CHAPTER 51
FORMERLY
HOUSE BILL NO. 165
AS AMENDED BY
HOUSE AMENDMENT NO. 3

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO EDUCATION AND CHARTER SCHOOLS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 14, § 506(b) of the Delaware Code as follows:

(b) Preferences in student admissions may be given to:

(1) Siblings of students currently enrolled at the school;

(2) Students attending an existing public school converted to charter status. Parents of students at a school converted to charter status shall be provided with a plan the district will use to address the educational needs of students who will not be attending the charter school;

(3) Students enrolling in a new (nonconverted) charter school may be given preference under the following circumstances as long as the school has described its preferences in the school's charter:

a. Students residing within a 5-mile radius of the school;

b. Students residing within the regular school district in which the school is located;

c. Students who have a specific interest in the school's teaching methods, philosophy, or educational focus;

d. Students who are at risk of academic failure;

e. Children of persons employed on a permanent basis for at least 30.0 hours per week during the school year by the charter school.

(4) Children of a school's founders, so long as they constitute no more than 5% of the school's total student population. For the purposes of this paragraph "founder" shall not include anyone whose sole significant contribution to the school was monetary, but otherwise shall be determined by the founding Board of Directors subject to Department of Education regulations.

Section 2. Amend Title 14, § 506 of the Delaware Code by adding a new subsection (f) as follows:

(f) If a child would qualify for a no- or low-cost breakfast or lunch under a federal national school breakfast or lunch program, beginning in the 2014-2015 school year, the charter school shall provide breakfast and lunch to the child at no or low cost to the child’s family. Charter schools shall not consider whether a child would qualify for no- or low-cost breakfast or lunch under a federal national school breakfast or lunch program when making enrollment decisions.

Section 3. Amend Title 14, § 509(b) of the Delaware Code as follows:

(b) A charter school shall receive a payment with respect to each of its students equal to:

(1) From the State on or before November 30, the funding equivalent to the Division I staffing, including fractional funding of partial units, excluding funding for a Superintendent, Division II -- All Other Costs and Energy funding, minor capital improvements and school building maintenance funded generated by the annual student unit count conducted on September 30 of each year in accordance with Department of Education regulations. Minor capital improvements shall be funded in the same manner as the Vocational Technical School Districts. In the case of Division III -- Equalization, a charter school shall receive from the State an amount that is determined by weighting the Division III per unit values that would have been generated by its students had they been counted in their district of residence. In addition, a charter school shall receive a pro-rated portion of any other funds appropriated to the Department of Education that are intended to be allocated on a student, employee or school state share. For the purposes of calculating such funding, each charter school student shall be counted in a separately reported unit count of the charter school, and not counted for any purposes in the student's district of residence. For any partially funded unit generated at a charter school, the charter school is free to negotiate the use of such unit with the chartering district, and other public school districts, in order to purchase central custodial, administrative, clerical, direct teaching or educationally related services. If such an agreement is not negotiated, a payment based on

the average State cost per unit shall be payable to both the charter school and the district issuing the charter, provided that the sum of both fractions justifies an additional unit. The State shall advance 75% of the anticipated funding pursuant to this subsection at the beginning of each fiscal year, provided that the charter school has provided the Department of Education with a preliminary roster of its students on or before May 1 of such year, and does not maintain the status of formal review or probation. The status of formal review or probation shall prompt the Department of Education to advance a level of funding appropriate to pending administrative action. A final roster shall be due September 30. Notwithstanding the above, a charter school in its first year of operation shall receive 50% of the anticipated funding pursuant to this subsection at the beginning of the fiscal year, provided that the charter school has provided the Department of Education with a preliminary roster of its students on or before May 1 of such year. The charter school shall receive an additional 25% of the funding due pursuant to this subsection on October 1 of its first year in operation and shall receive the remaining 25% on February 1 of its first year in operation, provided that the school has completed and posted the required standardized financial report forms and the Department has reviewed those forms and determined that the school's finances will not at that time lead the Department to submit the school for formal review pursuant to § 515 of this title. A determination that the school will be submitted for formal review shall prompt the Department of Education to advance a level of funding appropriate to pending administrative action. The percentage of funding to be provided to charter schools on July 1 and October 1 pursuant to the above may be increased in the Secretary's discretion.

(2) From the school districts in which its students reside on or before November 30 of each year, the local cost per student (regular or special education, as the case may be), net of transportation expenses provided for pursuant to § 508 of this title. The school districts in which its students reside shall advance at least 35% of the anticipated funding pursuant to this subsection at the beginning of each fiscal year provided that the charter school has provided the school districts of residence with a preliminary roster of its students on or before May 1 of such year. This advance may be paid from Division III -- Equalization funds if the district's prior fiscal year current expense local funds balance was 20% or less pursuant to § 1507 of this title. A final roster shall be due September 30. In the event of the failure of a school district to make timely payments to a charter school as required in this paragraph, the Department of Education shall have the authority to direct transfer of such funds from future State funding allocations after the school district receives reasonable notice and an opportunity to be heard, as set forth in the rules and regulations established by the Department.

Section 4. Amend Title 14, § 509 of the Delaware Code by adding new subsections (l) and (m) as follows:

(l) Charter schools shall have the same access to conduit bond financing as any other non-profit organization, and no State or local government unit may impose any condition or restriction on a charter school’s approval solely because the applicant is a public charter school. It is the further intent that a charter school shall apply for conduit funding to issuers within the State of Delaware unless more favorable terms may be found elsewhere.

(m) The Department of Education shall administer a performance fund for charter schools, to be known as the “Charter School Performance Fund”. The Department of Education shall establish threshold eligibility requirements for applicants desiring to apply for funding, which shall include but not be limited to a proven track record of success, as measured by a Performance Framework established by the charter school’s authorizer or comparable measures as defined by the Department. The Department of Education shall also establish criteria to evaluate applications for funding, which shall include but not be limited to the availability of supplemental funding from non-State sources at a ratio to be determined by the Department. The Department of Education shall prioritize those applications from applicants that have (a) developed high-quality plans for start-up or expansion or (b) serve high-need students, as defined by the Department. The fund shall be subject to appropriation and shall not exceed $5 million annually.

Section 5. Amend Title 14, § 511 of the Delaware Code as follows:

§ 511. Approval procedure.

(a) An approved charter school application, together with such conditions imposed pursuant to subsection (l) of this section, shall be the basis for a charter granted to the charter school by the approving authority

pursuant to this chapter and shall be governed by the terms of this chapter. Upon approval of a charter school application, the Department of Education shall present applicants seeking a charter from the state with a charter contract ("Charter Contract") that clearly defines the respective roles, powers, and responsibilities of the school and the approving authority and incorporates the provisions of the Performance Agreement entered into between the charter school and its approving authority pursuant to 14 DE Reg. 275. Other approving authorities may choose to present applications they approve with such a Charter Contract. Where a Charter Contract is utilized, both the school and the approving authority shall execute the Charter Contract. Notwithstanding anything in this chapter to the contrary, the initial term of a newly approved charter shall expire at the end of the 5th fiscal year following the fiscal year in which the charter was initially approved, and any subsequent charter renewal term shall expire at the end of each successive 5th fiscal year thereafter unless extended pursuant to § 515(b) of this title. If an approved charter is modified to delay the initial opening of the school, then the expiration date of the initial term of the charter shall be adjusted accordingly.

(b) (1) Charters shall be modified by the same procedure and based on the same criteria as they are approved. When the approving authority is the Department of Education, minor modifications to a charter that are requested by the charter school only may be approved by the Secretary, subject to rules and regulations established by the Department with the approval of the State Board. Modifications associated with the provision of student transportation services as a result of changes to the Annual Appropriations Act to § 508 of this title shall be considered a minor modification.

(2) A request for modification to increase a charter school's total authorized enrollment by more than 15% shall be considered a major modification, regardless of whether the additional students will attend school at the current location or at a separate location.

(3) In addition to meeting the approval criteria established in § 512 of this title, an authorizer considering an application for a new charter school or for a modification as described in paragraph (b)(2) of this section in which the increased enrollment will occur less than 18 months from the date of application (an "expansion"), shall also consider the potential positive and negative impact of the proposed new school or expansion on the schools and the community from which the charter school's new students will likely be drawn. In reviewing the impact, the authorizer shall consider all information furnished to it during the new charter school application process and may exercise its reasonable discretion in determining whether the proposed new school or expansion is contrary to the best interests of the community to be served, including both those students likely to attend the charter school and those students likely to attend traditional public schools in the community.

(4) Information regarding impact shall be considered in conjunction with the factors in § 512 of this title but shall not alone provide the basis for disapproval of an application for a new charter application or an expansion. The information regarding impact may, however, be among the bases for disapproval of an application or expansion if at least one criteria in § 512 of this title is also deemed not satisfied by the authorizer. The information regarding impact may, by itself or in combination with other factors, form the basis for conditions being placed on the approval.

(c) Charter school applications shall be submitted to a local school board or the Department for approval as an approving authority. Whenever a charter school seeks a charter from the Department as approving authority, such approval shall require the assent of both the Secretary and the State Board, as shall any action pursuant to §§ 515 and 516 of this title. The approving authority shall be responsible for approval of the charter school pursuant to this section and for continuing oversight of each charter school it approves.

(d) The Department shall make an initial review of all charter school applications it receives in order to assess the completeness and viability of each such application based on the application submission criteria established in this title. Upon a finding that an application does not warrant a full review, the Department shall notify the applicant in writing of the deficiency or deficiencies and the application shall receive no further consideration. Each district that is asked by an applicant to serve as an approving authority may, in its discretion, undertake such an initial sufficiency review and make such an initial sufficiency determination.

(e) Applicants seeking a charter from the Department that have submitted an application deemed by the Department sufficient to receive a full review shall be offered an opportunity for an interview in support of the application. Such interviews will allow the Department to assess applicant capacity, allow it to clarify information provided in the application, and gather additional information. The information gained in the interview process may be among the factors considered by the approving authority in approving or denying an application.

(f) Potential charter school applicants may engage in discussions with a potential approving authority before submitting an application for approval to establish a charter school.

(g) (1) Except as noted in paragraph (g)(2) of this section, new charter school applications shall be submitted to an approving authority between November 1 and December 31 for schools to be established and prepared to admit students on or after the second August 1 thereafter.

(2) Applications by a highly successful charter school operator as described in subsection (p) of this section shall be submitted to an approving authority between November 1 and December 31 for schools to be established and prepared to admit students on or after the August 1 thereafter. The application submission dates in this subsection may be amended by agreement of the authorizer and the applicant if necessary to allow the applicant to serve students who would otherwise be displaced due to the closure of an existing charter school.

(3) Applications to renew a charter shall be submitted to the approving authority on or before September 1 of the year immediately preceding the calendar year in which the school's current charter term will expire, except that all applications to renew a charter that expires on or before December 31, 2012, shall be submitted to the approving authority on or before October 15, 2011.

(4) Charter school applications which propose the conversion of an existing public school, or a part thereof to charter school status must be submitted to an approving authority on or before October 30 if the application proposes that the newly converted charter school is to be established and prepared to admit students for the next ensuing school year.

(5) If the date for submitting an application or commencing the school's instructional program shall fall on a weekend or state holiday, the time for such shall be continued to the first working day thereafter.

(h) Any local school board may limit the number of new charter school applications it will consider in any year or the number of charters it will grant, but within 20 working days after December 31 must hold a public meeting to decide whether or not to consider it. A local school board shall not be required to accept any new charter school applications for a charter school unless, by September 1 of each year the school board shall affirmatively vote to accept such applications.

(i) If an approving authority decides to consider a charter application, the approving authority must rule on whether to approve the application at a public meeting within 90 working days after December 31.

(j) Within 5 days of deciding to consider an application, the approving authority shall form an accountability committee to review the charter school application. The accountability committee's report to the local school board shall address the approval criteria set forth in § 512 of this title. The committee shall meet with the applicant in the course of its investigation and provide the applicant the opportunity to review and comment on the committee's report 15 days before it is issued to the approving authority. The committee's final report shall be provided to the applicant and be made available to the public.

(k)After giving 15 days public notice, the approving authority shall hold public hearings to assist in its decision whether to approve a charter application. At least one such hearing shall be held prior to the issuance of the accountability committee’s final report on that application. The approving authority shall, in advance of the 15-day public notice period, post any and all charter applications under consideration on a public website maintained by the approving authority, and during this public notice period shall accept electronically submitted and written comments from the public.

(l) Subject to any limitations imposed by the approving authority pursuant to subsection (h) of this section, if the application is found by the approving authority to meet the criteria set forth in § 512 and complying with the approval process in § 511 of this title, it shall approve the application. The approving authority may

approve an application subject to such conditions as the approving authority, in its sole discretion, may deem appropriate to ensure the applicant's continuing compliance with the approval criteria.

(m) If an application is made to the Department or a local board as an approving authority and the charter application is not approved, such decision shall be final and not subject to judicial review.

(n) All applications for a charter shall contain an affirmative representation by the applicant that no later than June 15 immediately preceding the authorized opening date of the school, the applicant shall secure a certificate of occupancy, either temporary or final, for the premises in which the school is to be located, provided that any temporary certificate of occupancy must permit occupancy at the premises by school staff and students for school purposes. If the charter is approved and the charter holder shall subsequently fail to obtain the necessary certificate of occupancy as required by this section, the opening of the school shall be delayed by 1 year from the date previously authorized by the approving authority and the charter shall be placed on probation subject to the terms and conditions imposed by the Department of Education with the consent of the State Board of Education. No waivers are available for this requirement.

(o) A local school board that approves an application for a charter school may do so only on the condition that the charter school is located in and provides all educational and related services, with the exception of transportation services and other K-12 noninstructional services and activities, within the boundaries of the approving local school board's district lines. Once approved, the charter school may not subsequently change its location from the school district specified in its originally approved charter.

(p) "Highly successful charter school operator" means an entity that currently operates or whose principals currently operate 1 or more highly successful charter schools showing sustained high levels of student growth and achievement and sustained fiscal stewardship, as further defined by Department regulation. Notwithstanding the provisions of this chapter, for purposes of this definition the phrase "charter school" shall include public schools operated under a charter regardless of whether the schools are located or organized in Delaware. A highly successful charter school operator may be authorized to operate a charter school in the timeframe provided by paragraph (g)(2) of this section provided that the application is submitted for the purpose of operating a charter school at the site of and serving students currently attending a charter school whose charter has been revoked, has not been renewed, or whose charter is on formal review and whose board has agreed to abandon their charter.

(q) The charter school application shall include a disclosure of any ownership or financial interest in the charter school, including but not limited to the building and real property to be used in the operation of the charter school, by the charter school founders and the board of directors of the proposed charter school. If the building and real property to be used in operation of the charter school are not known at the time of application, disclosures pertaining to those interests shall be made once the building and real property to be used in operation of the charter school become known. In addition, the board of directors of the charter school shall have a continuing duty to disclose such interests to the approving authority pursuant to this chapter during the terms of any charter. The charter school and the Department shall promptly disclose the information required by this subsection to any member of the public upon request.

(r) Charter school board members and founders shall be required to complete the criminal background checks in the same manner as persons seeking employment with a public school pursuant to § 8571(a) of Title 11. In addition, the authorizer shall complete a check of the Child Protection Registry established by § 921 of Title 16 for charter school founders and board members. The results of said background and Child Protection Registry checks shall be provided to the authorizer for review as part of the application process and on an ongoing basis if new board members are seated or current board members are convicted of a crime or placed on the Child Protection Registry. Any person convicted of a felony offense or of any crime against a child in this State or any other jurisdiction shall not be permitted to serve as a founder or member of a charter school board of directors. No individual shall be permitted to serve as a charter school founder or board member if the individual would not be permitted to be employed in a public school pursuant to § 8563 of Title 11 regarding the Child Protection Registry. Other crimes may be considered disqualifying, in the discretion of the authorizer. The State Bureau of Identification may release

any subsequent criminal history to the authorizer. Individuals currently serving as board members of a charter school must complete a criminal background check and the Department shall complete a Child Protection Registry check for such members on or before February 1, 2012.

(s) The founder or board member shall be provided with a copy of all information forwarded to the authorizer pursuant to subsection (r) of this section. Information obtained under subsection (r) of this section is confidential and may only be disclosed to the chief officer and one additional person in each authorizing body.

(t) Costs associated with obtaining criminal history information and child protection registry checks shall be paid by the applicant.

Section 6. Amend Title 14, § 512 of the Delaware Code as follows:

§ 512. Approval criteria.

Subject to the process prescribed in § 511 of this title, charter school applications shall be in the form established by the approving authority and shall be approved if, after the exercise of due diligence and good faith, the approving authority finds that the proposed charter demonstrates that:

(1) The individuals and entities submitting the application are experienced and qualified to start and operate a charter school, and to implement the school's proposed educational program. Certified teachers, parents and members of the community in which the school is to be located must be involved in the development of the proposed charter school. At the time at which the school commences its instructional program and at all times thereafter, the board of directors must include a teacher from at least 1 of the charter schools operated by the board and at least 1 parent of a student enrolled in a charter school operated by the board;

(2) The chosen form of organization, identified in the articles of incorporation and by-laws, or the membership agreement, conforms with the Delaware General Corporation Law;

(3) The mission statement, goals and educational objectives are consistent with the description of legislative intent set forth in § 501 of this title and the restrictions on charter school operations set forth in § 506 in this title;

(4) The school has set goals for student performance and will utilize satisfactory indicators to determine whether its students meet or exceed such goals and the academic standards set by the State. The indicators shall include the assessments required for students in other public schools, although the charter school may adopt additional performance standards or assessment requirements, and shall include timelines for the achievement of student performance goals and the assessment of such performance;

(5) The school proposes a satisfactory plan for evaluating student performance and procedures for taking corrective action in the event that student performance at the charter school falls below such standards which are reasonably likely to succeed;

(6) The school's educational program, including curriculum and instructional strategies, has the potential to improve student performance; and must be aligned to meet the Delaware Content Standards and state program requirements, and in the case of a charter high school, state graduation requirements. High school programs must provide driver education. The educational program at all charter schools must include the provision by the school of extra instructional time for at-risk students, summer school and other services required to be provided by school districts pursuant to the provisions of § 153 of this title. A previously approved charter school may continue to operate in compliance with the terms of its current approval, but its charter shall not be renewed unless the school shall submit an application for renewal in full compliance with the requirements of this subsection;

(7) The school's educational program sets forth appropriate strategies to be employed to accommodate the needs of at-risk students and those needing special education services;

(8) The plan for the school is economically viable, based on a review of the school's proposed budget of projected revenues and expenditures for the first 3 years, the plan for starting the school, and the major contracts planned for equipment and services, leases, improvements, purchases of real property and insurance;

(9) The school's financial and administrative operations meet or exceed the same standards, procedures and requirements as a school district. If a charter school proposes to operate outside the State's pension and/or benefits systems, a specific memorandum of understanding shall be developed and executed by the charter school,

the approving authority, the Director of the Office of Management and Budget, the Controller General and the Secretary of Finance to assure that the State's fiduciary duties and interests in the proper use of appropriated funds and as a benefits and pension trustee are fulfilled and protected, the State's financial reporting requirements are satisfied, and the interests of charter school employees are protected. All charter schools shall operate within the Delaware Financial Management System (DFMS) and be subject to all of the same policies and procedures which govern other agencies operating within such system, except that any charter school previously approved to operate outside of the DFMS may continue to so operate subject to the terms of its memorandum of understanding until such time as the school's charter is renewed pursuant to this chapter;

(10) The assessment of the school's potential legal liability, and the types and limits of insurance coverage the school plans to obtain, are adequate;

(11) The procedures the school plans to follow to discipline students and ensure its students' adherence to school attendance requirements comply with state and federal law;

(12) The procedures the school plans to follow to assure the health and safety of students, employees and guests of the school while they are on school property are adequate and that the charter school will comply with applicable provisions of local, state and federal law, including the provisions of Chapter 85 of Title 11;

(13) The school shall have a satisfactory plan for timely transferring student data and records to the Department of Education;

(14) The school's board of directors shall annually certify to the Department, on a form to be provided by the Department, that prior to the payment of any fees or other sums to any management company employed by the board, the board will insure that sufficient revenues of the school are devoted to adequately support the school's proposed educational program. Such form of certification may require documentation of all actual or proposed expenditures by the school. Failure to provide sufficient funds to adequately support the school's proposed education program shall be grounds for revocation of the school's charter;

(15) The school shall have a satisfactory plan to ensure the effectiveness of its board of trustees, including governance trainings conducted for any new board members and at a minimum of once every three years; and

(16) The school shall have a satisfactory plan for procedures it will follow in the case of the closure or dissolution of the school, including a plan to set aside sufficient funds to cover the salaries owed to those employees who are paid over a twelve-month period. For a new applicant granted under this Chapter, the application shall include a reasonable plan to establish sufficient available balances pursuant to § 516(l).

Section 7. Amend Title 14, § 513(a) of the Delaware Code as follows:

§ 513. Reporting and oversight.

(a) On or before December 1, each charter school not seeking renewal of it charter shall produce an annual report for the school year ending the previous June, which shall discuss the school's progress in meeting overall student performance goals and standards and contain a financial statement setting forth by appropriate categories the school's revenues and expenditures and assets and liabilities. Each charter school seeking renewal of its charter shall produce an annual report on or before September 30. The approving authority may, in its discretion and for good cause shown, elect to accept an annual report submitted subsequent to this deadline. To ensure that such reports provide parents and approving authorities with clear and comparable information about the performance of charter schools, the Department of Education shall prescribe a uniform format for such reports, which may be supplemented by requirements set by the approving authority for schools it has chartered. The charter school shall contract to have an audit of the business and financial transactions, records, and accounts after July 1 for the prior fiscal year. The results of the audit shall be shared with the Department of Education by October 1. A charter school shall display on its website the annual report including financial statement and audit required by this subsection.

Section 8. Amend Chapter 5, Title 14 of the Delaware Code by adding a new section as follows:

§ 514A. Renewals and Non-renewals.

(a) Four years after a charter school has commenced its instructional program pursuant to this chapter and not later than every 5 years thereafter, the approving authority shall, upon notice to the charter school, review

the performance of the charter school to determine its compliance with its charter and its satisfaction of the criteria set forth in this title for the purposes of renewal or non-renewal.

(b) A charter school may be renewed for successive five-year terms of duration. An approving authority may grant renewal with specific conditions for necessary improvements to a charter school. Where a charter school has demonstrated an outstanding record of performance, an approving authority may grant it a renewal term of ten years. Any charter school receiving such an extended renewal term shall, at the midpoint of the ten-year charter, be subject to an annual performance and program evaluation that includes academic, financial and operations data that looks back to all of the years of the charter up to that point. If, upon this evaluation, the approving authority determines that the charter school's level of performance is deficient by renewal standards, the approving authority may initiate the formal renewal and non-renewal process set forth below.

(c) No later than April 30th, the approving authority shall issue a charter school renewal report and charter renewal application guidance to any charter school whose charter will expire the following year. The renewal report shall summarize the charter school's performance record to date, based on the data required by this Act and the charter contract, and shall provide notice of any weaknesses or concerns perceived by the approving authority concerning the charter school that may jeopardize its position in seeking renewal if not timely rectified. The charter school shall have 10 working days to respond to the renewal report and submit any corrections or clarifications for the report.

(d) The renewal process shall, at a minimum, provide an opportunity for the charter school to:

(1) Present additional evidence, beyond the data contained in the renewal report, supporting its case for charter renewal;

(2) Describe improvements undertaken or planned for the school; and

(3) Detail the school's plans for the next charter term.

(e) The renewal application guidance shall include the criteria that will guide the approving authority's renewal decisions. Renewal determinations by the Department of Education shall be based on its Performance Framework, the terms set forth in the Charter Contract, and shall take account of the school's Performance Agreement with the approving authority, consistent with 14 DE Reg. 275, and with this Act. Other approving authorities may choose to adopt the criteria utilized by the Department of Education. Each approving authority shall develop a rubric based on its criteria for evaluating renewal applications and shall provide this rubric to applicants as part of the renewal application guidance. The approving authority shall publish the renewal application guidance on its website and make it available in written form upon request.

(f) No later than September 30th, the governing board of a charter school seeking renewal shall submit a renewal application to the approving authority pursuant to the renewal application guidance issued by the approving authority. The approving authority shall rule by resolution on the renewal application no later than 30 working days after the filing of the renewal application.

(g) In making charter renewal decisions, every approving authority shall:

(1) Ground its decisions in evidence of the school's performance over the term of the charter contract in accordance with the Performance Agreement set forth in the charter contract;

(2) Ensure that data used in making renewal decisions are available to the school and the public; and

(3) Provide a public report summarizing the evidence basis for each decision.

Section 9. Amend Title 14, § 515 of the Delaware Code as follows:

§ 515. Oversight and revocation process.

(a) The approving authority shall be responsible for oversight of the charter schools it approves.

(b) In addition to the review required by subsection (a) of section 514A of this title, the approving authority may notify a charter school of potential violations of its charter and submit the charter to formal review to determine whether the charter school is violating the terms of its charter and whether to order remedial measures pursuant to subsection (f) of this section.

(c) The approving authority shall issue its decision within 90 working days of giving the charter school notice pursuant to subsection (c). An accountability committee appointed by the approving authority shall conduct the initial review pursuant to subsection (b) or (c). The accountability committee's report to the approving authority shall address the relevant criteria set forth in §§ 512 and 516 of this title. The committee shall meet with the applicant in the course of its investigation and provide the applicant the opportunity to review and comment on the committee's report 15 days before it is issued to the approving authority. The committee's final report shall be provided to the applicant and made available to the public.

(d) If the accountability committee reports probable grounds for remedial measures pursuant to subsection (g) of this section, the approving authority shall hold public hearings to assist in its decision whether the criteria set forth for remedial action in § 516 of this title have been satisfied, after giving the charter school 30 days notice. The school shall be given the opportunity to respond to the accountability committee's report at the meeting. Members of the public shall be given the opportunity to comment at the meeting.

(e) If the accountability committee reports that the school has complied with its charter and the criteria set forth in § 512 of this title, the approving authority shall approve or disapprove its report at a public meeting after giving the charter school 30 days notice. If the approving authority disapproves the report, it shall identify the reasons for that decision with particularity. Thereafter, the approving authority shall hold a hearing, within 30 days, to decide the appropriate remedy pursuant to subsection (f) of this section.

(f) If the approving authority determines that the criteria for remedial action set forth in § 516 of this title have been satisfied, it may revoke the charter and manage the school directly until alternative arrangements can be made for students at the school or place the school on a probationary status subject to terms determined by the approving authority which are directly relevant to the violation or violations.

(g) If a local school district which is an approving authority decides to revoke the school's charter or place the school on probationary status, the applicant may file for arbitration in writing with the American Arbitration Association in Philadelphia within 20 days of the local board's decision stating the reasons why it believes the local board decision was in error. A copy of said filing shall be provided simultaneously with the approving authority. The parties shall select an arbitrator in accordance with the American Arbitration Association's procedure for voluntary labor disputes, provided, however, that such arbitration shall occur in this State. The arbitrator's fees and costs shall be borne equally by the parties. The arbitrator shall convene a hearing and determine whether the local board's decision was in error. The arbitrator shall have 30 days to render a decision following the close of the hearing. The arbitrator's decision shall be final and binding upon the parties.

(h) If the approving authority is the Department and it decides to revoke the school's charter or place the school on probationary status, its decision shall be final and not subject to arbitration or judicial review.

(i) Prior to any charter school closure decision, an approving authority shall have developed and shall utilize a charter school closure protocol to ensure timely notification to parents and employees, orderly transition of students and student records to new schools, and proper disposition of school funds, property, and assets in accordance with the requirements of this Act and other applicable laws. The protocol shall specify tasks, timelines, and responsible parties, including delineating the respective duties of the school and the approving authority. In the event of a charter school closure for any reason, the approving authority shall oversee and work with the closing school to ensure a smooth and orderly closure and transition for students, parents and employees, as guided by the closure protocol.

(j) In the event of a charter school closure for any reason, all cash and cash equivalents held by or available to the school shall be distributed first to satisfy outstanding payroll obligations for employees of the school, then to the remaining creditors of the school. Remaining State general fund appropriations for that school year shall be returned to each district in an amount proportionate to the number of students received by each district. Additional remaining State general fund appropriations shall be returned to the general revenue fund through the State treasury. Remaining funds received from local school districts shall be returned to each of the districts in an amount proportionate to the number of students from each district. Any remaining funds and assets will be managed by the charter, as appropriate. In the event that a charter school files for bankruptcy, the distribution of all assets will

be managed by the bankruptcy court or otherwise in accordance with bankruptcy laws. Nothing herein shall be construed in any way to impair or preempt a lien or security interest on any asset owned by a charter school or to prevent the school from paying the costs required to close or dissolve.

(k) In the event that all State and local funds due to a charter school are paid timely as required by Section 509, a charter school authorized to operate in the State must by December 31 of that fiscal year maintain an available balance sufficient to pay the minimum costs necessary to provide students with the minimum annual instructional hours required by the Department of Education during the remainder of that fiscal year as reasonably projected by the charter school. Such costs include, but are not limited to, all employee compensation required to attain the minimum annual instructional hours during the remainder of that fiscal year. Such costs also include all fixed and variable non-payroll expenditures incurred through the final month of that school year. A school's failure to maintain sufficient available funds by December 31 of its third year of operation shall be deemed a material violation of its charter.

Section 10. If any clause, sentence, section, provision or part of this Act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, invalidate, or affect the remainder of this Act, which shall remain in full force and effect.

Section 11. The Enrollment Preferences Task Force established pursuant to House Bill No. 90 of the 147th General Assembly shall expressly include in its final report enrollment preferences and practices used by charter schools.

Section 12. This Act shall become effective on July 1, 2013.

Approved June 26, 2013