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High-Quality Charter Authorizing Policy Profiles: Delaware

U.S. Department of Education
January 2020



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The National Charter School Resource Center (NCSRC) provides technical assistance to Federal grantees and resources supporting charter sector stakeholders. NCSRC is funded by the U.S. Department of Education and managed by Manhattan Strategy Group in partnership with WestEd.

NCSRC acknowledges the major contributions of Robin Chait and Lauren Outlaw in the development of this profile.

NCSRC would like to thank Charter School Programs State Entity grantee representatives for their reviews and feedback on their respective State's profile.

Suggested citation: National Charter School Resource Center (2020). *High-Quality Charter Authorizing Policy Profiles: Delaware*. Bethesda, MD: Manhattan Strategy Group.

This publication was produced in whole or in part with funds from the U.S. Department of Education under contract number GS10FO201T. The content does not necessarily reflect the position or policy of the U.S. Department of Education, nor does mention of trade names, commercial products, or organizations imply endorsement by the Federal government.

Delaware: Overview of State Law and Snapshot of Quality Authorizing Practices

Introduction and Methodology

The National Charter School Resource Center (NCSRC) created the [Policy Framework for High-Quality Charter Authorizing Practices \(Framework\)](#) as a tool for assessing a State policy environment's support for high-quality authorizing practices. The Framework is based on a review of high-quality authorizing practices referenced in the Every Student Succeeds Act (ESSA) and literature by the National Association of Charter School Authorizers (NACSA) and the National Alliance of Public Charter Schools (Alliance).ⁱ NCSRC staff used this review to identify common themes or categories of policies that are essential to State support for high-quality authorizing and incorporated them into the Framework.

NCSRC then created High-Quality Charter Authorizing Policy Profiles (State Authorizing Profiles) that describe states' authorizing policy contexts based on the Framework. As of winter 2020, NCSRC staff created 19 profiles for the States that were awarded Charter School Programs (CSP) State Entities grants between FY2017 and FY2019, including:

- Alabama
- Arizona
- Arkansas
- Colorado
- Delaware
- Idaho
- Indiana
- Maryland
- Michigan
- Minnesota
- Mississippi
- New Mexico
- New York
- North Carolina
- Oklahoma
- Rhode Island
- Texas
- Washington
- Wisconsin

CSP State Entity (SE) Grants provide funding for State entities to support eligible applicants in planning and preparation for the opening of new charter schools and the replication and expansion of high-quality charter schools. Grant funds must also be used by the State entity to provide technical assistance to eligible applicants and to improve the quality of authorizing.

More State Authorizing Profiles may be added in the future. In addition, NCSRC may publish updated versions of State Authorizing Profiles to reflect changes in State policy.

The State Authorizing Profiles are intended to be used by state policymakers and practitioners to learn about their own authorizing policy environments and those of their peers. They may also be useful to charter school support organizations and charter management organizations that are looking to learn about different states' policy contexts.

Each State profile includes a (i) Framework Snapshot, which is an assessment of a State's authorizing practices using the Framework described in the first paragraph above and (ii) a more detailed description of the state context for each practice. The basis for the State Profiles was a review of the charter law and significant State policies for applicable states. Significant

state policies included those issued by the state education agency and/or state board of education. NCSRC used this review to identify whether the authorizing practices specified in the Framework were present in state law or policy. That is, boxes that were checked in the Framework Snapshot indicated that particular aspects of an authorizing practice(s) were included in state law or policy.

The State Authorizing Profiles provide a foundation for understanding authorizing practices in the State. The profiles are not an exhaustive review of the State’s authorizing policies and practices; it is intended to describe the key elements of the State’s policy context for supporting high-quality authorizing practices. Therefore, it is possible that certain State policies are not reflected in the profiles, and that individual authorizers within a state are implementing other practices as well. In addition, the review does not assess the quality of implementation of the policies; it is possible that state policy or statute articulates a quality practice that authorizers do not implement with fidelity.

Finally, state policy is one strategy for advancing high-quality authorizing practices and is the strategy we are focusing on in these profiles. However, there are other strategies and sources of support, including technical assistance and resources provided by state, regional, and local charter support associations. While this report does not address those other strategies, it provides a narrative of the policy context in which authorizers operate. We articulate this context to support authorizers and authorizer support organizations in understanding how to implement quality authorizing practices in their States.

Overview of State Law

In 1995, the Delaware General Assembly passed Senate Bill 200, which created charter schools in Delaware; Governor Carper signed this bill into law in July 1995. Since that time, Delaware amended the State's charter school law in 2004, 2008, 2011, 2012, and 2013. In August 2011, the legislature passed House Bill 205 to ensure successful conditions for high-performing charter schools and other innovative schools. This legislation required individual charter school board members to have appropriate backgrounds and qualifications and to disclose any potential financial interest they may have in the charter school. It also required charter schools to undergo an annual external audit. To ensure that a school's finances were sound, this law provided that new charter schools would receive less funding at the start of the year, with the remainder of the funding provided throughout the year after a review by the Delaware Department of Education (DDOE).

In addition, the 2011 law (i) moved up the deadline by which charter renewal decisions must be made so that, if a charter is not going to be renewed, that decision is made prior to the school choice deadline; (ii) created a mechanism for permitting a high-performing charter operator to open a school that would serve students at a charter school that is slated for closure; and (iii) provided greater opportunities while avoiding significant disruption for the students. Lastly, this law clarified that requests to change a charter school's authorizer (from the Department to a district or vice versa) and/or to increase enrollment by more than 15 percent are major modifications to the charter contract.^{ii, iii}

In 2013, the legislature added language allowing the State to create performance frameworks as part of charter contracts and the renewal process and provided charter schools with facilities support.

State Authorizing Profile: Delaware

Framework Snapshot¹

Authorization

- Does not cap charter school growth
- Provides for more than one authorizing pathway

Application includes the following:

- Specific application criteria
- Timelines
- Evaluation review process
- Process for denied applications

Performance-based contract includes and provides for the following:

- Separate post-application agreement
- Rights and responsibilities of authorizer and school
- Academic, financial, and operational performance expectations for schools
- Initial term of not more than five years
- Fiscal, legal, and programmatic autonomy for schools
- Independent charter school governing boards

Performance Monitoring

- Provides for annual authorizer evaluation of schools based on the performance goals and expectations set forth in performance-based contract
- Establishes a comprehensive accountability/monitoring system that includes performance expectations and compliance requirements
- Minimizes schools' administrative and reporting burden
- Articulates authorizer action for schools that fail to meet performance expectations (e.g., probation, sanction, or turnaround)

Renewal/Revocation

- Establishes a clear renewal process and decision-making criteria
- Requires that decisions to renew/revoke be based on student academic achievement
- Requires clear school closure procedures (e.g., parent notification, student enrollment, student record transfer, and disposition of assets)

Authorizer Accountability

- Provides for a registration process for eligible authorizing entities
- Requires the State entity to review authorizers' performance
- Requires authorizers to adhere to standards for high-quality authorizing

Authorizer Leadership, Student Access, and Student Services

- Requires a mission or strategic vision for authorizing
- Promotes quality authorizing by requiring technical assistance or professional development for authorizers and/or charter school applicants
- Ensures equitable access to all students
- Requires appropriate services for educationally disadvantaged students (e.g., students with special needs, English learners, students in foster care, or unaccompanied homeless youth)

Authorizer Funding

- Provides a mechanism for guaranteed access to authorizer funding
- Includes a process for holding authorizers accountable for how funding is used

Source(s): Title 14 Delaware Administrative Code, Administration and Operations, 275 Charter Schools; 2014 Delaware Code, Title 14 – Education. CHAPTER 5. CHARTER SCHOOLS.

¹ As noted in the Introduction and Methodology section, boxes checked in the framework snapshot indicate that aspects of an authorizing practice(s) were included in State law or policy. If individual authorizers create and follow a certain policy that is not in State statute or policy, then the box will not be checked for the entire State.

Authorization

- ☒ Does not cap charter school growth
- ☒ Provides for more than one authorizing pathway

Does not cap charter school growth

Delaware law does not limit the number of charter schools that may be established in the state, although the statute does permit local school boards to set such limits.

Provides for more than one authorizing pathway

In Delaware, both the DDOE and local school boards may serve as authorizers.

Application includes the following:

- ☒ Specific application criteria
- ☒ Timelines
- ☒ Evaluation review process
- ☒ Process for denied applications

Specific application criteria

The statute articulates detailed application elements and approval criteria. Applicants must demonstrate that they are experienced and qualified to operate the school. The school must set student performance goals that assess whether students meet the state’s academic standards. The school may adopt additional student achievement goals and must have a plan for assessing student performance. The application must describe the school’s curriculum and instructional strategies and the educational program must be aligned to the state’s standards. The school’s program must include appropriate strategies for educating at-risk students and students needing special education services. The application must also include a viable budget and financial and administrative operations must meet a school district’s standards. The school also must have a plan to ensure that the board of trustees is effective.

Timelines

Delaware statute establishes timelines for new and conversion applications. New applications must be submitted between November 1 and December 31 and schools must be ready to open one year from August of that year. Conversion applications must apply by October 30.

Evaluation review process

State statute provides a comprehensive list of evaluation and approval criteria. These criteria must include experienced and qualified founders, a mission and goals that are consistent with legislative intent, goals for student performance and methods for ensuring that students meet the state’s academic standards, and an educational program meeting the following criteria: “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... 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.”^{iv}

Process for denied applications

Delaware statute provides for the DDOE to conduct an initial review of the application to ensure it meets all criteria. If the application does not, the Department notifies the applicant in writing of its deficiencies. The authorizer must also rule on whether to approve an application at a public meeting.

Performance-based contract includes and provides for the following:

- ☒ Separate post-application agreement
- ☒ Rights and responsibilities of authorizer and school
- ☒ Academic, financial, and operational performance expectations for schools
- ☒ Initial term of not more than five years
- ☒ Fiscal, legal, and programmatic autonomy for schools
- ☒ Independent charter school governing boards

Separate post-application agreement

State law provides for a charter contract that is separate from the application—the application is “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.”^v

Rights and responsibilities of authorizer and school

State law requires that the contract “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 CDR 14-200-275.”^{vi}

Academic, financial, and operational performance expectations for schools

Contracts include a Performance Agreement between the school and authorizer that is based upon the approved application. The Performance Agreement “describes the academic performance expectations, identifies economic viability requirements, defines organizational responsibilities, and outlines accountability of the Charter School. An approved Performance Agreement is for a specified term and uses a uniform format as prescribed by the Department with the assent of the State Board of Education. The Performance Agreement is enforceable as part of the school’s Charter Contract.”^{vii}

Initial term of not more than five years

Charters are granted for an initial period of four years and are then typically renewed every five years. High performing charter schools may also apply for a 10-year renewal.

Fiscal, legal, and programmatic autonomy for schools

Statute states that each charter manages its own education program, determines its budget and operating procedures, and can contract with other entities. It also specifies that charter schools “run independent public schools, free of most state and school district rules and regulations governing public education, as long as they meet the requirements of this chapter, and particularly the obligation to meet measurable standards of student performance.”^{viii}

Independent charter school governing boards

The statute states that charter boards operate independently. The statute states that “a charter school is a public school including two or more of grade kindergarten through 12 managed by a board of directors, which operates independently of any school board.”^{ix} It also states that for purposes of this chapter as it relates to the management of a charter school, “the board of directors of a charter school shall be a public body subject to the requirements of Chapter 100 of Title 29 and shall have the same standing and authority as a Reorganized School District Board of Education, except the power to tax.”^x

Performance Monitoring

- Provides for annual authorizer evaluation of schools based on the performance goals and expectations set forth in performance-based contract
- Establishes a comprehensive accountability/monitoring system that includes performance expectations and compliance requirements
- Minimizes schools’ administrative and reporting burden
- Articulates authorizer action for schools that fail to meet performance expectations (e.g., probation, sanction, or turnaround)

Provides for annual authorizer evaluation of schools based on the performance goals and expectations set forth in performance-based contract

Delaware regulations require the Department to conduct an annual Performance Review of each charter school using the Performance Framework to ensure ongoing compliance with the school’s Performance Agreement. The Performance Framework is defined as “a rubric based tool established by the Department with the assent of the State Board of Education, as amended from time to time, which contains the details, includes multiple measures, and is used by the Department to assess compliance with the Performance Agreement in the areas of academic performance, economic viability, organizational responsibilities and accountability of the Charter School.”^{xi}

In addition, Delaware statute requires each charter school to produce an annual report that describes the following: the school’s academic progress; its innovations in a variety of areas including academics, student culture and discipline, and parent involvement; and its financial audit information.

Establishes a comprehensive accountability/monitoring system that includes performance expectations and compliance requirements

Delaware regulations require the Department to conduct an annual Performance Review of each charter school using the Performance Framework to ensure ongoing compliance with the school’s Performance Agreement. The Performance Framework is used by the Department “to assess compliance with the Performance Agreement in the areas of academic performance, economic viability, organizational responsibilities and accountability of the Charter School. The completed frameworks will be provided to the Charter School Accountability Committee, Secretary and State Board of Education to inform their decision making.”^{xii}

Minimizes schools' administrative and reporting burden

The statute does not require that the Department minimize schools' administrative and reporting burden.

Articulates authorizer action for schools that fail to meet performance expectations (e.g., probation, sanction, or turnaround)

The statute allows authorizers to articulate specific conditions that the school must meet in order to continue to be renewed. Specifically, the authorizer may grant renewal with “specific conditions for necessary improvements to a charter school.”^{xiii}

Renewal/Revocation

- Establishes a clear renewal process and decision-making criteria
- Requires that decisions to renew/revoke be based on student academic achievement
- Requires clear school closure procedures (e.g., parent notification, student enrollment, student record transfer, and disposition of assets)

Establishes a clear renewal process and decision-making criteria

Delaware statute outlines a clear renewal process and criteria for making renewal or nonrenewal decisions. It requires that the authorizer review each charter school's performance every five years (following the initial four-year term), including its compliance with its charter and specific renewal criteria. The statute requires that the authorizer make renewal decisions based upon “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; ensure that data used in making renewal decisions are available to the school and the public; and provide a public report summarizing the evidence basis for each decision.”^{xiv}

Requires that decisions to renew/revoke be based on student academic achievement

As mentioned in the prior section, the statute requires that the authorizer make renewal decisions based upon “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.”^{xv}

Requires clear school closure procedures (e.g., parent notification, student enrollment, student record transfer, and disposition of assets)

The statute also requires authorizers to develop school closure procedures. “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 79 Del. Laws, c. 51 and other applicable laws.”^{xvi}

Authorizer Accountability

- Provides for a registration process for eligible authorizing entities
- Requires the State entity to review authorizers' performance
- Requires authorizers to adhere to standards for high-quality authorizing

Provides for a registration process for eligible authorizing entities

Delaware does not have a registration process for local school boards that want to be authorizers. All Local Educational Agencies (LEAs) may elect to authorize charter schools, but only one LEA (Red Clay Consolidated School District) has done so to date.

Requires the State entity to review authorizers' performance

The DDOE is required to prepare an annual report for the Governor, the General Assembly, and the State Board of Education “on the success or failure of charter schools and propose changes in state law necessary to approve or change the charter school program.”^{xvii} The report also must include proposed changes to Delaware’s education laws and “an assessment of specific opportunities and barriers relating to the implementation of charter schools’ innovations in the broader Delaware public education school system.”^{xviii}

Requires authorizers to adhere to standards for high-quality authorizing

State administrative code provides rules to ensure that charter policies and practices adhere to national standards. Specifically, the policies and practices should be “consistent with nationally recognized principles and standards for quality charter authorizing in all major areas of authorizing, including:

- 1.1.1 Agency commitment and capacity;
- 1.1.2 Application process and decision-making;
- 1.1.3 Performance-based accountability;
- 1.1.4 Ongoing oversight and evaluation; and
- 1.1.5 Renewal and revocation decision-making.”^{xix}

Authorizer Leadership, Student Access, and Student Services

- Requires a mission or strategic vision for authorizing
- Promotes quality authorizing by requiring technical assistance or professional development for authorizers and/or charter school applicants
- Ensures equitable access to all students
- Requires appropriate services for educationally disadvantaged students (e.g., students with special needs, English learners, students in foster care, or unaccompanied homeless youth)

Requires a mission or strategic vision for authorizing

Delaware statute does not require authorizers to develop a mission and strategic vision for authorizing.

Promotes quality authorizing by requiring technical assistance or professional development for authorizers and/or charter school applicants

State statute requires the DDOE to “provide technical assistance to potential charter school applicants upon request”^{xx} and to “provide technical and other forms of assistance to charter schools on the same basis as to school districts.”^{xxi}

Ensures equitable access to all students

Delaware statute requires that charter schools have open enrollment but does provide for some preferences. It also requires that schools use a lottery in the case of over-enrollment and does not allow schools to discriminate with respect to student admission—statute specifies that schools may not discriminate “because of race, creed, color, sex (except in the case of a same-gender school), handicap, or national origin, or because the student’s school district of residence has a per student local expenditure lower than another student seeking admission.”^{xxii}

Statute allows preferences for the following: “Students residing within a 5-mile radius of the school; students residing within the regular school district in which the school is located; students who have a specific interest in the school’s teaching methods, philosophy, or educational focus; students who are at risk of academic failure; children of persons employed on a permanent basis for at least 30.0 hours per week during the school year by the charter school [and] children of a school’s founders, so long as they constitute no more than 5% of the school’s total student population.”^{xxiii}

Requires appropriate services for educationally disadvantaged students (e.g., students with special needs, English learners, students in foster care, or unaccompanied homeless youth)

The state Statute, as part of its charter application approval criteria, requires that charter schools’ educational programs include “appropriate strategies to be employed to accommodate the needs of at-risk students and those needing special education services.”^{xxiv}

Authorizer Funding

- Provides a mechanism for guaranteed access to authorizer funding
- Includes a process for holding authorizers accountable for how funding is used

Provides a mechanism for guaranteed access to authorizer funding

The DDOE receives an appropriation of state funding for the Charter Schools Office, but district authorizers do not receive any additional funding above that which is allocated to non-authorizing districts.

Includes a process for holding authorizers accountable for how funding is used

District authorizers do not receive funding for authorizing.

Endnotes

- ⁱ Language in ESSA Framework Details section below was taken directly and adapted from Title IV, Part C of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESSA), §§ 4301 to 4311 (20 U.S.C. §§ 7221 to 7221j)–<https://oese.ed.gov/offices/office-of-discretionary-grants-support-services/charter-school-programs/state-entities/funding-and-legislation/>; Language in the NACSA: Framework Details section below were taken directly or adapted from the following resources: National Association of Charter School Authorizers: Quality Authorizing Practices; Reinvigorating the Pipeline; Authorizer Accountability Model Language; Higher Education Institution Authorizers; Leadership, Commitment, Judgment: Elements of Successful Charter School Authorizing; Findings from the Quality Practice Project; Principles and Standards for Quality Charter School Authorizing; Putting an End to Authorizer Shipping; Language in the Alliance: Framework Details section below were taken directly or adapted from the following resources: National Alliance for Public Charter Schools: 2019 State Charter Law Ranking–<https://www.publiccharters.org/ranking-state-public-charter-school-laws-2019>; 2016 Model Charter School Law–<https://www.publiccharters.org/sites/default/files/migrated/wp-content/uploads/2016/10/2016ModelCharterSchoolLaw.pdf>
- ⁱⁱ Almaleki, D., Brown, K., DeWaard, J., et al., *Evaluation of the Delaware Charter School Reform, Working Paper 1* (December 2015). Retrieved from emr_wps1.pdf
- ⁱⁱⁱ Delaware General Assembly, 146th General Assembly (2011-2012), House Bill 205. Retrieved from <http://legis.delaware.gov/BillDetail?legislationId=21632>
- ^{iv} 14 Del. Code § 512.
- ^v 14 Del. Code § 511a.
- ^{vi} *Id.*
- ^{vii} Title 14 Delaware Administrative Code, Administration and Operations, 275 Charter Schools.
- ^{viii} 14 Del. Code § 501.
- ^{ix} 14 Del. Code § 503.
- ^x 14 Del. Code § 503.
- ^{xi} Title 14 Delaware Administrative Code, Administration and Operations, 275 Charter Schools.
- ^{xii} *Id.*
- ^{xiii} 14 Del. Code § 514A(a).
- ^{xiv} 14 Del. Code § 514A(g)(2).
- ^{xv} 14 Del. Code § 514A(g)(2).
- ^{xvi} 14 Del. Code § 515(i).
- ^{xvii} 14 Del. Code § 514.
- ^{xviii} 14 Del. Code § 514.
- ^{xix} Title 14 Delaware Administrative Code, Administration and Operations, 275 Charter Schools.
- ^{xx} 14 Del. Code § 510(b).
- ^{xxi} 14 Del. Code § 510(c).
- ^{xxii} 14 Del. Code § 506(4).
- ^{xxiii} 14 Del. Code § 506.
- ^{xxiv} 14 Del. Code § 512(7).