

COLORADO CHARTER SCHOOL

A Resource for Developing Charter School Contracts

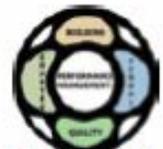
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COLORADO LEAGUE of
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BUILDING CHARTER
SCHOOL QUALITY

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Colorado Charter School

A Resource for Developing Charter School Contracts

January 2011

Background

This document is the second iteration of a resource guide for developing Colorado charter school contracts. This guide is intended to assist districts and charter schools in developing contracts that clearly spell out the rights and responsibilities of both parties and support high charter school student achievement and competent school operations. This second revision incorporates changes to Colorado law made during the 2009 and 2010 legislative sessions, including SB09-163 (accreditation) and HB10-1345 (emergency powers), and feedback received from charter schools and authorizers. Additional feedback from authorizers and schools will be gathered over time to improve this document and to ensure it continues to reflect best Colorado authorizing practices.

This document is a companion to Colorado Charter School Sample Contract Language and Attachments, which can be accessed at www.charterschoolquality.org.

This work is part of a larger four-year project entitled, "Building Charter School Quality: Strengthening Performance Management among Schools, Authorizers, State Charter Support Organizations and Funders," which was supported by a National Activities grant from the U.S. Department of Education.

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Part 1: A Resource for Developing Charter School Contracts

“A quality charter school authorizer negotiates contracts with charter schools that clearly articulate the rights and responsibilities of each party regarding school autonomy, expected outcomes, measures for evaluating success or failure, performance consequences and other material terms.” - National Association of Charter School Authorizers¹

Background

This document, A Resource for Developing Charter School Contracts, was developed to provide useful information to assist districts and approved charter school applicants in writing effective charter school contracts. Because the charter contract is the foundational agreement that establishes a charter school’s autonomy and accountability and the district’s rights and obligations, it is essential that the contract meet legal requirements and adhere to best practices. This resource guide complements the previously developed Charter School Standard Application, Checklist and Review Rubric (available at www.charterschoolquality.org). Both are the result of collaboration among the Colorado Department of Education, the Colorado League of Charter Schools, and the Colorado Charter School Institute. This document is not meant to be a substitute for legal advice for the charter school’s governing board or the district’s board. Each party should have its own legal counsel to negotiate the specifics of the charter contract.

Acknowledgements

Three documents published by the National Association of Charter School Authorizers (NA CSA)² were especially important to the development of A Resource for Developing Colorado Charter School Contracts. This document has also benefitted greatly from review by a number of individuals, including attorneys familiar with charter school law, charter school administrators and governing board members, and school district administrators.

Organization

A Resource for Developing Charter School Contracts is divided into two parts: 1) General Considerations, and 2) Contents of a Charter School Contract. The General Considerations section discusses big picture issues that should be considered when writing a contract such as balancing autonomy and accountability and how much detail is necessary to sufficiently define expectations and commitments. Part 1 also includes an attachment with sample letters for notice of concern, notice of breach, and notice of revocation hearing. Throughout the document, text boxes provide deeper analysis and offer options where there is not a single best practice.

The second part, Contents of a Charter School Contract, details the essential contents of a charter school contract. Sections are organized to facilitate access to contract provisions. Each section lists specific topics covered in most contracts and provides background information.

A separate companion document entitled Colorado Charter School Sample Contract Language and Attachments (www.charterschoolquality.org) provides examples of contract language taken from actual Colorado charter school contracts and contract attachments such as a list of pre-opening conditions, a Board Member Certification Form, a list of key laws that apply to charter schools, and guidelines for educational service provider management agreements. The contract’s readability was the deciding factor in determining whether to place sample text within the contract or as an attachment.

1 “Principles and Standards for Charter School Authorizing,” National Association of Charter School Authorizers, 2010, www.qualitycharters.org.

2 “Establishing Expectations: An MOU Template for Charter School Authorizers in California”, National Association of Charter School Authorizers, Nov. 2007; William Haft, “The Terms of the Deal: A Quality Charter School Contract Defined,” National Association of Charter School Authorizers, Feb. 2009 at www.qualitycharters.org/images/stories/publications/Issue_Briefs/Issue_BriefNo18_Authorizing_The_Deal_FIN.pdf; and “Principles and Standards,” NACSA.

General Considerations

“The contract is the embodiment of the autonomy-for-accountability bargain and the commitment of both parties. The district commits to entrusting public dollars and public school students to the independent governing board. It also commits to giving the independent governing board more flexibility in how it operates the school than is afforded traditional public schools. In return, the school’s governing board commits to handling funds responsibly, complying with its legal obligations, and educating students well.”
*National Association of Charter School Authorizers*³

Characteristics of Quality Charter School Contracts

Each charter school contract must be adapted by the approved charter school applicant and the district (‘the parties’) to their unique circumstances. Districts that adhere to best practices will not necessarily write identical contracts for the charter schools they oversee, and contracts for similarly situated charter schools authorized by different, but high-quality, districts will not likely be the same. Each party’s values and priorities are based on its history, past experience with the other party, constituent values and concerns, and current issues. However, most topics included in *Sample Contract Language and Attachments*⁴ will be present in a well-crafted agreement.

Transparency

When the rights and obligations of the district and the autonomy and expectations of the charter school are clearly and transparently stated in the contract, the school and the district know what to expect from each other. Such clarity is the basis of a strong working relationship. Charter schools must also be transparent in their financial reporting in order to meet financial transparency laws.

Accountability

The charter school contract should clearly state the educational outcomes that will be used to evaluate the charter school’s performance. In the *Sample Contract Language and Attachments*, these outcomes, or objectives, are listed in the body of the contract in Section Seven: Educational Program; however, parties may choose to list outcomes in the contract attachments. Based on an “Accreditation Plus” model, the outcomes include both accreditation indicators and mission-specific measures the charter school wishes to use to gauge its academic performance, finance, governance, and operations expectations. While accreditation indicators apply to similar charter and traditional public schools within the district, the ‘plus’ indicators are unique to charter schools and the mission-specific objectives are unique to each charter school. The decision to include finance, governance and operations indicators of success is based on experience – charter schools that fail frequently do so for non-academic reasons. Accountability provisions should also provide a mechanism for regular district feedback about progress. A reporting structure helps focus the district and the school on essential outcomes and plays a role in a fair renewal process.

³ Haft, “The Terms of the Deal: A Quality Charter School Contract Defined.”

⁴ Sample Contract Language and Attachments, 2010, www.charterschoolquality.org > Publications & Tools > Authorizers.

Material versus Non-Material Changes

At the beginning of the contract development process, the district and the charter school board face the challenge of converting the information in the charter school application into a contract. According to NACSA, “When school developers and districts turn a charter application into a contract, the relationship transforms: it shifts from aspiration to expectation and from theory to practice.”⁵ In general, any requirement stated in the application should be included in the contract. These provisions are defined as “material changes” and cannot be changed without a contract amendment. Other “non-material” elements in the application may be changed without district approval. In addition, the contract should clearly identify those district policies that apply to the charter school. For example, virtually all student policies are presumed to apply (unless waived) because charter school students are public school students in the authorizing district. Charter school personnel, however, are not employees of the district, and therefore are not covered by district employee policy. In this case, district policies regarding students should be included in the contract.

District Intervention

The contract should have a clear description of how the charter school or the district will be informed of alleged breaches, opportunities to respond to the allegations, and actions that may be taken if the allegation of a breach is sustained. The contract should identify specific interventions for specific types of breaches. While any contract breach could trigger revocation procedures, many districts prefer to address some concerns with less politically charged actions that may be more consistent with the best interests of the students in the charter school. For example, failure to submit financial reports by the established deadline might trigger a partial withholding of the charter school’s monthly payment.

⁵ Ibid.

⁶ Ibid.

Balance between Autonomy and Oversight

The fundamental concept underlying charter schools is autonomy in return for accountability for achieving important student outcomes. All district requirements – reports, material changes that require district approval, adherence to district policies – consume charter school (and district) resources that might otherwise be devoted to achieving student outcomes. At the same time, districts are expected to provide reasonable oversight of the charter school’s operations and outcomes. For example, the parties must decide how the charter school will report financial information in accordance with the Financial Transparency Act, whether the school can accept large gifts without district approval, and whether charter school personnel actions will be reported to the district. In balancing autonomy and oversight, NA CSA recommends that charter schools and districts keep in mind this tradeoff: “requirements intended to prevent failure also risk impeding success.”⁶ Finally, the oversight requirements should take into account the school’s history; a school with strong governance, a track record of good financial management, consistent compliance with the charter contract and law, and high achievement should have fewer oversight requirements.

User Friendliness

Since charter school contracts should be regularly referenced by the parties, the Sample Contract Language and Attachments includes a table of contents and groups related provisions into sections. For example, different district intervention options are grouped together as is the list of reports the charter school is required to complete. Provisions are kept short and limited to one or a few main ideas. User-friendliness is also reflected in the belief that “less is more,” and therefore, contracts should not contain unnecessary provisions or have voluminous attachments.

A Note of Caution about Sample Contract Language and Attachments

Adoption of *Sample Contract Language and Attachments* should be done with caution for three reasons. First, the content of the sample language may not be appropriate to the unique circumstances of the parties. For example, Section 5.3 in the *Sample Contract Language and Attachments* states that the district will provide food services to the charter school, if requested. Some districts may choose not to do this, or it may be impractical to do so. This is a matter to be negotiated between the parties. Sections 5.2, Transportation, and 11.2, Use of District Facility, will also have very different content depending on the unique circumstances of the parties. Each contract will vary regarding the timing of payments by the district to the charter school and whether or not the charter school may provide any of its own special education services.

A second caution in using the *Sample Contract Language and Attachments* is that there are differing legal views about some of the common provisions included in a charter school contract. For example, while districts typically require charter schools to indemnify them for third-party claims arising out of the acts of the district or its employees, there is a question as to whether districts can indemnify charter schools. Other questions of law include the extent to which state laws and district policies automatically apply to charter schools. This is why charter school contracts typically include an acknowledgement by the charter school that it is subject to the Colorado Sunshine Law and Open Records Act.

A final caution about using the *Sample Contract Language and Attachments* is that even when both parties agree to a concept, there are many ways that the concept can be expressed in writing. Two considerations in the specific language used are that 1) districts with many charter schools typically like to use the same language in all contracts, and 2) attorneys, who are responsible for ensuring that the written language accurately expresses concepts agreed to orally, will often wish to use language that has worked well for them in the past.

Part 2: Contents of a Charter School Contract

Section One: Recitals

- 1.1 Reference to the Charter Schools Act
- 1.2 Reference to any previous agreement, if a renewal
Reference the submission date for application
- 1.3 Reference the approval date for application and
district board approval resolution

Section One of a charter school contract documents the sequence of events that led to approval of the charter application and subsequent development and finalization of the contract. Renewal contracts should describe the renewal process and reference previous contracts, thereby providing a context for the newest agreement.

In creating the Sample Contract Language and Attachments, only those sections of the application that are “material” are included, rather than all of the application text. This was done to enable the reader to view only that which is required by law and to enable the document to be more user-friendly. A typical charter contract would contain material and non-material language and would thus be longer.

TIP

Many charter schools have adopted a charter contract that aligns in format and content with its charter application. The aligned format meets the spirit of the Charter Schools Act, Colorado’s authorizing statute, which states that the application will serve as the basis for the contract. The Sample Contract Language and Attachments follows this format by inserting key provisions of the application into the contract and attachments.

Section Two: Establishment of School

- 2.1 Term
- 2.2 Charter school legal status
- 2.3 2.3 Pre-opening conditions

Section Two of the charter contract outlines the foundations of the contract: 1) the term of the agreement; 2) the charter school’s legal status; and 3) the pre-opening conditions and required certifications. The pre-opening conditions should include all of the approval resolution contingencies and any other deadlines or actions the charter school founders must take prior to the school opening. If, for any reason, the founders cannot meet the conditions or timelines, the district should consider delaying the charter school’s opening for one year.

Section 2.1 includes a statement limiting the district’s financial obligations to the current fiscal year. A similar provision is included in virtually all Colorado charter school contracts. Without such a provision, districts believe that they would need to encumber projected funding for the charter school for all years of the charter contract to comply with the TABOR amendment to the Colorado Constitution.

TIP

An authorizer may choose to incorporate the charter school application into the contract as an attachment or include specific pieces by reference or by inserting them directly into the contract. The format of essential information is less important than clarity. Any “material changes” to the contract must be clear to all parties.

Section Three: District-School Relationship

3.1 District Rights and Responsibilities

- A. Right to review
- B. Complaints
- C. School health or safety issues
- D. Data review
- E. Feedback about progress toward achieving goals and objectives
- F. Access to student records
- G. Access to data and information

3.2 School Rights and Responsibilities

- A. Records
- B. Notification provided to the district
 - i. Timely notice
 - ii. Immediate notice
- C. Compliance
- D. Reports

3.3 Indemnification

3.4 Procedures for articles of incorporation and bylaws amendments

3.5 District-school dispute resolution procedures

3.6 School violations of law or this contract

3.7 Procedural guidelines for school violations of law or this contract

3.8 District violations of charter School law or this contract

TIP

A high-quality authorizer determines its priorities and goals in relation to its charter schools and communicates them in written policies and contract provisions. These provisions define the authorizer's monitoring and oversight role.

This section of the charter school contract clearly describes the charter school-district relationship. It sets the foundation for a healthy district-school relationship by clearly and transparently stating the rights and responsibilities of both parties. For example, the section describes the district's authority to monitor the charter school's operations and the school's responsibility to keep records, complete required reports on time, notify the district when certain situations arise, and comply with applicable laws and regulations.

The degree of autonomy to be given to the charter school, as negotiated by the parties, should be made clear in this section of the contract. For every requirement there are compliance and monitoring costs for the district and the school. Care should be taken to create the optimal balance of autonomy and accountability by ensuring that all requirements are justifiable and necessary for the long-term success and integrity of the school.

Every contract needs to have language for resolving disputes about the implementation of the contract. This provision can take many forms, ranging from informal meetings between staff representing the parties, to meetings of board members, to mediation and finally to arbitration. Resolving disputes at the lowest possible level and prior to imposing sanctions or initiating revocation procedures is usually in the best interest of both parties.

In addition to dispute resolution procedures, contracts should have intervention protocols to address such issues as failure to meet reporting deadlines, provide requested information, or comply with federal or state laws. The protocols may be included in the contract body or as attachments. A number of intervention protocols are included in the Sample Contract Language and Attachments, since the kind of action needed will depend on the type of violation—a situation where students' health or safety is endangered needs a very different response from failure to complete a financial report by the established deadline. These intervention protocols are steps that may be taken before the district formally initiates the revocation process. Processes for district intervention or sanction should include due process procedures for the charter school and an opportunity to appeal to the State Board. Suggested due process procedures include three steps: 1) notice of concern, 2) notice of breach, and 3) notice of revocation hearing. However, in practice the process for addressing violations will depend on the specific circumstances. Sample notices are included as attachments to this document.

The *Sample Contract Language and Attachments* incorporates changes as a result of the addition of Part 7 of Article 30.5 of House Bill 10-1345 Emergency Powers Over Charter Schools passed in the 2010 Colorado legislative session.

Section Three of the *Sample Contract Language and Attachments* also describes procedures for changing provisions in the charter school's bylaws and articles of incorporation. In keeping with best practices, the Sample Contract Language and Attachments includes a requirement that board members complete a conflict of interest disclosure. A conflict of interest policy does not necessarily disqualify individuals from serving on the charter school board, but may require that they recuse themselves from participation in discussion of and voting on certain issues. Whether or not a conflict of interest makes an individual ineligible to serve on a charter school board is based on the eligibility provisions for board membership included in the school's bylaws or articles of incorporation.

Section Four: School Governance

4.1 Governance

4.2 Corporate purpose

4.3 Transparency

4.4 Complaints

4.5 Contracting for core educational services

TIP

An educational service provider can be a nonprofit or for-profit educational management organization (EMO) or a non-profit charter management organization (CMO). Generally, an EMO operates many charter schools in multiple states while a CMO provides governance and/or business services over a related system of schools within the same state or school district.

Section Four of the charter school contract covers critical aspects of charter school governance including bylaws, articles of incorporation, and contracting of services. The responsibility for the charter school's operations and outcomes resides with its governing board. This is true even when management or operational functions have been contracted out to an educational service provider. While the district provides oversight, the expectation is that the charter school will competently manage its own affairs. Therefore, stability, capacity and continuity are critical for a charter school governing board, as it must hold the staff accountable for operating consistent with the law and the contract and for making progress toward important student outcomes.

It is recommended that each charter school board member sign a Board Member Certification Form to be turned in to the district according to an established timeline. Using the form assures that potential or real conflicts of interest are disclosed and the board member understands his/her fiduciary responsibility to the school

While some charter schools include proposed bylaws in their charter application, others develop bylaws at a later date. Some districts require that the bylaws be included as an attachment to the contract so that material changes require district approval. Essential components of the bylaws are 1) prohibitions against actual or potential board member conflicts of interest, 2) board member selection method, 3) the number of board members and any entity or stakeholder group they may represent, and 4) acknowledgement of the corporation's responsibility, as a quasi-governmental entity, to adhere to applicable laws and the contract.

Articles of incorporation are also included in the attachment. In the *Sample Contract Language and Attachments*, these articles limit the purposes of the corporation to operation of a public school. The section on contracting may further circumscribe the governing board's authority since it either puts conditions on any contract that is signed with an educational service provider or prohibits such an agreement if it was not proposed in the application.

The Colorado Sunshine and Open Records laws require that governing board meetings and records be open to the school community and the public except in very limited instances. The language in Section 4.3 in the *Sample Contract Language and Attachments* is intended to ensure compliance with this requirement.

An essential governing board role is to resolve conflicts within the school community and with the public. The *Sample Contract Language and Attachments* ensures that the governing board addresses this responsibility through policy.

While the district is not party to an agreement a charter school board may have with an educational service provider, the district may require certain disclosures, contract provisions, and assurances. Attachment 5 in the *Sample Contract Language and Attachments* lists the conditions that a district may require to ensure the charter school board has conducted adequate due diligence when entering into an agreement with a service provider that best serves the interests of the

school. The extent of services provided by an educational service provider may vary from all management-related services to only special education services or business services.

Section Five: Operation of School and Waivers

5.1 Operational powers

5.2 Transportation

5.3 Food services

5.4 Insurance

5.5 Waivers

- A. State laws and regulations
 - i. Automatic waivers
 - ii. Additional waiver requests
 - iii. Procedures for additional waiver requests
 - iv. Subsequent waiver requests
- B. District Policies
 - v. Automatic waivers
 - vi. Additional waivers
 - vii. Subsequent waiver requests

TIP

District oversight of school governance varies with some authorizers reviewing and approving changes to any of the following: 1) bylaws, 2) charter school board policies, 3) primary board documents (e.g. board handbook, strategic plan), and 4) employee handbooks, parent/student handbooks and administrative procedures. Some authorizers want to review any proposed bylaw amendments while others want to review handbooks. The level of oversight should be described in the contract.

Section Five of the charter school contract addresses the school's operational power and the limits on this power. Specific requirements relating to transportation, food services and insurance are detailed. These provisions will vary greatly depending on the services that the district provides to the charter school.

Section Five of the Sample Contract Language and Attachments also addresses waivers from state laws and regulations and district policies separately since the procedures for obtaining state and district waivers differ. The State Board of Education automatically approves, upon request, the waiver of 13 statutory requirements. All waivers of state law must be approved by the district before being submitted to the State Board. Within 10 days of executing the contract, the district files the waiver request with the State Board.⁷ In addition, a charter school may request waivers of statutes or policies not automatically waived. Waivers of district policy only require the approval of the local board of education.

In terms of waivers, state laws and district policies fall into four categories:

1. Laws and policies that are applicable to the charter school and for which a waiver must be requested.
2. Laws that are by State Board rule and are automatically waived if requested by the district on behalf of the charter school.
3. Laws and policies that may not be applicable to the charter school such as a district's policy specifying employee dress guidelines, since charter school employees are not employees of the district.
4. Laws and policies that are delegated to the charter school through the contract; for example when the district's power to prescribe the educational program and the textbooks are delegated to the charter school through the contract.

The approach suggested in the Sample Contract Language and Attachments is for the district and the charter school to identify those laws and policies that do not apply.

Section Six: School Enrollment and Demographics

- 6.1 School grade levels**
- 6.2 Student demographics**
- 6.3 Maximum and minimum enrollment**
- 6.4 Eligibility for enrollment**
- 6.5 Enrollment preferences, selection method, timeline, and procedures**
- 6.6 Admission process and procedures for enrollment of students with disabilities or a Section 504 plan**
- 6.7 Participation in other district programs**
- 6.8 Non-resident admissions**
- 6.9 Student movement after October 1**
- 6.10 Expulsion and denial of admission**
- 6.11 Continuing enrollment**

Section Six of the charter school contract covers minimum and maximum enrollment; grade levels to be served, including during the phase-in period; the proposed demographic characteristics of the student body; eligibility to enroll; application procedures, including timeline, selection methods and preferences; wait list procedures; and enrollment of students with disabilities. Some charter school contracts do not include enrollment preferences and timelines or require the charter school to follow district timelines and procedures. Generally, this is not recommended; charter schools should establish their own procedures consistent with building an applicant pool that is a good fit for its educational program.

Clear enrollment procedures are essential to a fair process and to public perceptions of fairness. The contract should ensure that all students have equal opportunity to apply for admission and should make clear under what circumstances a student will be placed on a waiting list. Much of the language for this section may be taken directly from the charter school's application. Since the Sample Contract Language and Attachments provisions are fairly long and detailed, they are included in an attachment rather than in the body of the contract.

⁷ C.R.S. 22-30.5-105(3).

TIP

Contract requirements regarding student enrollment eligibility or student body demographic characteristics may render a school ineligible for federal startup funds. Consult federal guidance regarding lotteries and enrollment preferences.

An issue that frequently arises is whether changes in grade level configuration, such as adding grades, require the submission of a new charter school application or whether they can be addressed through contract amendments. Both approaches are consistent with law; however, modification of the existing contract is usually recommended because it simplifies the process. Much of the material from the original application and contract remains in force. Where the current contract needs to be modified, the charter school should submit revised information. For example, when proposing to add a grade level, the charter school would submit to the district a revised budget, the new grade phase-in plan, admission procedures clarifying how students transition from the original grades served to the expanded grades, and the educational plan including curriculum, instructional methods, assessments, and relationship of the program for new grades to the current educational program.

Other information in this section addresses situations such as student enrollment in the charter school and another district program, admission of non-residents, and student movement after the October pupil count day. Finally, contracts should specify whether or not the district's board is delegating its authority to the charter school's governing board to expel or deny admission to students. Charter school governing boards should be wary of this authority, which has significant statutory requirements. Schools that have this authority may be responsible for supplying any expelled students with an alternative education program or paying the district to provide one. The *Sample Contract Language and Attachments* balances charter school autonomy with the complexity of the task by giving the charter school governing board the authority to make a recommendation to the district superintendent regarding expulsion.

While a charter school may enroll students in any manner as long as the process is not discriminatory⁸, eligibility for federal charter school startup grant funds is dependent on use of an approved lottery for admission. However, once federal grant funds are spent or encumbered the charter school may use any process to enroll students, consistent with its charter contract. For more detail on lottery requirements, contact the Schools of Choice Unit at CDE or read the Non-Regulatory Guidance at: www.cde.state.co.us/cdechart/nonregguidance.htm.

⁸ C.R.S. 22-30.5-104(3).

Section Seven: Educational Program

7.1 Vision

7.2 Mission

7.3 School goals and objectives

- A. School goals
- B. Mission-specific school objectives
- C. District accreditation
- D. District finance, governance, and operations standards

7.4 Educational program characteristics

7.5 GED and online programs

7.6 Curriculum, instructional program, and pupil performance standards

7.7 Graduation requirements

7.8 English language learners

7.9 Education of students with disabilities

Section Seven of the charter school contract describes the school's vision and mission, educational program, goals and objectives, curriculum and graduation requirements, and plans for educating English language learners and students with disabilities. Some of these provisions will come directly from the charter school's application. The *Sample Contract Language and Attachments* identifies which characteristics of the school's educational program cannot be changed without a contract amendment. These characteristics come from the school's application, with initial identification usually done by the charter school. This section also includes a description of the responsibilities of each of the parties for education of students with disabilities.

TIP

An online resource, "Colorado Charter Schools Special Education Compliance Plan Guidelines: For Negotiating New and Renewal Contracts," is at: www.cde.state.co.us/cdechart/guidebook/sped/pdf/spednegotguidelines08-2008.pdf

The contract should state the school's goals and objectives in S.M.A.R.T. format (see text box in Section Seven of the Sample Contract Language and Attachments). Clear goals form the basis of a strong accountability system enabling both school and authorizer to track progress over the course of the contract and into the charter renewal process. The contract should contain some objectives that are unique to the school and other indicators that are common to similar schools. In the *Sample Contract Language and Attachments*, the district's accreditation indicators serve as the common indicators. Pursuant to C.R.S. 22-11-204 (1), each district must develop accreditation indicators that incorporate state performance indicators. Some districts create indicators for finance, governance, and operations for charter schools. Whether or not a district chooses to include such indicators as part of accreditation, a charter school should include finance, governance, and operations standards and criteria for evaluation in the contract. Prior to finalizing a school's status with regard to the objectives, the district should provide the school with the opportunity for comment

Section Eight: Financial Matters

8.1 Revenues

- A. District per pupil revenue funding
- B. Mill Levy funds
- C. Federal categorical aid
- D. State categorical aid

8.2 Disbursement of per pupil revenue

- A. Disbursement of district per pupil revenue funding
- B. Adjustment to funding

8.3 Budget

8.4 Enrollment projections

8.5 TABOR reserve

8.6 Contracting

8.7 Annual audit and trial balance

8.8 Quarterly reporting

8.9 Non-commingling

8.10 Encumbrances and borrowing

8.11 Loans

Section Eight of the charter school contract details the financial relationship between the charter school and the district, including sources of funds, disbursement of funds, and adjustments to funding based on projected and actual funded enrollment and rescissions. The Sample Contract Language and Attachments clearly identifies whether or not the charter school is eligible for district mill levy override funds.

The contract should clarify the extent of the district's authority to mandate changes to the approved school budget. In the Sample Contract Language and Attachments, the district has the authority to ensure that the budget is balanced, consistent with the law and contract, aligned with the school's vision and mission and educational objectives and overseen by an independent financial audit. Whenever a charter school board decides to change the budget, the board should submit the resolution approving the changes and the revised budget to the district.

The *Sample Contract Language and Attachments* requires the school to regularly submit financial reports. It prohibits commingling of funds to ensure that the charter school operates only as a public school and that its assets and liabilities can be clearly identified. The Sample Contract Language and Attachments also clarifies any limits or restrictions on borrowing and encumbering assets.

Section Nine: Personnel

9.1 Employee status

Section Nine of the charter school contract defines the status of charter school employees by stating that they are employees of the school only and not the district. Since most charter schools employ only at-will staff, ensuring that employees cannot claim that they are district employees is essential. To accomplish this, the district will likely want an arms-length relationship with the charter school. While a district may want a school to identify if any administrators are employees of an educational service provider (as opposed to the charter school itself), districts generally do not need to oversee job descriptions, organization charts, employee agreements and staff qualifications (other than Highly Qualified status in accordance with No Child Left Behind).

Typically, charter school contracts include a provision about the status of district teachers who become charter school employees. This provision has purposefully been omitted since statute defines this relationship for the initial three years of a teacher's employment at a charter school. After this, the district is free to establish its own policy regarding treatment of such employees.

Section Ten: Service Contracts with the District

10.1 Direct costs

10.2 District services

Section Ten of the charter school contract covers service contracts between the charter school and the district so as not to confuse them with other financial arrangements between the parties. Service agreements are entirely voluntary, except for the charter school's share of district special education costs and direct central administrative overhead costs. Typically, a voluntary service contract is for one year only, although it may be renewed in future years. In the Sample Contract Language and Attachments, the district provides the charter school with its student information system.

Section Eleven: Facilities

11.1 School facility

11.2 Use of district facilities

11.3 Impracticability of use

11.4 Long-range facility needs

Section Eleven of the charter school contract clarifies whether and under what conditions a charter school can have access to a district facility. The section contains the description of how the district will support the long-term facility needs of the charter school as is required by statute.

Section Twelve: Charter Renewal, Revocation and School-Initiated Closure

- 12.1 Renewal timeline and process**
- 12.2 Renewal application contents**
- 12.3 Criteria for renewal or non-renewal and revocation**
- 12.4 Termination and appeal procedures**
- 12.5 School-initiated closure**
- 12.6 Dissolution**
- 12.7 Return of property**

Section Twelve of the charter school contract addresses revocation, school-initiated closure, and renewal. The grounds for termination are outlined. Some grounds have been added as a result of changes in state requirements for accreditation of schools. Remedies that may be imposed prior to seeking revocation are listed in Section Three of the *Sample Contract Language and Attachments*. For example, a school that does not make sufficient progress toward achieving its goals and objectives for a number of years might be sent a notice with opportunity to develop a plan. Continued failure to make progress might then lead to initiation of revocation procedures or non-renewal.

This section also provides clear renewal guidelines including timeline and process, application contents, and criteria for renewal. Renewal actions should not come as a surprise to the school as the district should be providing feedback about progress particularly when there are concerns about performance (see Section 3.6).

Section Twelve also includes procedural details in the event of school closure: the responsibilities of both parties, disposition of assets, and reassignment of students. The *Sample Contract Language and Attachments* gives the district the authority to operate the school until the end of the year as part of the closure process. This may be the best option to avoid disruption to the education of charter school students and students in receiving district schools associated with a mid-year closure.

Section Thirteen: General Provisions

- 13.1 Order of precedence**
- 13.2 Amendments**
- 13.3 Merger**
- 13.4 Non assignment**
- 13.5 Governing law and enforceability**
- 13.6 No third-party beneficiary**
- 13.7 No waiver**
- 13.8 Notice**
- 13.9 Severability**
- 13.10 Interpretation**

Section Thirteen of the charter school contract includes standard provisions found in most Colorado charter school contracts: merger of previous agreements, governing law and enforceability, non-assignment, no third-party rights, severability, etc.

Attachment 1: Sample Notice of Concern

[Date]

President, Board of Directors
Centennial Charter School
Address
City, CO Zip Code

Re: **Notice of Concern**

Dear President;

According to our records, Centennial Charter School has a teacher on staff who is not highly qualified. This is a violation of No Child Left Behind (NCLB). Because Centennial Charter School is a Title I school, NCLB requires that 100 percent of its teachers meet Highly Qualified requirements. Due to the fact that Centennial Charter School has a waiver from the licensure law, in order to be considered Highly Qualified the teacher must demonstrate subject matter competency. The PRA XIS and PLA CE exams are content area exams that Colorado accepts to meet subject matter competency requirements.

This letter serves as a formal notice of concern that Centennial Charter School is out of compliance with the NCLB provision regarding Highly Qualified teachers. To resolve this outstanding compliance matter, we are requesting the following:

The school shall remove [name of teacher] from the classroom immediately as he/ she did not pass the PLACE test on [date]. Please submit documentation that any replacement teacher meets the Highly Qualified requirements. For the replacement teacher, please submit original (no photocopies) of official transcripts showing conferred date of at least a Bachelor’s degree and documentation that the teacher has passed either the PRAXIS or PLACE exam.

This information must be provided to our office no later than [date].

If Centennial Charter School is not in compliance with the Highly Qualified requirement for teachers, the school’s status will be changed from Title I “school-wide” to “targeted assistance” in accordance with Colorado Department of Education (CDE) rules and a new Title I plan must be written consistent with this change.

Sincerely,

[signed]

[Title]

Copy: Centennial Charter School Principal

Attachment 2: Sample Notice of Breach of Contract

[Date]

President, Board of Directors
Centennial Charter School
Address
City, CO Zip Code

Re: **Notice of Breach of Contract**

Dear President;

Centennial Charter School was sent a notice of concern on [date] that it was not in compliance with the No Child Left Behind (NCLB) requirement that 100 percent of the school's teachers be Highly Qualified (see letter attached). In order to be considered Highly Qualified, teachers must demonstrate subject matter competency.

To date, the information requested in the notice of concern has not been received by the deadline of [date]. **This letter serves as formal notice of breach of contract.**

If the requested information is not received by the close of business on [date], the school's Title I status will be changed from "school-wide" to "targeted assistance" in accordance with Colorado Department of Education (CDE) rules. A new Title I plan must be submitted, which is consistent with this change. No reimbursements will be made to Centennial Charter School for Title I expenditures between the time when the school's status is changed until a new Title I plan is submitted and approved.

Sincerely,

[signed]

[Title]

Copy: Centennial Charter School Principal

Attachment 3: Sample Notice of Revocation Hearing

[Date]

President, Board of Directors
Centennial Charter School
Address
City, CO Zip Code

Re: **Notice of Revocation Hearing**

Dear President;

On [date] a hearing will be held by the Board of Education of the Colorado School District Re-1 to determine whether the contract for Centennial Charter School should be revoked because the charter school is in violation of Section 7.4 of the charter contract. Pursuant to C.R.S. 22-30.5-104(3)(c), a charter school contract may be revoked if the school has not met or made reasonable progress toward achieving its goals and objectives.

An investigation was conducted regarding the contract violation, which is summarized below:

1. Centennial Charter school was sent a notice of concern letter on [date] informing the school that it was not making progress toward meeting its contractual objectives, specifically being accredited or accredited with distinction in accordance with district criteria for school accreditation. At that time, the school earned only 45 percent of possible points.
2. On [date], the school was sent a notice of breach because the school continued to be accredited with a priority improvement plan. Only 46 percent of the possible points were earned.
3. On [date], the school was designated as accredited with a turnaround plan. Only 30 percent of possible points were earned.

The Centennial Charter School will be given the opportunity to present additional evidence at the hearing. If you have any questions, please call me at 000-000-0000.

Sincerely,

[signed]

[Title]

Copy: Centennial Charter School Principal