

HOUSE BILL 1258

F1, Q3

2lr2664

By: **Delegate Kipke**

Introduced and read first time: February 11, 2022

Assigned to: Ways and Means and Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Primary and Secondary Education – Educational Options – Established**

3 FOR the purpose of establishing the Broadening Options and Opportunities for Students
4 Today Program to provide certain students with certain scholarships; establishing
5 the Broadening Options and Opportunities for Students Today Advisory Board;
6 establishing the Maryland Public Charter School Authority as a public chartering
7 authority under the Maryland Public Charter School Program with certain powers
8 and responsibilities; repealing the authority of the State Board of Education to grant
9 certain waivers under certain circumstances; authorizing certain public charter
10 schools to grant certain waivers, make certain applications, be located in certain
11 jurisdictions, and take certain other actions; altering the eligibility of certain public
12 charter schools to be able to provide guaranteed placement to certain students;
13 altering the type of public school that may be converted to a public charter school for
14 the purpose of a certain waiver; altering the entities that may apply to establish a
15 certain public charter school; specifying the employment category of, rights and
16 privileges of, and requirements for employees of public charter schools; requiring
17 certain public charter schools to serve as certain local education agencies under
18 certain circumstances, make public education available to certain children with
19 disabilities, and take certain other actions; requiring the State, county boards of
20 education, and certain public charter schools to take certain actions regarding the
21 calculation and disbursement of funding for public charter schools; requiring the
22 Secretary of General Services to inform certain public chartering authorities that
23 certain buildings are available for occupation and use under certain circumstances;
24 allowing a parent or guardian a credit against the State income tax for certain home
25 instruction expenses; providing that the credit may not exceed a certain amount; and
26 generally relating to providing students and families with educational options.

27 BY repealing and reenacting, with amendments,

28 Article – Education

29 Section 5–213(a), 9–101, 9–102, 9–102.1, 9–102.2, 9–102.3, 9–104, 9–104.1, and
30 9–105 through 9–111

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)

BY adding to

Article – Education
Section 5–243, 9–103, 9–103.1, 9–105.1, 9–106.1, and 9–107.1
Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)

BY repealing

Article – Education
Section 9–103
Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, without amendments,

Article – Education
Section 9–112
Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)

BY adding to

Article – Tax – General
Section 10–754
Annotated Code of Maryland
(2016 Replacement Volume and 2021 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Education

5–213.

(a) **(1)** [Each] **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, EACH**
fiscal year, the State shall distribute the State share of the foundation program to each
county board.

(2) FOR EACH COUNTY BOARD IN A COUNTY IN WHICH A PUBLIC
CHARTER SCHOOL IS AUTHORIZED BY THE MARYLAND PUBLIC CHARTER SCHOOL
AUTHORITY ESTABLISHED UNDER TITLE 9 OF THIS ARTICLE, THE STATE SHALL
DEDUCT FROM THE STATE SHARE OF THE FOUNDATION PROGRAM ANY AMOUNT
DISTRIBUTED DIRECTLY TO A PUBLIC CHARTER SCHOOL UNDER § 9–109 OF THIS
ARTICLE.

5–243.

1 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
2 INDICATED.

3 (2) "ADVISORY BOARD" MEANS THE BROADENING OPTIONS AND
4 OPPORTUNITIES FOR STUDENTS TODAY ADVISORY BOARD.

5 (3) "PROGRAM" MEANS THE BROADENING OPTIONS AND
6 OPPORTUNITIES FOR STUDENTS TODAY PROGRAM.

7 (B) (1) THERE IS A BROADENING OPTIONS AND OPPORTUNITIES FOR
8 STUDENTS TODAY PROGRAM IN THE DEPARTMENT.

9 (2) THE PURPOSE OF THE PROGRAM IS TO PROVIDE SCHOLARSHIPS
10 FOR STUDENTS WHO ARE ELIGIBLE FOR THE FREE AND REDUCED PRICE LUNCH
11 PROGRAM TO ATTEND A NONPUBLIC SCHOOL.

12 (C) THE DEPARTMENT SHALL ADMINISTER THE PROGRAM.

13 (D) (1) TO BE ELIGIBLE TO PARTICIPATE IN THE PROGRAM, A
14 NONPUBLIC SCHOOL SHALL:

15 (I) PARTICIPATE IN THE AID TO NON-PUBLIC SCHOOLS
16 PROGRAM FOR TEXTBOOKS AND COMPUTER HARDWARE AND SOFTWARE
17 ADMINISTERED BY THE DEPARTMENT;

18 (II) PROVIDE MORE THAN ONLY PREKINDERGARTEN AND
19 KINDERGARTEN PROGRAMS;

20 (III) ADMINISTER ASSESSMENTS TO ALL STUDENTS IN
21 ACCORDANCE WITH FEDERAL AND STATE LAW;

22 (IV) COMPLY WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964
23 AS AMENDED AND TITLE 20, SUBTITLE 6 OF THE STATE GOVERNMENT ARTICLE,
24 AND NOT DISCRIMINATE IN STUDENT ADMISSIONS ON THE BASIS OF RACE, COLOR,
25 NATIONAL ORIGIN, OR SEXUAL ORIENTATION; AND

26 (V) AGREE TO NOT DISCRIMINATE IN STUDENT ADMISSIONS
27 BASED ON RACE, COLOR, NATIONAL ORIGIN, OR SEXUAL ORIENTATION.

28 (2) NOTHING IN THIS SUBSECTION SHALL REQUIRE ANY SCHOOL OR
29 INSTITUTION TO ADOPT ANY RULE, REGULATION, OR POLICY THAT CONFLICTS WITH
30 ITS RELIGIOUS OR MORAL TEACHINGS.

(3) IF A NONPUBLIC SCHOOL DOES NOT COMPLY WITH THE REQUIREMENTS OF THIS SUBSECTION, THE NONPUBLIC SCHOOL:

(I) SHALL REIMBURSE TO THE DEPARTMENT ALL SCHOLARSHIP FUNDS RECEIVED UNDER THE PROGRAM; AND

(II) MAY NOT CHARGE THE STUDENT TUITION AND FEES IN LIEU OF SCHOLARSHIP FUNDS.

(4) THE ONLY LEGAL REMEDY FOR VIOLATION OF THIS SUBSECTION IS INELIGIBILITY FOR PARTICIPATING IN THE PROGRAM.

(E) (1) THE DEPARTMENT SHALL:

(I) ESTABLISH PROCEDURES FOR THE APPLICATION AND AWARD PROCESS FOR SCHOLARSHIPS UNDER THE PROGRAM FOR STUDENTS WHO ARE ELIGIBLE FOR THE FREE OR REDUCED PRICE LUNCH PROGRAM;

(II) 1. COMPILE AND CERTIFY A LIST OF APPLICANTS THAT RANKS ELIGIBLE STUDENTS BY FAMILY INCOME EXPRESSED AS A PERCENTAGE OF THE MOST RECENT FEDERAL POVERTY LEVELS; AND

2. SUBMIT THE RANKED LIST OF APPLICANTS TO THE ADVISORY BOARD; AND

(III) MAKE SCHOLARSHIP AWARDS TO ELIGIBLE STUDENTS AS DETERMINED BY THE ADVISORY BOARD.

(2) THE PROCEDURES ESTABLISHED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE CONSIDERATION FOR AWARD ADJUSTMENTS IF AN ELIGIBLE STUDENT BECOMES INELIGIBLE DURING THE COURSE OF THE SCHOOL YEAR.

(F) THE AMOUNT OF A SCHOLARSHIP AWARDED UNDER THE PROGRAM MAY NOT EXCEED THE LESSER OF:

(1) THE STATEWIDE AVERAGE PER PUPIL EXPENDITURE BY COUNTY BOARDS AS CALCULATED BY THE DEPARTMENT; OR

(2) THE TUITION OF THE NONPUBLIC SCHOOL.

(G) FOR EACH FISCAL YEAR, THE GOVERNOR SHALL INCLUDE IN THE

1 ANNUAL BUDGET BILL AN APPROPRIATION OF \$20,000,000 TO THE PROGRAM.

2 (H) (1) THERE IS A BROADENING OPTIONS AND OPPORTUNITIES FOR
3 STUDENTS TODAY ADVISORY BOARD.

4 (2) THE ADVISORY BOARD CONSISTS OF THE FOLLOWING MEMBERS:

5 (I) TWO MEMBERS APPOINTED BY THE GOVERNOR;

6 (II) TWO MEMBERS APPOINTED BY THE PRESIDENT OF THE
7 SENATE;

8 (III) TWO MEMBERS APPOINTED BY THE SPEAKER OF THE
9 HOUSE; AND

10 (IV) ONE MEMBER JOINTLY APPOINTED BY THE PRESIDENT OF
11 THE SENATE AND THE SPEAKER OF THE HOUSE TO SERVE AS CHAIR OF THE
12 ADVISORY BOARD.

13 (3) A MEMBER OF THE ADVISORY BOARD MAY NOT:

14 (I) BE AN ELECTED OFFICIAL; OR

15 (II) HAVE ANY FINANCIAL INTEREST IN AN ELIGIBLE
16 NONPUBLIC SCHOOL.

17 (4) THE ADVISORY BOARD SHALL:

18 (I) REVIEW AND CERTIFY THE RANKED LIST OF APPLICANTS
19 COMPILED BY THE DEPARTMENT; AND

20 (II) DETERMINE SCHOLARSHIP AWARD AMOUNTS.

21 9–101.

22 (a) There is a Maryland Public Charter School Program.

23 (b) The general purpose of the Program is to [establish]:

24 (1) ESTABLISH an alternative means within the existing public school
25 system in order to provide innovative learning opportunities and creative educational
26 approaches to improve the education of students;

(2) CLOSE ACHIEVEMENT GAPS BETWEEN HIGH-PERFORMING AND LOW-PERFORMING GROUPS OF PUBLIC SCHOOL STUDENTS;

(3) INCREASE HIGH-QUALITY EDUCATIONAL OPPORTUNITIES WITHIN THE PUBLIC SCHOOL SYSTEM FOR ALL STUDENTS, ESPECIALLY THOSE AT RISK FOR ACADEMIC FAILURE; AND

(4) ALLOW PUBLIC SCHOOLS FREEDOM AND FLEXIBILITY IN EXCHANGE FOR EXCEPTIONAL LEVELS OF RESULTS-DRIVEN ACCOUNTABILITY.

9–102.

(A) In this title[, “public] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “AUTHORITY” MEANS THE MARYLAND PUBLIC CHARTER SCHOOL AUTHORITY ESTABLISHED UNDER § 9–103 OF THIS TITLE.

(C) “CHARTER CONTRACT” MEANS A FIXED-TERM CONTRACT BETWEEN A PUBLIC CHARTER SCHOOL AND A PUBLIC CHARTERING AUTHORITY THAT OUTLINES THE ROLES, POWERS, DUTIES, AND PERFORMANCE EXPECTATIONS FOR EACH PARTY TO THE CONTRACT.

(D) “CONVERTED PUBLIC SCHOOL” MEANS A PUBLIC SCHOOL THAT IS CONVERTED TO A PUBLIC CHARTER SCHOOL.

(E) “PERSISTENTLY FAILING SCHOOL” MEANS A PUBLIC SCHOOL RANKED IN THE BOTTOM 5%, BASED ON STATEWIDE ASSESSMENTS, OF ALL PUBLIC SCHOOLS IN THE COUNTY WHERE THE SCHOOL IS LOCATED.

(F) “PUBLIC charter school” means a public school that:

(1) Is nonsectarian in all its programs, policies, and operations;

(2) Is a school to which parents choose to send their children;

(3) Except as provided in §§ 9–102.1, 9–102.2, and 9–102.3 of this title, is open to all students on a space-available basis and admits students on a lottery basis if more students apply than can be accommodated;

(4) Is a new public school or a conversion of an existing public school;

(5) Provides a program of elementary or secondary education or both;

(6) Operates in pursuit of a specific set of educational objectives;

(7) Is tuition-free;

(8) Is subject to federal and State laws prohibiting discrimination;

(9) Is in compliance with all applicable health and safety laws;

(10) Is in compliance with § 9–107 of this title;

(11) Operates under the supervision of the public chartering authority from which its charter is granted and in accordance with its charter [and, except as provided in §§ 9–104.1 and 9–106 of this title, the provisions of law and regulation governing other public schools];

(12) Requires students to be physically present on school premises for a period of time substantially similar to that which other public school students spend on school premises; and

(13) Is created in accordance with this title [and the appropriate county board policy].

(G) “PUBLIC CHARTERING AUTHORITY” MEANS:

(1) THE MARYLAND PUBLIC CHARTER SCHOOL AUTHORITY, ESTABLISHED UNDER § 9–103 OF THIS TITLE; OR

(2) A COUNTY BOARD.

9–102.1.

(a) The [State Board] **PUBLIC CHARTERING AUTHORITY** may grant a waiver from [§ 9–102(3)] **§ 9–102(F)(3)** of this title to a public charter school if the public charter school:

(1) Is located on property within a federal military base in the State; and

(2) Will admit students with parents who are not assigned to the base to at least 35% of its total available space as part of the initial cohort of students in a grade.

(b) If a public charter school is granted a waiver under subsection (a) of this section, subject to the requirement set forth in subsection (a)(2) of this section, the public charter school shall:

(1) Admit all students on a lottery basis in accordance with § 9–102.2 of this title; and

(2) Take reasonable steps to maintain the 35% to 65% ratio intended as part of the initial cohort of students in a grade.

9–102.2.

(a) A public charter school may give greater weight to a student's lottery status as part of a lottery held under [§ 9–102(3)] **§ 9–102(F)(3)** of this title and in accordance with an application submitted under § 9–104 of this title if the student is:

(1) **DOMICILED IN A GEOGRAPHICAL ATTENDANCE AREA SERVED BY A PERSISTENTLY FAILING SCHOOL;**

(2) Eligible for free or reduced price meals;

~~[(2)]~~ (3) A student with disabilities;

~~[(3)]~~ (4) A student with limited English proficiency;

~~[(4)]~~ (5) Homeless, as defined under the federal McKinney–Vento Homeless Assistance Act; or

~~[(5)]~~ (6) A sibling of a student currently enrolled in the public charter school for which the sibling is applying.

(b) (1) **NOTWITHSTANDING § 9–102(F)(3) OF THIS TITLE, ONCE A STUDENT IS ENROLLED IN A PUBLIC CHARTER SCHOOL, THE STUDENT SHALL REMAIN ENROLLED UNTIL THE STUDENT IS EITHER WITHDRAWN BY THE STUDENT'S PARENT OR LEGAL GUARDIAN OR THE STUDENT IS EXPELLED BY THE SCHOOL.**

(2) Notwithstanding [§ 9–102(3)] **§ 9–102(F)(3)** of this title, a public charter school may give priority to the sibling of a student admitted through the lottery process or a currently enrolled student for any spaces in the school that become available throughout the school year.

(c) (1) Subject to the approval of the public chartering authority and § 9–104 of this title, a public charter school may propose a geographic attendance area with a median income that is equal to or less than the median income of the county for the public charter school.

(2) Subject to paragraph (4) of this subsection, a public charter school may provide guaranteed placement through a lottery to students who live within the geographic attendance area for up to 35%, as proposed by the public charter school and approved by the public chartering authority, of the available space of the public charter school.

(3) Subject to paragraphs (2) and (4) of this subsection, the public charter school shall:

(i) Admit students on a lottery basis to its remaining available space; and

(ii) Take reasonable steps to maintain the ratio intended under paragraph (2) of this subsection as part of the initial cohort of students accepted through the lottery process.

(4) If a public charter school does not fill 100% of its available space under paragraphs (2) and (3) of this subsection, the public charter school may admit more than the percentage of students established under paragraph (2) of this subsection from the geographic attendance area established under this section.

(d) (1) Subject to the approval of the public chartering authority, paragraph (2) of this subsection, and § 9–104 of this title, a public charter school may provide guaranteed placement through a lottery to up to 35%, as proposed by the public charter school and approved by the public chartering authority, of the available space of the public charter school to students who attended a public charter school during the previous school year that is operated by the same operator.

(2) A public charter school shall qualify under paragraph (1) of this subsection if:

(i) The operator operates two or more public charter schools in the [county] STATE; and

(ii) When combined, the public charter schools operated by the operator form an integrated multiyear academic program.

(3) Subject to paragraph (1) of this subsection, the public charter school shall:

(i) Admit students on a lottery basis to its remaining available space; and

(ii) Take reasonable steps to maintain the ratio intended under paragraph (1) of this subsection as part of the initial cohort of students accepted through the lottery process.

(4) If a public charter school does not fill 100% of its available space under paragraphs (1) and (3) of this subsection, the public charter school may admit more than the percentage of students established under paragraph (1) of this subsection.

9–102.3.

(a) In accordance with § 9–104 of this title, a [county board] **PUBLIC CHARTERING AUTHORITY** may grant a waiver from [§ 9–102(3)] **§ 9–102(F)(3)** of this title to:

(1) A converted public charter school that:

(i) Subject to subsection (b) of this section, provides guaranteed placement through a lottery to students who live within the geographic attendance area established by the [county board] **PUBLIC CHARTERING AUTHORITY**;

(ii) [Is a low–performing school as identified by the county board] **CONVERTED A PERSISTENTLY FAILING PUBLIC SCHOOL TO A PUBLIC CHARTER SCHOOL**;

(iii) Is above the county average rate for the percentage of students who are eligible for free and reduced price meals; and

(iv) Meets a strategic need of the local [school system, as identified in the county board’s public charter school policy developed under § 9–110 of this title,] **JURISDICTION** that shall include at least one of the following elements:

1. Serving a high–need population;
2. Increasing student performance;
3. Increasing enrollment; or
4. Increasing student diversity; or

(2) A converted public charter school that is seeking renewal of an existing charter contract that was granted under item (1) of this subsection.

(b) If a public charter school does not fill 100% of its available space under subsection (a)(1) of this section, the public charter school shall admit students on a lottery basis to its remaining available space.

[9–103.

The public chartering authority for the granting of a charter shall be a county board of education.]

9–103.

(A) THERE IS A MARYLAND PUBLIC CHARTER SCHOOL AUTHORITY IN THE STATE.

1 **(B) (1) (I) THE AUTHORITY IS AN INDEPENDENT UNIT IN THE**
2 **EXECUTIVE BRANCH OF STATE GOVERNMENT.**

3 **(II) THE AUTHORITY IS A BODY POLITIC AND CORPORATE AND**
4 **IS AN INSTRUMENTALITY OF THE STATE.**

5 **(III) THE EXERCISE BY THE AUTHORITY OF THE AUTHORITY'S**
6 **POWERS UNDER THIS TITLE IS AN ESSENTIAL GOVERNMENTAL FUNCTION.**

7 **(2) THE AUTHORITY MAY AUTHORIZE THE ESTABLISHMENT OF**
8 **PUBLIC CHARTER SCHOOLS IN ANY JURISDICTION IN THE STATE.**

9 **(C) (1) (I) THE AUTHORITY CONSISTS OF SEVEN MEMBERS**
10 **APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.**

11 **(II) THE STATE SUPERINTENDENT SHALL SERVE AS A**
12 **NONVOTING, EX OFFICIO MEMBER OF THE AUTHORITY.**

13 **(2) IN MAKING APPOINTMENTS TO THE AUTHORITY, THE GOVERNOR**
14 **SHALL CONSIDER REPRESENTATIVES FROM ALL PARTS OF THE STATE.**

15 **(3) (I) EACH MEMBER SHALL SERVE FOR A TERM OF 5 YEARS AND**
16 **UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.**

17 **(II) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY**
18 **THE TERMS PROVIDED FOR MEMBERS ON JULY 1, 2022.**

19 **(III) A MEMBER APPOINTED TO FILL A VACANCY IN AN**
20 **UNEXPIRED TERM SERVES ONLY FOR THE REMAINDER OF THAT TERM AND UNTIL A**
21 **SUCCESSOR IS APPOINTED AND QUALIFIES.**

22 **(IV) A MEMBER MAY BE REAPPOINTED BUT MAY NOT SERVE**
23 **MORE THAN TWO CONSECUTIVE FULL TERMS.**

24 **(4) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE,**
25 **MISCONDUCT, OR FAILURE TO PERFORM THE DUTIES OF THE POSITION.**

26 **(5) EACH MEMBER SERVES WITHOUT COMPENSATION AND IS**
27 **ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE**
28 **TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.**

29 **(D) (1) EACH YEAR FROM AMONG THE MEMBERS OF THE AUTHORITY:**

30 **(I) THE GOVERNOR SHALL DESIGNATE A CHAIR; AND**

(II) THE AUTHORITY SHALL ELECT OTHER OFFICERS AS THE AUTHORITY REQUIRES.

(2) THE AUTHORITY SHALL MEET REGULARLY AT SUCH TIMES AND PLACES AS THE AUTHORITY DETERMINES.

(3) A MAJORITY OF THE MEMBERS THEN SERVING ON THE AUTHORITY SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS.

(4) NO FORMAL ACTION MAY BE TAKEN BY THE AUTHORITY WITHOUT THE APPROVAL OF A MAJORITY OF THE MEMBERS OF THE AUTHORITY THEN SERVING ON THE AUTHORITY.

(5) THE AUTHORITY SHALL MAKE ALL NECESSARY AND PROPER RULES FOR THE TRANSACTION OF BUSINESS AND SHALL KEEP AN ACCURATE AND COMPLETE RECORD OF ALL MEETINGS.

(E) THE AUTHORITY MAY ADOPT ANY POLICY OR PROCEDURE NECESSARY TO CARRY OUT THE AUTHORITY'S POWERS AND DUTIES.

(F) THE AUTHORITY SHALL PROVIDE TO THE DEPARTMENT ANY INFORMATION REQUIRED TO COMPLETE THE REPORT REQUIRED UNDER § 9-110(C) OF THIS TITLE.

(G) (1) THE AUTHORITY SHALL EMPLOY OR RETAIN, EITHER AS EMPLOYEES OR AS INDEPENDENT CONTRACTORS, CONSULTANTS, ATTORNEYS, MANAGERS, OR OTHER PROFESSIONAL PERSONNEL AS THE AUTHORITY CONSIDERS NECESSARY, AND SET THEIR COMPENSATION.

(2) FUNDING FOR THE ADMINISTRATIVE COSTS OF THE AUTHORITY SHALL BE AS PROVIDED IN THE STATE BUDGET.

9-103.1.

(A) A PUBLIC CHARTER SCHOOL MAY APPLY TO ESTABLISH A NEW CHARTER CONTRACT WITH A PUBLIC CHARTERING AUTHORITY OTHER THAN THE PUBLIC CHARTERING AUTHORITY THAT ORIGINALLY AUTHORIZED THE ESTABLISHMENT OF THE PUBLIC CHARTER SCHOOL.

(B) THIS SECTION MAY NOT BE CONSTRUED TO IMPAIR ANY OBLIGATION OF AN EXISTING CHARTER CONTRACT BETWEEN A PUBLIC CHARTERING AUTHORITY AND A PUBLIC CHARTER SCHOOL.

9–104.

(a) (1) **(I) [An] IF AN APPLICANT CHOOSES TO APPLY TO A COUNTY BOARD, THE** application to establish a public charter school shall be submitted to the county board of the county in which the public charter school will be located.

(II) IF AN APPLICANT CHOOSES TO APPLY TO THE AUTHORITY, THE APPLICATION TO ESTABLISH A PUBLIC CHARTER SCHOOL MAY BE FOR A PUBLIC CHARTER SCHOOL LOCATED IN ANY JURISDICTION IN THE STATE.

(2) An application to establish a public charter school may be submitted to a [county board] **PUBLIC CHARTERING AUTHORITY** by:

(i) The staff of a public school;

(ii) A parent or guardian of a student who attends a public school in the county **IN WHICH THE PUBLIC CHARTER SCHOOL WILL BE LOCATED;**

(iii) A nonsectarian nonprofit entity;

(iv) A nonsectarian institution of higher education in the State; or

(v) Any combination of persons specified in items (i) through (iv) of this paragraph.

(3) An application shall include:

(i) **[A] IF MADE TO A COUNTY BOARD,** A plan to provide a rigorous program of instruction that includes an equivalent method for satisfying any requirements from which the public charter school operator intends to seek a waiver under § 9–106 of this title; and

(ii) A description of how a weighted lottery or the provision of guaranteed placement will be implemented under §§ 9–102.2 and 9–102.3 of this title.

(4) A public chartering authority may not grant a charter under this title to:

(i) A private school;

(ii) A parochial school;

(iii) A home school; or

(iv) A school that operates fully online.

(5) (i) Except as provided in subparagraph (ii) of this paragraph, [the county board] **A PUBLIC CHARTERING AUTHORITY** shall review the application and render a decision within 120 days of receipt of the application and in accordance with the application procedures adopted by the [county board] **PUBLIC CHARTERING AUTHORITY**.

(ii) For a [restructured school] **CONVERTED PUBLIC SCHOOL**:

1. [The county board] **A PUBLIC CHARTERING AUTHORITY** shall review the application and render a decision within 30 days of receipt of the application;

2. [The county board] **A PUBLIC CHARTERING AUTHORITY** may apply to the State Board for an extension of up to 15 days from the time limit imposed under item 1 of this subparagraph;

3. If an extension is not granted, and 30 days have elapsed, the decision may be appealed to the State Board in accordance with § 4–205(c) of this article; and

4. If an extension has been granted, and 45 days have elapsed, the decision may be appealed to the State Board in accordance with § 4–205(c) of this article.

(6) (i) A public chartering authority may approve an application to operate a public charter school on a contingent basis subject to the conditions of subparagraph (ii) of this paragraph.

(ii) The contingent approval granted under subparagraph (i) of this paragraph may be contingent on:

1. A public charter school's ability to meet any timelines established by the public chartering authority for the securing of a facility; and

2. Final approval by the public chartering authority regarding the suitability of the facility secured by the public charter school.

(b) (1) If an application to establish a public charter school includes a description of the implementation of a weighted lottery that gives priority to students in a specific geographic attendance area in accordance with § 9–102.2 or § 9–102.3 of this title, the public chartering authority may approve or reject this provision separately from the application as a whole.

(2) A decision of a public chartering authority under paragraph (1) of this subsection may not be appealed to the State Board.

(c) (1) An application to establish a public charter school may include a staffing model, including provisions for staff recruitment, training, evaluation, and professional development.

(2) A public charter school may submit a staffing model as provided in paragraph (1) of this subsection with a renewal application or with an amendment to an existing charter.

(d) (1) If the [county board] **PUBLIC CHARTERING AUTHORITY** denies an application to establish a public charter school, the applicant may appeal the decision to the State Board, in accordance with § 4–205(c) of this article.

(2) The State Board shall render a decision within 120 days of the filing of an appeal under this subsection.

(3) If the [county board] **PUBLIC CHARTERING AUTHORITY** denies an application to establish a public charter school and the State Board reverses the decision, the State Board shall remand the matter to the [county board] **PUBLIC CHARTERING AUTHORITY** and may direct the [county board] **PUBLIC CHARTERING AUTHORITY** to grant a charter and may, if necessary, mediate with the [county board] **PUBLIC CHARTERING AUTHORITY** and the applicant to implement the charter.

9–104.1.

(a) In this section, “eligible public charter school” means a public charter school that **WAS AUTHORIZED BY A COUNTY BOARD**, has been in existence for at least 5 years, and demonstrates to the [public chartering authority] **COUNTY BOARD** a history of:

(1) Sound fiscal management; and

(2) Student achievement that exceeds the average in the local school system in which the public charter school is located on:

(i) Statewide assessments; and

(ii) Other measures developed by the State Board.

(b) The State Board shall develop standards and criteria by which an eligible public charter school shall be assessed [by a public chartering authority].

(c) (1) An eligible public charter school may submit to a [public chartering authority] **COUNTY BOARD**:

(i) An application for renewal of an existing charter contract that incorporates the provisions of subsection (e) of this section; or

(ii) Subject to paragraph (2) of this subsection, an application for an addendum to an existing charter contract that incorporates the provisions of subsection (e) of this section.

(2) An eligible public charter school may not submit an application under paragraph (1)(ii) of this subsection more than one time during the duration of an existing charter contract.

(d) If the [public chartering authority] **COUNTY BOARD** determines that a public charter school is not an eligible public charter school, the public charter school may appeal the decision to the State Board in accordance with § 4–205(c) of this article.

(e) If an eligible public charter school and a [public chartering authority] **COUNTY BOARD** mutually agree to an alternative means by which the eligible public charter school will satisfy the intent of the policies of the [public chartering authority] **COUNTY BOARD**, an eligible public charter school is exempt from:

(1) Textbook, instructional program, curriculum, professional development, and scheduling requirements;

(2) A requirement to establish a school community council;

(3) Except for Title I schools, a requirement to establish a school improvement plan;

(4) Except for schools with a school activity fund, a requirement to provide school activity fund disclosure statements; and

(5) Except for prekindergarten classes, class size or staffing ratios.

(f) A [public chartering authority] **COUNTY BOARD** and an eligible public charter school may jointly develop and mutually agree to a communication process and supervision methodology that flows among the county board, the operator, and the administration of the eligible public charter school.

(g) (1) An eligible public charter school may not be assigned a principal without the written consent of the operator of the eligible public charter school.

(2) (i) Staff members shall be assigned or transferred to an eligible public charter school if the staff member expresses in writing that the staff member wants to work in that eligible public charter school and the eligible public charter school requests in writing that the staff member be assigned or transferred to the eligible public charter school, provided there is an existing vacancy.

(ii) A transfer authorized under subparagraph (i) of this paragraph shall take place as designated by the agreement of the local bargaining unit in the local school system.

(h) Nothing in this section may be construed to take precedence over an agreement of a local bargaining unit in a local school system.

(i) Except as otherwise provided in this section, an eligible public charter school is subject to the provisions of this title.

9–105.

(A) THIS SECTION APPLIES ONLY TO PUBLIC CHARTER SCHOOLS AUTHORIZED BY A COUNTY BOARD.

(B) A member of the professional staff of a public charter school shall be subject to the same certification provisions established in regulations for the professional staff of other public schools.

9–105.1.

(A) THIS SECTION APPLIES ONLY TO PUBLIC CHARTER SCHOOLS AUTHORIZED BY THE AUTHORITY.

(B) EMPLOYEES OF A PUBLIC CHARTER SCHOOL ARE NOT:

(1) PUBLIC SCHOOL EMPLOYEES, AS DEFINED IN §§ 6–401(E) AND 6–501(G) OF THIS ARTICLE; OR

(2) EMPLOYEES OF A PUBLIC SCHOOL EMPLOYER, AS DEFINED IN §§ 6–401(F) AND 6–501(H) OF THIS ARTICLE, IN THE COUNTY IN WHICH THE PUBLIC CHARTER SCHOOL IS LOCATED.

(C) (1) MEMBERS OF THE PROFESSIONAL STAFF OF A PUBLIC CHARTER SCHOOL ARE EXEMPT FROM STATE TEACHER CERTIFICATION REQUIREMENTS.

(2) THE AUTHORITY SHALL ADOPT POLICIES FOR TEACHER INDUCTION, PREPARATION, AND DEVELOPMENT THAT SUPPORT HIGH-QUALITY INSTRUCTION AND ACADEMIC STANDARDS.

(D) (1) EMPLOYEES IN PUBLIC CHARTER SCHOOLS SHALL HAVE THE SAME RIGHTS AND PRIVILEGES AS PUBLIC SCHOOL EMPLOYEES.

(2) EMPLOYEES IN PUBLIC CHARTER SCHOOLS SHALL BE ELIGIBLE FOR THE STATE RETIREMENT, HEALTH, WELFARE, AND OTHER BENEFITS PROGRAMS AVAILABLE TO PUBLIC SCHOOL EMPLOYEES.

(E) CRIMINAL HISTORY RECORDS CHECKS AND FINGERPRINTING REQUIREMENTS APPLICABLE TO OTHER PUBLIC SCHOOLS SHALL BE MANDATORY FOR ALL PUBLIC CHARTER SCHOOL PERSONNEL, GOVERNING BOARD MEMBERS, AND OTHER INDIVIDUALS WHO REGULARLY COME INTO CONTACT WITH STUDENTS.

(F) A PUBLIC CHARTER SCHOOL EMPLOYEE MAY JOIN OR REFUSE TO JOIN IN THE ACTIVITIES OF ANY EMPLOYEE ORGANIZATION.

9–106.

(a) THIS SECTION APPLIES ONLY TO PUBLIC CHARTER SCHOOLS AUTHORIZED BY A COUNTY BOARD.

(B) Subject to subsection **[(b)] (C)** of this section, a public charter school shall comply with the provisions of law and regulation governing other public schools.

[(b)] (C) Subject to subsection **[(d)] (E)** of this section, a public charter school may seek a waiver of the requirements under subsection **[(a)] (B)** of this section from:

(1) A county board for policies that are the policies of the county board; and

(2) The State Board for policies that are the policies of the State Board.

[(c)] (D) If a waiver is denied under this section, the county board or the State Board, as appropriate, shall provide the reason for the denial in writing to the public charter school.

[(d)] (E) A waiver may not be granted from provisions of law or regulation relating to:

(1) Audit requirements;

(2) The measurement of student academic achievement, including all assessments required for other public schools and other assessments mutually agreed upon by the public chartering authority and the school; or

(3) The health, safety, or civil rights of a student or an employee of the public charter school.

9–106.1.

1 **(A) THIS SECTION APPLIES ONLY TO PUBLIC CHARTER SCHOOLS**
2 **AUTHORIZED BY THE AUTHORITY.**

3 **(B) A PUBLIC CHARTERING AUTHORITY MAY EXEMPT A PUBLIC CHARTER**
4 **SCHOOL FROM ANY POLICY OR REQUIREMENT ESTABLISHED BY A COUNTY BOARD.**

5 **(C) A PUBLIC CHARTERING AUTHORITY MAY EXEMPT A PUBLIC CHARTER**
6 **SCHOOL FROM STATE POLICIES OR REGULATIONS RELATING TO:**

7 **(1) CURRICULUM, TEXTBOOKS, INSTRUCTION, CLASS SIZE, STAFFING**
8 **RATIOS, OR PROFESSIONAL DEVELOPMENT; AND**

9 **(2) ANY OTHER STATE POLICY OR REGULATION EXPRESSLY WAIVED**
10 **BY THE STATE BOARD.**

11 **(D) A PUBLIC CHARTERING AUTHORITY MAY NOT EXEMPT A PUBLIC**
12 **CHARTER SCHOOL FROM PROVISIONS OF LAW OR REGULATION RELATING TO THE**
13 **HEALTH, SAFETY, OR CIVIL RIGHTS OF A STUDENT OR EMPLOYEE OF THE PUBLIC**
14 **CHARTER SCHOOL.**

15 9–107.

16 (a) A public chartering authority may not grant a charter to a public charter
17 school whose operation would be inconsistent with any public policy initiative, court order,
18 or federal improvement plan governing special education that is applicable to the State.

19 (b) A public chartering authority shall ensure that the authorizing process for a
20 public charter school and the charter application address the roles and responsibilities of
21 the [county board] **PUBLIC CHARTERING AUTHORITY** and the applicants and operators
22 of the public charter school with respect to children with disabilities.

23 (c) The public chartering authority shall ensure that, prior to opening a public
24 charter school, the operators of the school are informed of the human, fiscal, and
25 organizational capacity needed to fulfill the school's responsibilities related to children with
26 disabilities.

27 **9–107.1.**

28 **(A) THIS SECTION APPLIES ONLY TO PUBLIC CHARTER SCHOOLS**
29 **AUTHORIZED BY THE AUTHORITY.**

30 **(B) A PUBLIC CHARTER SCHOOL SHALL SERVE AS THE LOCAL EDUCATIONAL**
31 **AGENCY, AS DEFINED BY THE FEDERAL INDIVIDUALS WITH DISABILITIES**
32 **EDUCATION ACT, FOR THE PURPOSE OF PROVIDING SPECIAL EDUCATION AND**

1 **RELATED SERVICES FOR CHILDREN WITH DISABILITIES ENROLLED AT THE PUBLIC**
2 **CHARTER SCHOOL.**

3 **(C) A PUBLIC CHARTER SCHOOL SHALL MAKE A FREE APPROPRIATE PUBLIC**
4 **EDUCATION AVAILABLE TO EACH CHILD WITH A DISABILITY, IN ACCORDANCE WITH**
5 **TITLE 8, SUBTITLE 4 OF THIS ARTICLE.**

6 **(D) A PUBLIC CHARTER SCHOOL SHALL DIRECTLY RECEIVE FEDERAL,**
7 **STATE, AND COUNTY FUNDS DESIGNATED FOR THE COSTS OF EDUCATING CHILDREN**
8 **WITH DISABILITIES.**

9 9–108.

10 **(A) THIS SECTION APPLIES ONLY TO PUBLIC CHARTER SCHOOLS**
11 **AUTHORIZED BY A COUNTY BOARD.**

12 **[(a)] (B)** Employees of a public charter school:

13 (1) Are public school employees, as defined in §§ 6–401(e) and 6–501(g) of
14 this article;

15 (2) Are employees of a public school employer, as defined in §§ 6–401(f) and
16 6–501(h) of this article, in the county in which the public charter school is located; and

17 (3) Shall have the rights granted under Title 6, Subtitles 4 and 5 of this
18 article.

19 **[(b)] (C)** If a collective bargaining agreement under Title 6, Subtitle 4 or Subtitle
20 5 of this article is already in existence in the county where a public charter school is located,
21 the employee organization, public school employer, and the public charter school may
22 mutually agree to negotiate amendments to the existing agreement to address the needs of
23 the particular public charter school, including amendments to work days, work hours,
24 school year, procedures for transfers that are consistent with the instructional mission of
25 the school, and extra duty assignments.

26 9–109.

27 (a) A county board shall disburse to a public charter school **AUTHORIZED BY THE**
28 **COUNTY BOARD** an amount of county, State, and federal money for elementary, middle,
29 and secondary students that is **[commensurate with] EQUIVALENT TO, BASED ON**
30 **ENROLLMENT**, the amount disbursed to other public schools in the local jurisdiction.

31 (b) The State Board or the county board may give surplus educational materials,
32 supplies, furniture, and other equipment to a public charter school.

1 **(C) (1) THE STATE SHALL DISTRIBUTE DIRECTLY TO A PUBLIC CHARTER**
2 **SCHOOL AUTHORIZED BY THE AUTHORITY AN AMOUNT EQUAL TO THE PRODUCT OF:**

3 **(I) THE TOTAL ENROLLMENT OF THE PUBLIC CHARTER**
4 **SCHOOL; AND**

5 **(II) ALL FEDERAL, STATE, AND COUNTY OPERATING FUNDS FOR**
6 **ELEMENTARY, MIDDLE, AND SECONDARY STUDENTS THE COUNTY BOARD RECEIVES**
7 **FROM ALL SOURCES, DIVIDED BY THE COUNTY'S FULL-TIME EQUIVALENT**
8 **ENROLLMENT AS DEFINED IN § 5-201(G) OF THIS ARTICLE.**

9 **(2) (I) IN ADDITION TO THE AMOUNT PROVIDED IN PARAGRAPH (1)**
10 **OF THIS SUBSECTION, THE STATE SHALL DISTRIBUTE ANNUALLY TO THE**
11 **AUTHORITY A PUBLIC CHARTER SCHOOL FACILITY GRANT IN AN AMOUNT THAT IS**
12 **NOT LESS THAN THE PRODUCT OF THE TOTAL AGGREGATE ENROLLMENT OF ALL**
13 **THE PUBLIC CHARTER SCHOOLS AUTHORIZED BY THE AUTHORITY MULTIPLIED BY**
14 **\$1,000.**

15 **(II) THE AUTHORITY SHALL DISBURSE THE DISTRIBUTION**
16 **RECEIVED FROM THE STATE PURSUANT TO SUBPARAGRAPH (I) OF THIS**
17 **PARAGRAPH:**

18 **1. AS FACILITIES GRANTS TO PUBLIC CHARTER**
19 **SCHOOLS AUTHORIZED BY THE AUTHORITY, WHICH MAY BE USED FOR OPERATING**
20 **OR CAPITAL COSTS RELATED TO A PUBLIC CHARTER SCHOOL FACILITY; AND**

21 **2. IN AMOUNTS DETERMINED BY THE AUTHORITY.**

22 9-110.

23 **(a) (1) Each [county board] PUBLIC CHARTERING AUTHORITY shall develop**
24 **a public charter school policy and provide it to the State Board.**

25 **(2) The policy required under paragraph (1) of this subsection shall include**
26 **guidelines and procedures regarding:**

27 **(i) Evaluation of public charter schools, INCLUDING ACADEMIC**
28 **PERFORMANCE REQUIREMENTS;**

29 **(ii) Revocation of a charter;**

30 **(iii) Reporting requirements; and**

31 **(iv) Financial, programmatic, or compliance audits of public charter**
32 **schools.**

(3) The policy required under paragraph (1) of this subsection, including any updates or amendments made to the policy, shall be provided to the Department and made available on request and posted on the website of the [county board] **PUBLIC CHARTERING AUTHORITY**.

(b) (1) The Department shall designate a staff person to function as a contact person for the Maryland Public Charter School Program.

(2) The staff person designated as a contact person under paragraph (1) of this subsection shall:

(i) Provide technical assistance to the operator of a public charter school to help the school meet the requirements of federal and State laws, including 20 U.S.C. § 1400, et seq. and § 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; and

(ii) Gather information from public charter schools in the State regarding innovative approaches to education and best practices taking place at public charter schools that may be shared with and disseminated to other public schools in the State.

(c) The Department shall report annually by December 1 to the General Assembly in accordance with § 2–1257 of the State Government Article regarding:

(1) Any updates or amendments made to a public charter school policy under subsection (a) of this section; and

(2) Implementation of this title.

9–111.

(a) (1) If, with the approval of the State Superintendent, a county board determines that a school site or building no longer is needed for school purposes and after the county commissioners or county council have provided the required notice under § 4–115 of this article, the county board shall inform the public charter schools in the county that the school site or building is available for occupation and use by a public charter school on the terms determined by the county board.

(2) Each county board:

(i) Shall establish a procedure to determine which public charter school may occupy and use an available school site or building if more than one public charter school notifies the county board of an interest in occupying and using a school site or building; and

(ii) May consider the utilization rate of surrounding school sites and buildings when authorizing a public charter school to occupy a school site or building.

(3) IF THE SECRETARY OF GENERAL SERVICES DETERMINES THAT A STATE BUILDING IS NO LONGER NEEDED BY THE STATE, THE SECRETARY OF GENERAL SERVICES SHALL INFORM ALL PUBLIC CHARTERING AUTHORITIES THAT THE BUILDING IS AVAILABLE FOR OCCUPATION AND USE BY A PUBLIC CHARTER SCHOOL ON THE TERMS DETERMINED BY THE SECRETARY OF GENERAL SERVICES.

(b) A public charter school that occupies or uses a school site or building under subsection (a) of this section may not sell, dispose of, or otherwise transfer the school site or building.

9–112.

Any portion of a building or property occupied and used by a public charter school shall be exempt from property taxes under § 7–202 of the Tax – Property Article for the duration of the occupation and use of the building or property as a public charter school.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Tax – General

10–754.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) “HOME INSTRUCTION EXPENSE” MEANS THE COST OF MATERIALS OR SUPPLIES USED AS PART OF A HOME INSTRUCTION PROGRAM.

(II) “HOME INSTRUCTION EXPENSE” INCLUDES COSTS FOR:

- 1. CORRESPONDENCE COURSES OR DISTANCE LEARNING PROGRAMS;**
- 2. INSTRUCTION–RELATED MATERIALS;**
- 3. TEXTBOOKS; OR**
- 4. WORKBOOKS.**

(3) “HOME INSTRUCTION PROGRAM” MEANS A PROGRAM AUTHORIZED UNDER AND OPERATED IN COMPLIANCE WITH COMAR 13A.10.01.01 THROUGH 13A.10.01.05.

(B) SUBJECT TO THE LIMITATIONS OF THIS SECTION, A PARENT OR GUARDIAN MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN AMOUNT EQUAL TO THE HOME INSTRUCTION EXPENSES INCURRED BY THE PARENT OR GUARDIAN DURING THE TAXABLE YEAR.

(C) FOR ANY TAXABLE YEAR, THE CREDIT ALLOWED UNDER THIS SECTION MAY NOT EXCEED THE LESSER OF:

(I) \$5,760; OR

(II) THE STATE INCOME TAX IMPOSED FOR THE TAXABLE YEAR.

(D) (1) THE COMPTROLLER, IN CONSULTATION WITH THE STATE DEPARTMENT OF EDUCATION, SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION.

(2) THE REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL PROVIDE FOR VERIFICATION OF:

(I) THE AMOUNT OF HOME INSTRUCTION EXPENSES INCURRED;
AND

(II) PARTICIPATION IN A HOME INSTRUCTION PROGRAM.

SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial members of the Maryland Public Charter School Authority established under Section 1 of this Act shall expire as follows:

(1) two members in 2025;

(2) two members in 2026; and

(3) three members in 2027.

SECTION 4. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that the Governor shall include in the annual budget bill an appropriation of \$500,000 for fiscal year 2024 for the Maryland Public Charter School Authority established under Section 1 of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall be applicable to all taxable years beginning after December 31, 2021.

SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2022.