costs of services provided, and outcomes achieved.⁵⁷

What ethical standards apply to charter school and center employees and governing board members?

Florida law prohibits charter school and center personnel⁵⁸ from appointing, employing, promoting, or advancing, or advocating for the appointment, employment, promotion, or

⁵¹ Section 1002.33(23), F.S.

⁵² See rule 6A-1.09981(4)(a) and (b), F.A.C.

⁵³ Section 1002.33(21)(b)1. and 2., F.S. Student performance data reporting requirements for ungraded and unrated charter schools apply only to schools with at least 10 students who are tested on statewide assessments. Section 1002.33(21)(b)1.b., F.S.

⁵⁴ Section 1002.33(21)(b)3.a., F.S.

⁵⁵ Section 1002.33(21)(b)3.b., F.S. This information is also posted on the DOE website. See *Student Achievement in Florida's Charter Schools*, *supra* note 42, at ii.

⁵⁶ Section 1002.33(21)(b)2., F.S.; see 20 U.S.C. s. 1232g.

⁵⁷ Section 1002.34(19), F.S. This information is posted on the DOE website. See Florida Department of Education, *A Comparison of Florida Charter Technical Career Centers to District Non-Charter Career Centers, 2008-2009* (Dec. 2009), available at <http://www.fldoe.org/workforce/pdf/CharterReview09.pdf>.

⁵⁸ "Charter school personnel" is defined as the charter school owner, president, governing board chairperson, superintendent, governing board member, principal, assistant principal, or any other person employed by the charter school who is empowered to make personnel related decisions at the school. Section 1002.33(24)(a), F.S.

advancement of a relative⁵⁹ in the school in which the personnel works or exercises jurisdiction or control. Furthermore, the law prohibits an individual from being appointed, employed, promoted, or advanced in or to a position in the charter school if such action has been advocated by the individual's relative who serves in or exercises jurisdiction or control over the charter school, or if such appointment, employment, promotion, or advancement is made by the governing board of which a relative of the individual is a member.⁶⁰

Charter school and center governing board members, including those operated by private entities are subject to the same requirements that apply to public employees for the solicitation and acceptance of gifts, business transactions, conflicting employment or contractual relationships, and voting conflicts.⁶¹ Board members who violate any of these provisions are subject to various penalties, including fines; impeachment, removal, or suspension from office for officers; dismissal from employment; and reduction in, or forfeiture of, salary.⁶²

Where can I get additional information?

Florida Department of Education

Office of Independent Education and Parental Choice
(850) 245-0502
Toll-Free Information Hotline: (800) 447-1636
www.floridaschoolchoice.org/charter.html

Florida House of Representatives

Education Committee
(850) 488-7451
<http://www.myfloridahouse.gov/>

⁵⁹ "Relative" is defined as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister. Sections 112.3135(1), 1002.33(24), and 1002.34(10)(c), F.S.

⁶⁰ Section 112.3135(1), F.S. (charter schools operated by municipalities); s. 1002.33(24), F.S. (charter schools operated by private entities); s. 1002.34(10)(c), F.S. (centers). These provisions do not apply to charter lab schools and community college charter schools because state universities and community colleges are expressly exempted from statutory prohibitions against the employment of relatives by public entities. Sections 1002.33(24)(flush-left provisions at end of subsection) and 112.3135(1), F.S.

⁶¹ Sections 112.313(2), (3) and (7) and 112.3143, F.S. A board member, like public employees or officers, may seek a waiver from the governing board after providing full disclosure of a transaction or relationship, from the provisions for business transactions and conflicts of interest. Section 112.313(12), F.S.

⁶² Section 112.317, F.S.

