



[What is a public charter school?](#)

[Who can authorize a charter school in Louisiana?](#)

[Who is the charter operator in Louisiana?](#)

[What is the status of an EMO \(educational management organization\) or a CMO \(charter management organization\)?](#)

[Who governs a charter school in Louisiana?](#)

[What is a charter school's role as the Local Education Agency \("the LEA"\)?](#)

[In what ways are Louisiana charter schools autonomous?](#)

[How are charter schools funded?](#)

[How are charter school facilities funded?](#)

[What financial controls apply to charter schools?](#)

[Are charter schools open to all students?](#)

[How do charter schools enroll students?](#)

What is a public charter school?

- *“A public charter school is a publicly funded school that is typically governed by a group or organization under a ... contract (or charter) with the state, district, or other entity. The charter exempts the school from certain state or local rules and regulations. In return for flexibility and autonomy, the charter school must meet the accountability standards outlined in its charter. A school's charter is reviewed periodically by the entity that granted it and can be revoked if... accountability standards are not met.”*¹
- A Louisiana charter school is prohibited from:
 - 1) charging any student tuition or an attendance fee of any kind
 - 2) being supported by or affiliated with any religion or religious organization or institution
 - 3) resulting from conversion of any private school or any home study program
 - 4) discriminating among potential employees, employees, or pupils in violation of any state or federal law²

1

Thomsen, J. *50-State Comparison: Charter School Policies*. Denver, CO: Education Commission of the States, 2016.

2

Significant sourcing for Charter Schools 101 comes from BESE Bulletin 126, Charter Schools. February 2017 revised edition and previous editions.

Who can authorize a charter school?

A local district School Board Is the Authorizer, and then also has oversight for	BESE is the Authorizer and then the Dept. of Education has the oversight for
Type 1 – a new charter school, within its local district, contracted by the local school board with the operator through a charter negotiated with the local school board and the operator.	Type 2 school- a new school or a conversion school approved by BESE on appeal by the charter operator.
Type 3 – conversion of a traditional public school into a charter school with or without a vote of the school’s staff and of the parents of its students, through a charter between the operator and the local school board.	Type 4 – a charter school negotiated between the local school board and BESE for a pre-existing traditional school or a new school to operate as charter school.
Type 3B – A former Type 5 Recovery School District (RSD) charter school now transferring back to the administration and management of its original local district school board.	Type 5 – traditional public school with an “F” school rating for 4 consecutive years transferred to the Recovery School District and operated as a charter school under the oversight of the Recovery School District either directly or by contract with a charter school operator.

- Only these two authorizers, the local district school board and the Louisiana Board of Elementary and Secondary Education, called “BESE,” can negotiate and approve or disapprove a contract, called the charter, with the operator of a charter school. The charter is a legal agreement.
- The district served by a charter school may be the state, multiple districts, a single school district, or a municipality, as defined by the charter.
- The charter defines the specified term of the charter, the managing rights and responsibilities of the operator, the school’s rights and responsibilities for autonomy, the authorizer’s responsibility for oversight, and the performance, financial, and legal standards that must be met by the school.
- The legislature has also created two additional pathways for BESE and the local school board to authorize charter schools:

- 1) **corporate partnership** – a non-profit or for-profit corporation, or a consortium of corporations, formally agrees to donate the land for a charter school, or the building, or to pay for major renovations to an existing school building or for other capital improvements, including technology. In return, up to 50% of the charter school’s enrollment may be reserved for students of the corporation’s or corporations’ employees. Up through 49% of the charter school’s board members may be representatives of the corporate partner.

- 2) **virtual school** – BESE defines a virtual school as an educational program with specified educational learning objectives for the purpose of obtaining a Louisiana certified diploma, operated for a minimum of one academic year, delivered through an electronic medium so that students may access instruction remotely through computers and other technology that may “separate the student and teacher by time and space,” but not precluding the school’s hosting face-to-face meetings, field trips, extracurricular activities, parent-teacher-student conferences or other such related events.” Traditional public schools may also have virtual schools.

“Technical access is defined as computer and internet access sufficient to ensure access for all students.” [BESE Bulletin 126, p. 2] The school must provide its students access to appropriate technical access and all necessary instructional materials. Each student qualifying for free or reduced-price lunch or who does not have a computer or internet access in the home is considered at-risk.

- The parent petition process allows for a change from one authorizer to another:

parent petition for these eligible schools to be removed:³

- (1) from the governance of a local district traditional public school having a grade of D or F for the past three consecutive years to the governance of the Recovery School District as a Type 5 charter school
- (2) from the direct operation of the Recovery School District of a Type 5 public school which for at least the past five years has had a grade of D or F, and has not been identified for conversion to a charter school between BESE and a nonprofit charter organization, to the governance of the local district school board from which it was originally transferred

3

[Guide to Understanding the Parent Petition Process, Louisiana Department of Education](#)

if

- a) the parent petition group receives more than 50% of the signatures of each parent of a student at an existing traditional or charter school
- b) the parent group has found a charter operator on the list of BESE-approved charter operators who is willing to apply for a charter with BESE
- c) BESE approves opening a charter school at that school
- d) The Superintendent approves transferring the school to the Recovery School District. ⁴

The Department of Education is required to maintain on its website a list of schools eligible for the petition process.

Who Is the Charter Operator in Louisiana?

The charter operator is a non-profit corporation under the Louisiana Secretary of State and the IRS that seeks approval of a charter from the authorizer. The application outlines operator agreements and plans for the education program, governance, leadership and management, financial plan, and facilities of the proposed charter school. The process of developing the charter application must include at least three certified teachers. The charter operator and the authorizer may further negotiate the terms of the charter before signing it.

The operator, the non-profit corporation, must form a board to govern the approved charter school. The board of the non-profit corporation may also be the board of its charter school or else the board of the non-profit corporation may select the members who make up the required composition of the board.

The operator also oversees the operation, finances and administration of the charter school and risks losing the charter for non-compliance with the authorizer's requirements for accounting and uniform government, violation of rules, regulations and laws, and/or for a lack of improvement in school performance scores.

The charter operator can be

- 3 or more teachers
- 10 or more citizens
- a public service organization [a Louisiana-incorporated, tax-exempt, IRS-documented 501(c)(3), community-based group of 50 or more persons, incorporated under Louisiana law, that has a charitable or philanthropic purpose and "is organized for a public purpose"]

4

Section 502, BESE Bulletin 129, The Recovery School District; R.S. 17.10.5.

- a corporate entity registered for business in Louisiana
- a Louisiana college or university licensed by the Board of Regents
- the faculty & staff of a city or parish public school
- a local school board
- the Department of Education (with BESE's approval)

[BESE Bulletin 126, Section 501, p. 5]

What is the status of an EMO (educational management organizations) or a CMO (charter management organizations)?

As a contracted service, the charter management or education management organization is not part of charter school governance. "There is and should be a clean line between the board and the management. They are two different entities and have different responsibilities." ⁵

BESE does not distinguish between these two types, but defines

"...a management organization as a for-profit company that manages academic, fiscal, and operational services on behalf of boards of directors of BESE-authorized charter schools through contractual agreements." ⁶

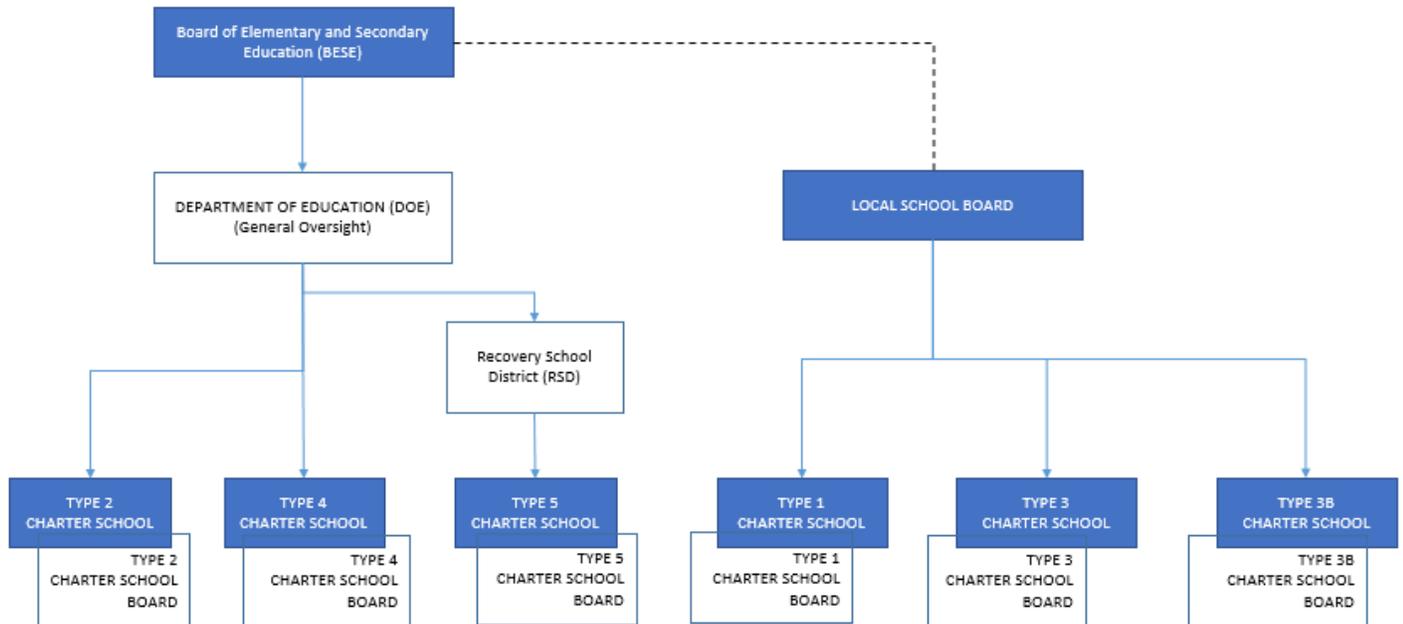
5

Kunjun Narechania, Assistant Superintendent of Portfolio and Chief Executive Officer of the Recovery School District, Louisiana Department of Education.

6

BESE Bulletin 126, Section 101: Definitions; Final Audit Report, Nationwide Assessment of Charter and Education Management Organizations, Office of Inspector General, U.S. Department of Education, September, 2016

Who governs a charter school?



NOTE:
CHARTER BOARDS MAY CHOOSE TO HAVE AN ADDITIONAL ADVISORY BOARD

Chart is adapted from "Louisiana Department of Education Monitoring of Charter Schools, Performance Audit Issued May 15, 2013," Louisiana Legislative Auditor, p. 3.

At the National Level

The President

The President signs education legislation into law and is responsible for enforcing U.S. laws. The President appoints the Secretary of Education. In general, as the head of the leading political party, the President also prioritizes and promotes education policies that the Secretary of Education implements.

Secretary of Education, U.S. Department of Education

The Secretary of Education as department head is required to prepare legislative proposals, set education research priorities, and work with advisory groups and organizations. The Secretary “oversees the research and data collected by the Department on U.S. schools, makes recommendations for education reform, and advises the President on these, and leads the Department in implementing the President’s education priorities.” The Department of Education’s duty also is “to enforce federal statutes, prohibit discrimination in programs and activities receiving federal funds and ensure equal access to education for every individual.”⁷

The Department of Education’s Office of Innovation and Improvement (“OII”) administers federal discretionary grant programs, including those for charter schools’ programs and facilities.

Congress

Members of Congress vote both on new education laws and reauthorization of existing education legislation, and appropriate the annual budget for the Office of Education—in the form of set formulas, such as for special education services, and of competitive grants for elementary and secondary education.

At the State Level

The Governor

The governor may promote a particular education agenda and have particular legislation to meet that agenda be introduced and steered by the floor leaders during the legislative sessions.

7

Definitions taken from the US Department of Education’s website

The governor also appoints three members-at-large to the 11-member Board of Elementary and Secondary Education (BESE) and, in the case of any BESE vacant seat of less than 1 year's remainder of the term of office, appoints a replacement.

The Louisiana Legislature

Each session the legislature enacts laws for all schools in Louisiana—traditional public schools, public charter schools, and private schools. The legislature annually must approve state education appropriations. The laws the legislature makes may direct BESE to revise or set new policies for schools.

The Senate must confirm the governor's appointments to the three at-large seats on the Board of Elementary and Secondary Education (BESE) and BESE's choice of Superintendent of Education.

With respect to charter schools, the range of laws includes accountability, accessibility, finance and funding, ethics, government, and special schools for a variety of student learning needs. The members of both the Louisiana House of Representatives Education Committee and of the Senate Education Committee introduce bills affecting public schools and their students and, if such a bill is approved by one committee, it goes to the other committee. If passed by both committees, it goes to the joint session of the legislature for a vote. [*BESE.louisiana.gov*]

The Legislature appoints the Legislative Auditor.

The Board of Elementary and Secondary Education (BESE)

- Under the Louisiana constitution, the Board of Elementary Education consists of eight regionally elected members and three at-large members appointed by the governor. BESE members serve four-year terms concurrent with the governor's term of office.
- BESE members do not receive salaries or benefits--only a per diem for meetings. The current staff of BESE is six positions.
- The Board of Elementary and Secondary Education's standing School Innovation and Turnaround Committee is designated to handle charter school and RSD matters.
- "The Board of Elementary and Secondary Education adopts regulations and enacts policies to implement state laws passed by the legislature, governs the operations of the schools under its jurisdiction, and exercises budgetary oversight of their educational programs and services."

- BESE Bulletins 126 and 129 in particular, and parts of many of its other bulletins, lay out the policies for public charter schools and for the Recovery School District respectively, and are part of the Louisiana Administrative Code.
- BESE directs the Department of Education, and is charged with ensuring the Department provides adequate support and oversight, monitors compliance, measures progress, and implements interventions as necessary for Types 2, 4, and 5 charter schools.

BESE:

- a. appoints the Superintendent of Education by a 2/3's vote of its members
- b. delegates the implementation of its policies for public charter schools to the Superintendent and the Department of Education staff
- c. approves the Department's and the Recovery School District's proposed annual budgets
- d. allocates state, local, and federal funds to the Recovery District
- e. votes to authorize, renew, or close Type 2, 4, and 5 charter schools⁸

The Superintendent of Education and the Department of Education

The Board of Elementary Education (BESE) “shall delegate to the state superintendent such of its powers and duties as it deems appropriate to aid the state superintendent in the efficient administration of his/her responsibility for the implementation of the policies of the board.”⁹

The Superintendent of Education:

- is the administrative head of the Department of Education.
- is responsible for executing and implementing all of BESE's policies and programs for all public schools
- has budgetary responsibility and oversight of distribution of all federal funds
- restructures and reorganizes the Department with approval of BESE.
- establishes/abolishes positions for the direction of the Department, hires and sets the salaries of a number of unclassified positions, and must provide staff services to meet constitutional and statutory mandates.
- is the governing authority, administrative head and appointing authority for the Special School District providing education services to students housed in a

8

Selected direct text from Section 301 and 303, BESE Bulletin 126, pp. 3-4

9

Section 309, Title 28, Education, Part I. BESE/8(g) Operations

variety of state or privatized facilities and hospitals, as well as the School for the Deaf, the School for the Visually Impaired, and the Louisiana Special School. By law, in order for BESE to approve them, the Superintendent must first recommend any contract and agreement with other public and private agencies and for cooperative enterprises relating to an education program or purpose affecting education in public schools. [BESE Bulletin 126]

- identifies local school systems as being “academically in crisis,” and makes recommendations to the BESE Board for the approval of Type 5 charter applications and renewals, and other Department of Education matters.
- sits ex-officio on the Teachers’ Retirement System of Louisiana Board of Trustees.¹⁰
- The Department of Education must establish, with the approval of BESE, the method of evaluation used in an annual on-site visit and must conduct annual on-site evaluations of Types 2, 4, and 5 charter schools, as well as follow up at any point on reports of violations of regulation or law.

The Local District School Board

- Approves or denies Type 1, 3, and 3b charter applications
- Votes to authorize, renew, or close Types 1 and 3 charter schools and to extend, renew, or close Type 3B schools.
- Has responsibility for the oversight of each of its Types 1, 3, and 3B charter schools, including setting up a system for monitoring its charter schools.
- Renews at intervals or terminates the contract with each charter school after determining whether or not that contract has been met.

BESE and the Superintendent of Education’s Governing Roles in the Recovery School District, “the RSD”

The Legislature established the Recovery School District as an intermediate educational unit within the Department of Education “to provide an appropriate education for children attending any public elementary or secondary school operated under the jurisdiction and

10

“Should We Panic over Public Pension Costs? Or Not?, League of Women Voters of Louisiana, Issues and Options for Louisiana’s State Public Pension Systems, 2014, p. 56

direction of any city, parish, or other local public school board or any other public entity... which has been transferred to its jurisdiction.”^{11 12}

The Superintendent of Education serves as the Recovery District’s governing authority, “consistent with authority delegated by the Board of Elementary and Secondary Education (BESE) and statutory authority acknowledged by BESE. The state superintendent is subject to BESE's oversight of his administration of the RSD.”¹³ BESE’s RSD Committee serves as BESE’s “lead group for oversight of the RSD.”

The Superintendent of Education

- makes recommendations to the BESE Committee members and to the Board as a whole, as to which action to take on charter school matters, prior to BESE’s taking a vote.
- appoints the Supervisor, Assistant Supervisor, and the staff of the RSD and sets their salaries and duties.
- is charged with developing procurement procedures and guidelines for the RSD, and ensuring sufficient internal controls and capacity for management procurement by the RSD is in place.
- nominates for BESE approval four members to serve on an RSD advisory council to the state superintendent

Superintendent of the Recovery School District

As the designee of the Superintendent of Education, the Recovery School Superintendent has broad authority:

- To procure goods and services, data hardware, software and maintenance, major repairs and public works needed for the RSD, without approval from other state agencies or complying with state law in some cases, including utilizing state selection boards when contracting for public work.
- Has the same authority and autonomy as city, parish, or other local public school systems under state law for procurement of services. *[Bulletin 126 and Bulletin 129, selected direct text, pp. 1, 11-17]*

11

R.S. 17:1990; Title 28, Education, Part I. BESE8g Operations, p. 3

12

an intermediate educational unit or IEU under federal law means any public authority other than an LEA [local education agency] which (i) is under the general supervision of a State educational agency;(ii) is established by State law for the purpose of providing “free and appropriate education”[Charter Schools. <https://www.ed.gov/race-top/district-competition/definitions>

13

BESE Bulletin 129, The Recovery School District, p. 1

- May request from BESE a waiver or deviation from some provisions for many of the procurement requirements with justification [*BESE Bulletin 129, p. 17*]

The Charter School's Board

The board of a charter school

- Has the legislative function of the charter school as a governmental authority.
- Has a required number of uncompensated members with professional skills and experience in education; public, non-profit and/or for-profit administration, operations community development, finance, and law; with at least 60% of the board members live within the charter school's attendance zone
- May contract an educational management non-profit or for-profit organization to operate the school; however, the charter school's board remains liable for the operation, finances & administration
- Can be authorized to govern one unique school, or a number of schools, according to the charter, and the school's or schools' level of performance.
- May appoint and evaluate the principal or school leader, unless there is an education management company in place, in which case the principal or school leader then hires and evaluates the teachers.
- Complies with BESE Bulletins 126 & 1929, the Louisiana Accounting and Uniform Governmental Handbook, Code of Governmental Ethics, Open Meetings Law, Local Government Budget Act, Public Records Act, and Public Bid Law.
- Is subject as individual board members to civil penalties for violations of charter school laws; violations may affect extending or renewing the school's charter.¹⁴
- Governs school finances, operations, & administration; makes final decisions on staffing, accountability, and curriculum. Responsible for implementation of and compliance with the charter. Does strategic planning, sets policies, including personnel, sets internal controls, approves and makes public the non-profit corporation's annual budget, sets salary scale and benefit packages, has oversight for academic program and targets to be met
- Establishes and follows its bylaws, including a conflict of interest policy per Louisiana Code of Governmental Ethics
- Should verify with the authorizer or Louisiana Department of Education that the staff's evaluations of its charter school(s) were completed.

The Local Education Agency, the "LEA"

The Local Education Agency (LEA) is a public board of education or other public authority legally constituted within the state to either provide administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, parish school district, or other political subdivision of the state. The local education agency is the receiving governing body of federal and state funding that is held responsible for complying with all federal and state laws applicable, and can be sued for non-compliance.

The LEA, must provide free and appropriate services for students with disabilities as the school’s local education agency (LEA).

TYPE OF CHARTER SCHOOL	LOCAL EDUCATION AGENCY (LEA)*
Type 1, 3, and 3B	Local School Board
Type 2, 4, and 5	Charter School’s Board

*The following exceptions are applicable as provided in La. R.S. 17:3995: 1) Type 3Bs may have the local school board act as their LEA, or can have their charter board act as the LEA (the latter is the more common); and 2) Type 1 and 3 charter schools in Orleans Parish have the choice to be their own LEAs as well, if approved by the school board.

The Legislative Auditor

The Legislative Auditor is the only constitutional state officer not elected directly by the general public, but instead is elected by a majority vote of the two houses of the Legislature and can be removed only by a 2/3’s vote of each house. The Office of the Legislative Auditor is intended to be as non-political and objective as possible. Thus, he or she may only be removed by a 2/3’s vote of each house of the legislature. In general, the Legislative Auditor provides the Legislature and the public with audit services, fiscal advice, and analysis, specifically advises the Legislature, and provides analyses of pending bills that affect state finances.

In particular, the Louisiana Legislative Auditor audits the financial and performance and statistical data of all public schools, both traditional and charter, as well as audits compliance with federal and state recovery assistance requirements, performs actuarial services that affect the state’s teacher retirement pensions, and investigates fraud. Charter and traditional schools must contract with an external auditing firm to comply with regulations.¹⁵

15

“Should We Panic or Public Pensions? Or Not?” League of Women Voters of Louisiana, 2014, 0. 55, lla.la.gov

The office of the Legislative Auditor sends its results of the local school district and charter school audits annually to the President of the Senate and to the Speaker of the House, as well as to the appropriate committees of the House and Senate and to the general public.¹⁶

In addition, the Legislative Auditor also publishes the annual financial reports of each traditional and charter school by parish. These are available to the public.¹⁷

16

R.S. 24:514 and the ensuing Louisiana Governmental Audit Guide 8-31-2016, Schedules Required by State Law: Performance and Statistical Data

17

<https://www.la.gov/reports-data/audit/parish-audit/index.shtml>

In What Way Are Charter Schools Independent or Autonomous?

The legislature allows exemptions through waivers for all charter schools, or particular types of charter schools for a variety of purposes: Types 1, 3, and 3b charter school boards may set volunteer requirements or mandatory attendance at parent orientation as a requirement for admission of their child through a waiver process. Types 2, 4, and 5 are prohibited from parent volunteer requirement. BESE only allows charter schools to require parent attendance at an orientation when the school has a special mission, educational model, or admissions requirements that parents should know about (example: New Orleans Military and Maritime Institute; foreign immersion programs). Local districts may set different policies on this. A charter school may not be religious.

The charter school operator, the charter school board, and/or the school leaders have the ability to

- make decisions about the charter school's mission
- set the grade structure
- determine the maximum student enrollment the school will accept, and whether to admit students during the school year for those who have left or been expelled. Enrollment numbers and policies must be approved by the charter authorizer.
- decide the pupil-teacher ratio
- hire at will rather than providing a fixed-term contract
- terminate employment at any time and for any reasons or without reason (though neither "on a discriminatory or unlawful purpose," or can be a specified time period with a contract to be terminated only for just cause
- contract service providers for required or optional instructional and other student services
- select curriculum development
- exercise the same review and selection process for textbooks as followed by the traditional public schools.¹⁸
- decide any additional teacher qualifications beyond a B.A. degree and being highly qualified and meeting all required background checks for hiring
- decide teacher and other staff pay
- develop its school discipline plan, grade retention policy, and teacher retirement plan
- provide preference for siblings and students living in the school's geographic zone (geographic zone preference for elementary and middle schools only); charter schools may provide for automatic admission to students into kindergarten if the child attended pre-K at the school.
- close the charter school or relinquish the charter

How are charter schools funded?

States establish public funding for public schools in their constitutions. Louisiana is no exception. Section 13(B) of Article VIII, establishes the legal basis for the Minimum Foundation Program (MFP) for public education. The constitution tasks the Louisiana legislature with annually setting aside funds "...sufficient to fully fund the current cost to the state of such a program as determined by applying the approved formula in order to ensure a minimum foundation of education in all public elementary and secondary schools." ¹⁹

Roughly 80 to 85% of Louisiana public school funding comes from state and local funds, with about half of this percentage coming from sales tax and the other half from property tax. Roughly 15 to 20% is from federal funds.

MFP funding consists of four levels as indicated in the table below.

Level	Description	Percent of MFP
1	Provides the same baseline level of funding for each Louisiana public school student regardless of the school district's taxation levels. A state and local Base Cost Per Pupil Amount is determined, then a Local Cost Allocation is determined which measures the potential of a school system to generate local revenue. The State Cost Allocation results from subtracting the Local Cost Allocation from the Base Cost Per Pupil Amount.	67% in a 65%/35% averaged state/local split
2	Takes into account the school district's level of taxation and provides an incentive in order to encourage districts to tax themselves beyond a minimum level of public education funding.	13%
3	State-funded, existing primarily to cover special costs such as state mandates.	18%
4	Includes funding for special teacher and school programs.	2%

source: ([LDE Overview of MFP slideshow 2016-17](#))

"The intent of the MFP funding formula is to balance the desire for funding equity across school districts with the desire to encourage local school districts to provide strong financial support for education." ²⁰

A 'weighting' process is applied to all public school students, where additional MFP funds are provided based on the four student characteristics in the table below.

Student characteristics for weighting			
special education	gifted and talented	at-risk (qualified for free or reduced price lunch)	career and technical students

How are charter school facilities funded?

District or city run public schools are built using a school district's constitutional ability to levy tax millage and use municipal bonding capacity. School districts can request that voters approve issuing new debt by raising a specific millage, or districts can work within their existing bonding capacity by paying off debts and reusing the available capacity for construction or maintenance projects. Requesting increased millage for increased bonding capacity has become increasingly difficult in some districts, with voters averse to increased property tax millage.

Charter schools in Louisiana do not have the ability to tax or issue public bonds.

School buildings for type 1 or type 2 charter schools may be funded with private equity. For example, New Schools for Baton Rouge Inc. is using a \$10 million revolving loan to fund the construction of five charter schools with a separate private construction company. ²¹

Charters schools in Lafayette, for example, have been built by private companies subsidiary to charter school management corporations. Charter schools built with private equity are then leased to the charter school board for substantial annual lease payments. The lease payments, when aggregated over a 20 year, 30 year, or longer life of a school, may be several times the total cost of the building. ²²

20

[The everyday person's guide to public education funding in Louisiana. OPENNOLA.org](http://www.OPENNOLA.org)

21

[Baton Rouge charter organization to build five schools, The Advocate, April 16, 2016](#)

22

[Two Lafayette charter schools propose \\$1.2 million in management fees, \\$1.7 million in rent, The Advocate, July 31, 2014](#)

These school facilities constructed with private funds remain privately owned and return to the corporation after a school's charter is terminated or the charter school closes. Any facilities or properties constructed or purchased with public funds will be transferred to the authorizer if the charter school closes.

Charter schools in the Recovery School District typically use existing school buildings.

Charter schools are not tax-levying authorities like school districts and do not use the public bonding system that school districts use to levy property tax millage to pay for municipal bonds, typically for 30-year terms.

Charter schools acquire building in several ways depending on type.

Type	Authorizer	Model	School Building Type
1	local school board	start-up	usually not a public building
2	BESE	conversion or start-up	usually not a public building
3	local school board	conversion	a public building
4	contract between local school board and BESE	conversion or start-up	either
5	RSD school, contract with BESE	conversion	usually a public building

Source: [Cowen Institute, Charter Schools in Louisiana, March 2010](#) (except for school building type)

What financial controls apply to charter schools?

Minimum requirements are established for the Lead School Business Administrator /Chief Financial Officer/Business Manager for both local school districts and charters schools.

Minimum Qualifications for CFO (Must meet one of the following.)		
A baccalaureate degree with a minimum of 24 hours of business-related courses such as accounting, finance or management.	A Certified Public Accountant licensed in Louisiana.	A Master's degree in Public or Business Administration.

Source: ([Louisiana Accounting & Uniform Governmental Handbook, LDE Bulletin 1929](#))

The Louisiana Department of Education stipulates that "Each charter school must submit the following reports to the department on LDE-provided forms." ²³

Due Date:	Financial Report
July 31	Annual Operating Budget Includes actual data for the prior fiscal year ending June 30 along with budgeted data for the current fiscal year starting July 1.
September 30	Adopted Operating Budget Submission is required if July 31 Annual Operating Budget was not adopted in accordance with the Louisiana Local Government Budget Act.
October 31	First Quarter Financial Report Includes budgeted data for the fiscal year along with the YTD actual data through September 30.
January 31	Second Quarter Financial Report Includes budgeted data for the fiscal year along with the YTD actual data through December 31.
April 30	Third Quarter Financial Report Includes budgeted data for the fiscal year along with the YTD actual data through March 31.

Public school financial accountability reports, quarterly reports, budgets and audits, are submitted in the same timeframe as charter school reports. Both district schools and charter schools must use Louisiana Accounting & Uniform Governmental Handbook (LAUGH guide) for accounting practices.

The charter school must follow annual audit requirements of the Legislative Auditor and R.S. 24:513-556. Charter schools must submit their annual audit to the Legislative Auditor and to

23

the Bureau of Internal Audit, LDE, by six months after the end of their fiscal year.²⁴ LDE Bureau of Internal Audit does 'desk review' of audits submitted by charter school-commissioned professional auditors.

Public schools are required to follow public bid law for construction, goods and services.

According to the Louisiana Charter School Legal Handbook, charter schools are exempt from public bid law except for two cases.²⁵ Charter schools are required to follow public bid law when awarding contracts for:

- Public works projects in excess of \$150,000.
- Food services

Public works, as defined in R.S. 38:2211(A)(12), ²⁶include any contract for the erection, construction, alteration, improvement, or repair of any public facility or immovable property owned, used, or leased by a public entity. These contracts also include labor and materials.

"Public entity" means and includes the state of Louisiana, or any agency, board, commission, department, or public corporation of the state, created by the constitution or statute or pursuant thereto, or any political subdivision of the state, including but not limited to any political subdivision as defined in [Article VI Section 44 of the Constitution of Louisiana](#), and any public housing authority, public school board, or any public officer whether or not an officer of a public corporation or political subdivision. "Public entity" shall not include a public body or officer where the particular transaction of the public body or officer is governed by the provisions of the model procurement code.

According to the [Louisiana Department of Education Louisiana Charter School Performance Compact: Types 2, 4 and 5 Charter Schools](#), charter schools are held accountable through the Charter School Performance Compact (CSPC) which is used to renew or close charters schools. The CSPC evaluates three general areas of performance: academic, organizational and financial. The Louisiana Department of Education states:

The indicators used in the Charter School Performance Compact have varied from year to year. In 2015-16 the fiscal viability of charter schools was measured through the following four financial indicators according to the table below:

24

LDE, Louisiana Charter School Fiscal Oversight Policy

25

[LAPCS, Louisiana Charter School Board Legal Handbook, 2014](#)

26

[Louisiana Revised Statutes](#)

Financial Performance Score Indicators				
Indicators	Potential Points	Criteria		
		Full Credit	Partial Credit	No Credit
Fund Balance	Full - 30 pts Partial - 15 pts None - 0 pts	Y1: >2 %	Y1: 1-2 %	Y1: <1 %
		Y2: >3 %	Y2: 1.5-3 %	Y2: <1.5 %
		Y3: >4 %	Y3: 2-4 %	Y3: <2 %
		Y4: >5 %	Y4: 2.5-5 %	Y4: <2.5 %
		Y5: >6 %	Y5: 3-6 %	Y5: <3 %
		+Y5: >7.5 %	+Y5: 3.75-7.5%	+Y5: <3.75 %
Audit Findings	Full - 30 pts Partial - 15 pts None - 0 pts	Unqualified audit with no findings	Unqualified audit with no recurring or material findings	Unqualified audit with recurring or material findings or qualified audit
Debt to Asset Ratio	Full - 20 pts None - 0 pts	<0.9	N/A	>0.9
Timely Reporting	Full - 20 pts Partial - 10-15 pts None - 0 pts	All quarterly reports, annual financial report, and audit submitted timely	1 late - 15 pts 2 late - 10 pts	3-5 late

Source: [LDE, Louisiana Believes, Louisiana Charter School Performance Compact: Types 2, 4 and 5 Charter Schools](#)

Fund balance is a measure of the deficit or surplus at the end of the year, indicative of the health of the school going into the next fiscal year. The fund balance for charters schools is expected to increase with the age of a charter school.

Debt to asset ratio is total liabilities divided by total assets and indicates the percent of assets that are financed through debt. The Louisiana Department of Education's Charter School Performance Compact indicates that full points for debt to asset ratio performance indicator is awarded for a ratio less than 0.9, indicating that less than 90% of assets are financed through debt. There is no partial credit awarded for a debt to asset ratio less than 90%.

An alternative scoring of debt to asset ratio is provided by The Louisiana Association of Public Charter Schools. The Association notes that a "high debt to asset ratio may indicate a low borrowing capacity."

LAPCS Debt to Asset Ratio Risk Ranking		
Low risk = <0.5	Medium risk = 0.51 - 0.99	High risk = >1.0

Source: [LAPCS, The Bottom Line Essentials: Finance, July 17, 2015.](#)

The use of debt to asset ratio as one of the four financial performance indicators may not provide a full picture of financial health. Start-up businesses often have ratios >1. The good standing of loans and paying down debt steadily could be of more of importance than a single ratio number.

The framework and scoring for financial performance is shown in the following table.

Financial Performance Framework - Financial Performance Score	
Rating	Score
Meets Expectations	80 – 100
Approaches Expectations	60 – 79
Fails to Meet Expectations	0 – 59

Source: [LDE, Louisiana Believes, Louisiana Charter School Performance Compact: Types 2, 4 and 5 Charter Schools](#)

80% of Type 2, 4, and 5 charter schools met financial performance expectations in 2015-16.²⁷ Specifically, 60% of Type 2 charter schools met, 26% approached, and 14% failed to meet financial expectations; 92% of Type 5 charter schools met, 5% approached, and 3% failed to meet financial expectations. The single Type 4 charter school met financial expectations in the 2015-16 school year.

The Charter School Performance Compact changed significantly in the 2017-18 school year. In the 2017-18 school year the fiscal viability of charter schools was measured through the following three financial indicators according to the table below:

Financial compliance	Indicator	Measurement
Schools demonstrate strong financial practices resulting in fiscally viable and responsibly maintained institutions.	LDE Fiscal Risk Assessment	Assessment measured by the most recent Fiscal Risk Assessment
	Annual External Audit Performance	Consecutive or material findings in the annual audit
	School uses federal and state funds in a fiscally responsible and legal manner	Significant misuse of funds, as documented by a Notice of Breach or Concern

Source: <https://www.louisianabelieves.com/docs/default-source/school-choice/charter-performance-compact.pdf?sfvrsn=30>

The numerical targets and scores of previous years were replaced with brief narrative items.

BESE holds hearings to determine if charter schools will have their contracts renewed based on receiving a report on Charter School Performance Compact indicators from the Louisiana Department of Education.

Local public school district types 1, 3, and 3B schools are not evaluated according to the Charter School Performance Compact, although those elements may be evaluated district-wide using district financial reports. School districts receive a fiscal risk assessment annually which determines if there are remedial actions necessary or no actions required of the district for financial compliance. Local school districts that authorize charter schools may set their own policies for evaluating the financial health of the charter schools they authorize. In addition, each local education agency (LEA), which includes local school districts and some charter schools, is evaluated according to a financial risk assessment conducted by the Louisiana Department of Education.

Are Charter Schools Open to All Students?

Equal access to a PK-12 public education exists on several levels:

- Ensuring that school children are not denied admission based on race, color, national origin or disability.
- Maintaining effective lines of communication for parents and guardians, regardless of a child's socio economic status or ability.
- Providing a "free appropriate public education" (FAPE) "to each qualified person with a disability who is in the schools district's jurisdiction, regardless of the nature or severity of the person's disability, (ages 3-21)" ²⁸
- Overcoming language barriers for English language learners
- Providing appropriate discipline procedures.

Beginning in the 1960s several major pieces of legislation have passed and been amended as needed by the US Congress to ensure the promise of equal access to public education for all students. These laws include:

- Title VI of the Civil Rights Act of 1964 that prohibits discrimination based on race, color or national origin
- Title IX of the Education Amendments of 1972 that prohibits discrimination based on sex
- Section 504 of the Rehabilitation Act of 1973
- Title II of the Americans with Disabilities Act of 1990 that along with Section 504 prohibits discrimination based on disability.
- Individuals with Disabilities Education Act (IDEA) outlines students' rights to FAPE, inclusion, and parent participation
- Family Educational Rights and Privacy Act (FERPA) dealing with students' rights to access records and safeguard disclosure of their records

The Office for Civil Rights, a division of the United States Department of Education, is the primary federal agency tasked with enforcing equal access to public education institutions that are in part funded by federal dollars. The agency is charged with resolving complaints as well as assisting institutions with voluntary compliance of federal laws regarding discrimination.

The Civil Rights Division of the Department of Justice was created in 1957 as the enforcement arm of the Justice department on issues regarding discrimination based on race, color, sex, disability, religion, familial status, and national origin.

In Louisiana, The Education of Children with Exceptionalities Act, informed by federal law, outlines requirements for inclusive practices, delivery of services, and implementation of a student’s individual education plan.

Several bulletins outline policies that regulate the administration of services and rights of children with disabilities in Louisiana. Among these include:²⁹

- Bulletin 1508 on the Pupil Appraisal Handbook that outlines regulations used in determining and evaluating for eligibility for special education services
- Bulletin 1530 regarding legal processes for the implementation of the Individualized Education Program (IEP)
- Bulletin 1573 which requires due process for children and their families regarding the administration and distribution of services for children with exceptionalities or those children suspected of having exceptionalities
- Bulletin 1706 which details the regulations for the implementation of the Children with Exceptionalities Act
- Bulletin 1903 concerns the education of dyslexic students
- Bulletin 1922 outlines the responsibilities and rules for monitoring for compliance of special education law.

Charter Schools in Louisiana:

- must follow all federal disability laws. See generally 34 C.F.R. § 300.209.
- must give all students a FAPE, including students with disabilities. See 34 C.F.R. §§ 300.101, .209.
- are prohibited from denying enrollment to a student on the basis of his or her disability. LA. ADMIN. CODE. tit. 28, § 2705; see generally 34 C.F.R. § 300.101.
- must give all special education and related services that have been decided to be needed by a special education evaluation and/or IEP.
- must have a complaint procedure to allow parents, guardians, or other individual or groups to appeal to the nonprofit board of directors to address any problems that they seek to solve. LA. ADMIN. CODE. tit. 28, § 3301.³⁰

In response to reports that charter schools in Louisiana and across the United States have underserved children with exceptionalities the Louisiana Association of Public Charter Schools shared [this reminder](#) from the US Department of Education to its members in 2014. According to federal law, rights regarding admission, parent input, FAPE, and English language learners are to be protected equally in the charter school systems as in traditional public schools.

29

See this [LDE Portal](#) to review bulletins mentioned.

30

[Louisiana Special Education Parent Guide](#)

How Do Charter Schools Enroll Students?

Louisiana state law expressly intends that the best interests of at-risk children be the primary consideration when charter school laws are implemented³¹.

At-Risk Students Defined

- Is eligible to participate in the federal free or reduced lunch program by demonstrating that he meets the income requirements established for participation in the program, not necessarily by participating in the program.
- Is under the age of twenty and has been withdrawn from school prior to graduation for not less than one semester.
- is under the age of twenty and has failed to achieve the required score on any portion of the examination required for high school graduation.
- Is in the eighth grade or below and is reading two or more grade levels below grade level as determined by one or more of the tests required pursuant to R.S. 17:24.4.
- Has been identified as an exceptional child as defined in R.S. 17:1943 not including gifted and talented.
- Is the mother or father of a child.

La. R.S. 17:3973, La. R.S. 17:3991ⁱ

Enrollment typically takes place through the individual charter school's application process. Schools advertise, operate online platforms, and parents/guardians follow individual enrollment procedures. For New Orleans, a near fully-chartered district, the RSD, in conjunction with the Orleans Parish School Board, has created a centralized enrollment process called EnrollNOLA which allows parents and guardians through the OneApp process to rank their preferences for schools and then these preferences are subject to a lottery based on demand for and capacity at each school.³²

There are additional laws that inform how enrollment lotteries should be conducted in order to ensure access for economically disadvantaged students and students with disabilities.³³ Siblings for example that would otherwise have priority in an enrollment process for charter

31

R.S. 17:3972(A)

32

[New Orleans OneAPP portal](#)

33

R.S.17:3991(C)(1)(c)

schools, do not get priority consideration if the charter school has failed to meet the at risk enrollment requirement set forth in the law.

R.S.17:3991(B) outlines the requirements for at risk enrollment for state authorized charters (Type 2) on the FRL (free and reduced lunch) and special education populations of the enrollment zone. Because type 2 charter schools typically have a statewide enrollment zone, the LDE uses the statewide percentage of FRL to establish the target percentage. Currently the FRL percentage is at 67% of public school students, meaning that type 2 charter schools should have an at risk population of at least 67%.

Monitoring for Compliance

To ensure compliance with regulations involving enrollment and delivery of services, BESE maintains Bulletin 1922 “Compliance Monitoring Procedures, revised March 2017”. Local jurisdictions are the first line of defense for civil rights enforcement, therefore appropriate understanding and monitoring of compliance is critical. Local jurisdictions include:

- city or parish school systems
- special school district
- state Board of Elementary and Secondary Education special schools
- type 1B, 2, 3B (if acting as their own LEA) and 5 charter schools
- university laboratory schools not under the administration of a school district.

It is the responsibility of the Louisiana Department of Education, on behalf of BESE, to ensure that all public schools are compliant with applicable state and federal laws, regulations, and standards. The LDE maintains a special education reporting site (SER) for public schools.³⁴

Because of the greater autonomy that state authorized charter schools (Types 2, 5, and 5) have, the LDE is charged with direct oversight for compliance with regulations.

The LDE conducts compliance monitoring primarily in these three ways:

- Charter School Performance Contract (CSPC) Annual Organizational Performance Review. The LDE as the agent acting for BESE reviews schools based on several performance indicators. They include enrollment, special education, and discipline requirements. The review awards points for each indicator.

34

See this [2015-16 SER reporting guide](#) for an example.

- CSPC Intervention Process are actions that the LDE will take to intervene when a school is in violation of its contract. Steps include monitoring remediating a violation or potential review for revocation of the charter.
- Complaint process. LDE has a complaint process in place for citizens to voice concerns regarding BESE authorized charter schools.

Louisiana’s legislative auditor, as well, is charged with reporting violations or lack of oversight on the part of the Louisiana Department of Education. ³⁵

La. R.S. 17:3991 states, "That for Type 1 and Type 2 charter schools created as new schools, the percentage of the total number of pupils enrolled in the charter school based on the October first pupil membership who are at risk, in the manner provided in R.S. 17:3973(1)(a), shall be equal to not less than eighty-five percent of the average percentage of pupils enrolled in the local public school districts from which the charter school enrolls its students who are eligible to participate in the federal free and reduced lunch program. The remaining number of pupils enrolled in the charter school which would be required to have the same percentage of at-risk pupils as the percentage of pupils in the district who are eligible to participate in the federal free and reduced cost lunch program may be comprised of pupils who are at risk as is otherwise provided in R.S. 17:3973(1). For the purposes of fulfilling the provisions of this Section, the at-risk percentage for the city or parish school system shall remain fixed during the term of the approved charter at the percentage which existed during the school year that the charter proposal was approved, unless otherwise specified in the charter that the charter school will reflect the current year's at-risk percentage."