

Excerpts from Hawaii Revised Statutes Chapter 302D, the Charter School Law, Related to the Board of Education's Powers and Duties

Definitions

"Authorizer" means an entity established under this chapter with chartering authority to review charter applications, decide whether to approve or deny charter applications, enter into charter contracts with applicants, oversee public charter schools, and decide whether to authorize, renew, deny renewal of, or revoke charter contracts. The term may include the commission when appropriate.

"Board" means the board of education.

"Charter contract" or "charter" means a fixed-term, bilateral, renewable contract between a public charter school and an authorizer that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.

"Charter school" or "public charter school" refers to those public schools and their respective governing boards, as defined in this section, that are holding current charter contracts to operate as charter schools under this chapter, including start-up and conversion charter schools, and that have the flexibility and independent authority to implement alternative frameworks with regard to curriculum, facilities management, instructional approach, virtual education, length of the school day, week, or year, and personnel management.

"Commission" means the state public charter school commission established pursuant to [section] 302D-3 as a statewide authorizer.

"Department" means the department of education.

"Governing board" means the independent board of a public charter school that is party to the charter contract with the authorizer that:

- (1) Is responsible for the financial, organizational, and academic viability of the charter school and implementation of the charter;
- (2) Possesses the independent authority to determine the organization and management of the school, the curriculum, and virtual education;
- (3) Has the power to negotiate supplemental collective bargaining agreements with exclusive representatives of their employees and is considered the employer of charter school employees for purposes of chapters 76, 78, and 89; and
- (4) Ensures compliance with applicable state and federal laws.

"Nonprofit organization" means a private, nonprofit, tax-exempt entity that:

- (1) Is recognized as a tax-exempt organization under the Internal Revenue Code; and
- (2) Is registered to do business in this State in accordance with chapter 414D.

"Organizational viability" means that a charter school:

- (1) Has been duly constituted and operates in accordance with its charter;
- (2) Has a governing board established in accordance with law and the charter school's charter;
- (3) Employs sufficient faculty and staff to provide the necessary educational program and support services to operate the facility in accordance with its charter;
- (4) Maintains accurate and comprehensive records regarding students and employees as determined by its authorizer;
- (5) Meets appropriate standards of student achievement as defined by the board pursuant to its duties under article X, section 3, of the Constitution of the State of Hawaii;

- (6) Cooperates with board and authorizer requirements in conducting its functions;
- (7) Complies with applicable federal, state, and county laws and requirements;
- (8) In accordance with authorizer guidelines and procedures, is financially sound and fiscally responsible in its use of public funds, maintains accurate and comprehensive financial records, operates in accordance with generally accepted accounting practices, and maintains a sound financial plan;
- (9) Operates within the scope of its charter contract and fulfills obligations and commitments of its charter;
- (10) Complies with all health and safety laws and requirements;
- (11) Complies with all authorizer directives, policies, and procedures; and
- (12) Complies with all board policies deemed applicable to charter schools by the board.

Board Oversight of Authorizers

HRS §302D-11: Oversight of public charter school authorizers. (a) The board shall be responsible for overseeing the performance and effectiveness of all authorizers established under this chapter.

(b) In accordance with section 302D-7, every authorizer shall submit to the board and the legislature an annual report. The board shall communicate to every authorizer the requirements for the format, content, and submission of the annual report.

(c) Persistently unsatisfactory performance of an authorizer's portfolio of public charter schools, a pattern of well-founded complaints about the authorizer or its public charter schools, or other objective circumstances may trigger a special review by the board. In reviewing or evaluating the performance of authorizers the board shall apply nationally recognized principles and standards for quality charter authorizing. If at any time the board finds that an authorizer is not in compliance with an existing charter contract, its authorizing contract with the board, or the requirements of all authorizers under this chapter, the board shall notify the authorizer in writing of the identified problems, and the authorizer shall have reasonable opportunity to respond to and remedy the problems.

(d) If an authorizer persists, after due notice from the board, in violating a material provision of a charter contract or its authorizing contract with the board, or fails to remedy other identified authorizing problems, the board shall notify the authorizer, within a reasonable amount of time under the circumstances, that it intends to revoke the authorizer's chartering authority unless the authorizer demonstrates a timely and satisfactory remedy for the violation or deficiencies.

(e) In the event of revocation of any authorizer's chartering authority, the board shall manage the timely and orderly transfer of each charter contract held by that authorizer to another authorizer in the State, with the mutual agreement of each affected public charter school and proposed new authorizer. The new authorizer shall enter into a new charter contract with the charter school for the remainder of the charter term.

Establishment and Appointment of the Commission

HRS §302D-3(a): There is established the state public charter school commission with statewide chartering jurisdiction and authority. [...]

HRS §302D-3(b): The mission of the commission shall be to authorize high-quality public charter schools throughout the State.

HRS §302D-3(c): The commission shall consist of nine members to be appointed by the board. The board shall appoint members who will be tasked with authorizing public charter schools that serve the unique and diverse needs of public school students. The chair of the commission shall be designated by the members of the commission for each school year beginning July 1, and whenever there is a vacancy. The board shall consider the combination of abilities, breadth of experiences, and characteristics of the commission, including but not limited to reflecting the diversity of the student population, geographical representation, and a broad representation of education-related stakeholders. The commission shall be exempt from sections 26-34 and 26-36.

HRS §302D-3(d): Understanding that the role of the commission is to ensure a long-term strategic vision for Hawaii's public charter schools, each nominee to the commission shall meet the following minimum qualifications:

(1) Commitment to education. Each nominee's record should demonstrate a deep and abiding interest in education, and a dedication to the social, academic, and character development of young people through the administration of a high performing charter school system;

(2) Record of integrity, civic virtue, and high ethical standards. Each nominee shall demonstrate integrity, civic virtue, and high ethical standards and be willing to hold fellow commission members to the same;

(3) Availability for constructive engagement. Each nominee shall commit to being a conscientious and attentive commission member; and

(4) Knowledge of best practices. Each nominee shall have an understanding of best practices in charter school educational governance or shall be willing to be trained in such.

HRS §302D-3(h): Notwithstanding the terms of the members, the board may fill vacancies in the commission at any time when a vacancy occurs due to resignation, non-participation, the request of a majority of the commission members, or termination by the board for cause.

Appeals to the Board

HRS §302D-15: Appeals; charter applications, renewals, or revocations. (a) The board shall have the power to decide appeals of decisions by an authorizer to deny the approval of a charter application, deny renewal of a charter contract, or revoke a charter school's charter contract. An appeal shall be filed with the board within twenty-one calendar days of the receipt of the notification of denial or revocation. Only a party whose charter application has been denied, whose charter contract renewal has been denied, or whose charter contract has been revoked may

initiate an appeal under this section for cause. The board shall review an appeal and issue a final decision within sixty calendar days of the filing of the appeal.

(b) The board shall serve as the final arbitrator of appeals authorized by subsection (a).

(c) A party shall not be entitled to a hearing before the board under this section until it has exhausted all available administrative remedies.

(d) The board shall adopt rules pursuant to chapter 91 to implement this section.

Establishment of Other Authorizers and Application to the Board

HRS §302D-4: Chartering authority application for eligible entities. (a) The commission created under section 302D-3 may authorize public charter schools anywhere in the State.

(b) Governing boards of accredited public and private postsecondary institutions, including community colleges, technical colleges, and four-year universities may apply to the board, pursuant to this section, for statewide, regional, or local chartering authority, in accordance with each institution's regular operating jurisdiction.

(c) A county or state agency may apply to the board, pursuant to this section, for chartering authority.

(d) Governing boards of non-profit or charitable organizations, which are exempt from federal taxes under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code, may apply to the board, and may be granted statewide chartering authority. Nonpublic sectarian or religious organizations and any other charitable organization which in their federal Internal Revenue Service Form 1023, Part IV, describe activities indicating a religious purpose, are not eligible to apply to become an authorizer under this chapter.

(e) The board shall establish, through administrative rules, the annual application and approval process for all entities eligible to apply for chartering authority pursuant to this section; provided that the board shall not approve any application for chartering authority until July 1, 2014, or until the board adopts rules, whichever is later. By June 30 of each year, the board shall make available information and guidelines for all eligible entities concerning the opportunity to apply for chartering authority under this chapter. The application process shall require each interested eligible entity to submit an application that clearly explains or presents the following elements:

(1) Written notification of intent to serve as an authorizer in accordance with this chapter;

(2) The applicant entity's strategic vision for chartering;

(3) A plan to support the vision presented, including explanation and evidence of the applicant entity's budget and personnel capacity and commitment to execute the responsibilities of quality charter authorizing, in accordance with this chapter;

(4) A draft or preliminary outline of the request for proposals that the applicant entity, if approved as an authorizer, would issue to solicit public charter school applicants;

(5) A draft of the performance framework that the applicant entity, if approved as an authorizer, would use to guide the establishment of a charter contract and for ongoing oversight and evaluation of public charter schools, consistent with the requirements of this chapter;

(6) A draft of the applicant entity's renewal, revocation, and nonrenewal processes, consistent with section 302D-18;

(7) A statement of assurance that the applicant entity seeks to serve as an authorizer in fulfillment of the expectations, spirit, and intent of this chapter, and that if approved as an authorizer, the entity will fully participate in any authorizer training provided or required by the State; and

(8) A statement of assurance that the applicant will ensure public accountability and transparency in all matters concerning its charter-authorizing practices, decisions, and expenditures.

(f) By June 30 of each year, the board shall decide whether to grant or deny chartering authority to each applicant. The board shall make its decisions on the merits of each applicant's proposal and plans.

(g) Within sixty days of the board's decision, the board shall execute a renewable authorizing contract with each entity it has approved for chartering authority. The initial term of each authorizing contract shall be six years. The authorizing contract shall specify each approved entity's agreement to serve as an authorizer in accordance with the expectations of this chapter, and shall specify additional performance terms based on the applicant's proposal and plan for chartering. No approved entity shall commence charter authorizing without an authorizing contract in effect.

(h) This section shall not apply to the commission.

Transferring of Charter Contract from One Authorizer to Another

HRS §302D-20: Charter transfers. (a) Transfer of a charter contract, and of oversight of that public charter school, from one authorizer to another before the expiration of the charter term shall not be permitted except by special petition to the board by a public charter school or its authorizer. The board shall review such petitions on a case-by-case basis and may grant transfer requests in response to special circumstances and evidence that such a transfer would serve the best interests of the public charter school's students.

(b) The board may adopt rules pursuant to chapter 91 to carry out the purposes of this section.

Annual Authorizer Reports to the Board and Legislature

HRS §302D-7: Authorizer reporting. Every authorizer shall be required to submit to the board and the legislature an annual report summarizing:

(1) The authorizer's strategic vision for chartering and progress toward achieving that vision;

(2) The academic performance of all operating public charter schools overseen by the authorizer, according to the performance expectations for public charter schools set forth in this chapter, including a comparison of the performance of public charter school students with public school students statewide;

(3) The financial performance of all operating public charter schools overseen by the authorizer, according to the performance expectations for public charter schools set forth in this chapter;

(4) The status of the authorizer's public charter school portfolio, identifying all public charter schools and applicants in each of the following categories: approved (but not yet open), approved (but withdrawn), not approved, operating, renewed, transferred, revoked, not renewed, or voluntarily closed;

(5) The authorizing functions provided by the authorizer to the public charter schools under its purview, including the authorizer's operating costs and expenses detailed in annual audited financial statements that conform with generally accepted accounting principles;

- (6) The services purchased from the authorizer by the public charter schools under its purview;
- (7) A line-item breakdown of the federal funds received by the department and distributed by the authorizer to public charter schools under its control; and
- (8) Any concerns regarding equity and recommendations to improve access to and distribution of federal funds to public charter schools.

Annual Board Report

HRS §302D-21: Annual board report. No later than the opening day of each regular session of the legislature, the board shall issue to the governor, the legislature, and the public, an annual report on the State's public charter schools, drawing from the annual reports submitted by every authorizer, as well as any additional relevant data compiled by the board, for the school year ending in the preceding calendar year. The annual report shall include:

- (1) The board's assessment of the successes, challenges, and areas for improvement in meeting the purposes of this chapter, including the board's assessment of the sufficiency of funding for public charter schools, and any suggested changes in state law or policy necessary to strengthen the State's public charter schools;
- (2) A line-item breakdown of all federal funds received by the department and distributed to authorizers;
- (3) Any concerns regarding equity and recommendations to improve access to and distribution of federal funds to public charter schools;
- (4) A summary of the criteria used by the charter school facilities funding working group, established pursuant to section 302D-29.5, in allocating facilities funding;
- (5) A detailed breakdown of the allocation of funding through general funds and bond funds;
- (6) A detailed list of the projects funded by general funds and bond funds;
- (7) The status of funding for projects previously awarded; and
- (8) A discussion of all board policies adopted in the previous year, including a detailed explanation as to whether each policy is or is not applicable to charter schools

Other Powers and Duties of the Board Related to Charter Schools

HRS §302D-23: Minimum educational data reporting standards. The board shall establish educational reporting standards that shall include minimum standards for reporting fiscal, personnel, and student data, by means of electronic transfer of data files from charter schools to the department. The minimum standards established by the board shall include but not be limited to data required for the department, as the state education agency, to meet all applicable federal reporting requirements.

HRS §302D-24: Occupancy and use of facilities of department schools. (a) When the department considers whether to close any particular department school, the department shall submit a notice of possible availability of a department school or notice of vacancy of a department school to the board pursuant to section 302A-1151.5(b); provided that the department has not elected to use the department school to support education programs.

(b) If a charter school exclusively or jointly occupies or uses buildings or facilities of a department school immediately prior to converting to a charter school, upon conversion that

charter school shall be given continued exclusive or joint use of the buildings or facilities; provided that:

(1) The State may reclaim some or all of the buildings or facilities if it demonstrates a tangible and imperative need for such reclamation; and

(2) The State and the conversion charter school voluntarily enter into an agreement detailing the portion of those buildings or facilities that shall be reclaimed by the State and a timetable for the reclamation. If a timetable cannot be reached, the State may petition the board for the reclamation, and the board may grant the petition only to the extent that it is not possible for the conversion charter school and the State to jointly occupy or use the buildings or facilities.

(c) Upon receipt of a notice pursuant to section 302A-1151.5(b), the board shall solicit applications from charter schools interested in using and occupying all or portions of the facilities of the department school by:

(1) Promptly notifying all charter schools that the department school is being considered for closure; and

(2) Affording each charter school an opportunity to submit an application with a written explanation and justification of why the charter school should be considered for possible occupancy and use of the facilities of the department school.

(d) After fully considering each charter school's application and based on the applications received and on other considerations, the board shall:

(1) Provide a written response to each charter school's application after each application has been fully considered;

(2) Compile a prioritized list of charter schools; and

(3) Make a final determination of which charter school, if any, shall be authorized to use and occupy the department school facilities.

(e) Upon the selection of a charter school to use a vacant department school facility or portion of a department school facility, the department and the charter school's authorizer shall enter into necessary agreements within ninety days of the selection to carry out the purposes of this section; provided that any agreement between the authorizer and the department shall stipulate that a charter school that uses and occupies a department school facility or portion of a department school facility shall be responsible for the full or pro rata share of the repair and maintenance costs for that facility or portion of the facility, as the case may be.

(f) The board shall adopt policies and procedures necessary to carry out the purposes of this section, including but not limited to:

(1) Procedures for charter schools to apply in writing to use vacant department school facilities;

(2) Criteria for the board to use in determining which charter schools to include on the prioritized list to be submitted to the department; and

(3) Procedures for the board to notify charter school applicants that are granted or denied the use of vacant department school facilities.

HRS §302D-28(f): To enable charter schools to access state funding prior to the start of each school year, foster their fiscal planning, enhance their accountability, and avoid over-allocating general funds to charter schools based on self-reported enrollment projections, authorizers shall [...provide charter school per-pupil allocations]; provided that authorizers may make adjustments in allocations based on noncompliance with charter contracts and the board may make adjustments in allocations based on noncompliance with board policies made in the board's

capacity as the state education agency, department directives made in the department's capacity as the state education agency, the board's administrative procedures, and board-approved accountability requirements.

Duties and Powers of Authorizers

HRS §302D-5: Authorizer powers, duties, and liabilities. (a) Authorizers are responsible for executing the following essential powers and duties:

- (1) Soliciting and evaluating charter applications;
 - (2) Approving quality charter applications that meet identified educational needs and promote a diversity of educational choices;
 - (3) Declining to approve weak or inadequate charter applications;
 - (4) Negotiating and executing sound charter contracts with each approved charter applicant and with existing public charter schools;
 - (5) Monitoring, in accordance with charter contract terms, the performance and legal compliance of public charter schools; and
 - (6) Determining whether each charter contract merits renewal, nonrenewal, or revocation.
- (b) An authorizer shall:
- (1) Act as a point of contact between the department and a public charter school it authorizes;
 - (2) Be responsible for and ensure the compliance of a public charter school it authorizes with all applicable state and federal laws, including reporting requirements;
 - (3) Be responsible for the receipt of applicable federal funds from the department and the distribution of funds to the public charter school it authorizes; and
 - (4) Be responsible for the receipt of per-pupil funding from the department of budget and finance and distribution of the funding to the public charter school it authorizes.
- (c) An authorizer shall have the power to make and execute contracts and all other instruments necessary or convenient for the exercise of its duties and functions under this chapter.
- (d) An authorizer may delegate its duties to officers, employees, and contractors.
- (e) Regulation by authorizers shall be limited to the powers and duties set forth in this section, and shall be consistent with the spirit and intent of this chapter.
- (f) An authorizer, members of the board of an authorizer acting in their official capacity, and employees or agents of an authorizer are immune from civil and criminal liability with respect to all activities related to a public charter school authorized by that authorizer, except for any acts or omissions constituting wilful misconduct. Members of the commission shall be afforded the same protection afforded the members of the board pursuant to section 26-35.5.
- (g) An authorizer shall not provide technical support to a charter school it authorizes in cases where the technical support will directly and substantially impact any authorizer decision related to the authorization, renewal, revocation, or nonrenewal of the charter school. This subsection shall not apply to technical support that an authorizer is required to provide to a charter school pursuant to federal law.

Principles and Standards for Authorizers

HRS §302D-6: Principles and standards for charter authorizing. All authorizers shall be required to follow nationally recognized principles and standards for quality charter authorizing in all major areas of authorizing responsibility, including:

- (1) Organizational capacity and infrastructure;
- (2) Soliciting and evaluating charter applications;
- (3) Performance contracting;
- (4) Ongoing public charter school oversight and evaluation; and
- (5) Charter and charter contract renewal decision-making.

Authorizers shall carry out all their duties under this chapter in a manner consistent with nationally recognized principles and standards and with the spirit and intent of this chapter. Evidence of material or persistent failure to do so shall constitute grounds for losing charter authorizing powers. [L 2012, c 130, pt of §2; am L 2013, c 159, §6]

Authorizer Services for Purchase by Charter Schools

HRS §302D-10: Services purchased from authorizer; itemized accounting. (a) No public charter school shall be required to purchase services from its authorizer as a condition of charter approval or renewal or of executing a charter contract, nor may any such condition be implied.

(b) A public charter school may, at its discretion, choose to purchase services from its authorizer. In such event, the public charter school and authorizer shall execute an annual service contract, separate from the charter contract, stating the parties' mutual agreement concerning any services to be provided by the authorizer and any service fees to be charged to the public charter school. An authorizer may not charge more than market rates for services provided to a public charter school.

Charter Contract Performance Framework

HRS §302D-16(a): The performance provisions within the charter contract shall be based on a performance framework that clearly sets forth the academic, financial, organizational, and operational performance indicators, measures, and metrics that will guide the authorizer's evaluations of each public charter school. The performance framework, as established by the authorizer, shall include indicators, measures, and metrics for, at a minimum:

- (1) Student academic proficiency;
- (2) Student academic growth;
- (3) Achievement gaps in proficiency and growth between major student subgroups;
- (4) Attendance;
- (5) Enrollment variance;
- (6) Postsecondary readiness, as applicable for high schools;
- (7) Financial performance and sustainability;
- (8) Performance and stewardship, including compliance with all applicable laws, rules, and terms of the charter contract; and
- (9) Organizational viability.

Authorizer Oversight of Charter Schools

HRS §302D-17: Ongoing oversight and corrective actions. (a) An authorizer shall continually monitor the performance and legal compliance of the public charter schools it oversees, including collecting and analyzing data to support ongoing evaluation according to the charter contract. Every authorizer shall have the authority to conduct or require oversight activities that enable the authorizer to fulfill its responsibilities under this chapter, including conducting appropriate inquiries and investigations, so long as those activities are consistent with the intent of this chapter and adhere to the terms of the charter contract.

(b) Each authorizer shall annually publish and provide, as part of its annual report to the board and the legislature, a performance report for each public charter school it oversees, in accordance with the performance framework set forth in the charter contract and section 302D-16. The authorizer may require each public charter school it oversees to submit an annual report to assist the authorizer in gathering complete information about each school. The annual report may include the status of the charter school's compliance with annual performance targets, as determined by the charter contract.

(c) In the event that a public charter school's performance or legal compliance appears unsatisfactory, the authorizer shall promptly notify the public charter school of the perceived problem and provide reasonable opportunity for the charter school to remedy the problem, unless the problem warrants revocation in which case the revocation time frames set forth in section 302D-18 shall apply.

(d) Notwithstanding section 302D-18 to the contrary, every authorizer shall have the authority to take appropriate corrective actions or exercise sanctions short of revocation in response to apparent deficiencies in public charter school performance or legal compliance. [...]

(e) The authorizer shall have the authority to direct the governing board and the charter school to take appropriate action to immediately address serious health and safety issues that may exist at a charter school in order to ensure the health and safety of students and employees or mitigate significant liability to the State.

The board shall have the authority to direct the authorizer to take appropriate action to immediately address serious health and safety issues that may exist at a charter school in order to ensure the health and safety of students and employees and mitigate significant liability to the State.

Charter Contract Renewal, Nonrenewal, and Revocation

HRS §302D-18(a): A charter contract may be renewed for successive five-year terms of duration, although an authorizer may vary the terms based on performance, demonstrated capacities, and particular circumstances of each charter school. An authorizer may grant a renewal of a charter contract with specific conditions for necessary improvements to a charter school.

HRS §302D-18(f): In making charter renewal decisions, every authorizer shall:

- (1) Ground its decisions in evidence of the school's performance over the term of the charter contract in accordance with the performance framework set forth in the charter contract;
- (2) Ensure that data used in making the renewal decisions are available to the charter school and the public; and

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

HRS §302D-18(g): A charter contract may be revoked at any time or not renewed if the authorizer determines that the charter school did any of the following or otherwise failed to comply with the provisions of this chapter:

- (1) Committed a material and substantial violation of any of the terms, conditions, standards, or procedures required under this chapter or the charter contract;
- (2) Failed to meet or make sufficient progress toward performance expectations set forth in the contract;
- (3) Failed to meet generally accepted standards of fiscal management; or
- (4) Substantially violated any material provision of law from which the charter school is not exempted.

HRS §302D-18(j): Within fifteen days of taking action to renew, not to renew, or to revoke a charter contract, the authorizer shall report to the board the action taken, and shall simultaneously provide a copy of the report to the charter school. The report shall set forth the action taken and reasons for the decision and assurances as to compliance with all the requirements set forth in this chapter.

Financial Insolvency of a Charter School

HRS §302D-28.5: Financial insolvency. (a) In the event that any public charter school becomes financially insolvent, the school shall be deemed to have surrendered its charter. For purposes of this section, a school shall be determined to be financially insolvent when it is unable to pay its staff when payroll is due.

(b) In the event that any public charter school becomes financially insolvent, the authorizer shall adopt a closure protocol as described under section 302D-19(a).

Charter School Facilities Funding

HRS §302D-29.5: Facilities funding. (a) Beginning with the 2016-2017 fiscal year, and each fiscal year thereafter, the legislature shall consider making an appropriation and bond authorization to the commission for the design, planning, construction, repair, and maintenance of public charter school improvements to address issues of health, safety, and legal compliance; expand or improve instructional space; provide for food services; or provide restroom facilities. The appropriation and bond authorization for charter schools shall be separate from, and in addition to, any appropriation made to charter schools pursuant to this section and section 302D-28. These amounts shall be prioritized for allocation by the charter school facilities funding working group.

(b) The governor, pursuant to chapter 37, may impose restrictions or reductions on appropriations for charter schools similar to those imposed on department schools.

(c) This section shall not limit the ability of the director of finance to modify or amend any allotment pursuant to chapter 37.

(d) There is established a charter school facilities funding working group within the department of education, which shall consist of the following members, or their designees:

- (1) The chairperson of the commission;

- (2) The executive director of the commission;
- (3) The director of finance;
- (4) The comptroller;
- (5) The superintendent of education;
- (6) An individual with expertise in real estate, to be appointed by the chairperson of the commission; and
- (7) An individual with expertise in finance, to be appointed by the chairperson of the commission.

The commission shall develop criteria to determine the distribution of funds appropriated pursuant to subsection (a) to the charter schools. The criteria shall include distribution based on the need and performance of the charter schools, overall benefit to the surrounding community, amount of risk and availability of recourse to the State, and whether a particular charter school received facilities funding through other state funding, including grants-in-aid or a separate appropriation.

The charter school facilities funding working group shall be exempt from chapter 92 and shall act in an advisory capacity to prioritize the allocation of general fund appropriations and bond proceeds for public charter schools to expend based on the criteria established by the commission.

(e) Nothing in this section shall be construed as restricting the authority of the commission to support the facilities needs of the charter schools through other means.