

January 2008

Report No. 08-04

## Steps Taken to Improve Charter School Financial Management and Performance Accountability; Additional Action Needed

### *at a glance*

Since our 2005 reports, the Legislature has taken action to improve the financial condition of the state's charter schools. The 2006 Legislature amended Florida law to clarify the Department of Education's role in providing technical support to school districts and charter school operators. This legislation also included charter schools as entities subject to provisions governing financial emergencies, and required charter school auditors to notify each member of the school's governing body when certain deteriorating financial conditions exist.

In addition, the Department of Education has implemented several of our recommendations to improve charter schools operations. For instance, the department has provided training and technical assistance to new charter school operators to help them in areas such as planning, budgeting, managing, and financial reporting.

However, additional steps would further improve charter school financial management and performance. These include strengthening reporting and technical assistance requirements for charter schools experiencing financial emergencies, developing a financial monitoring system to identify and assist financially struggling charter schools earlier, and requiring that charter school applicants receive training and technical assistance during the application process.

The Legislature may also wish to consider clarifying conflict of interest prohibitions for charter schools.

### Scope

In accordance with Florida law, this progress report informs the Legislature of actions taken in response to two prior OPPAGA reports related to Florida's Charter School Program.<sup>1,2</sup>

### Background

In 1996, the Florida Legislature authorized charter schools as a means to improve student learning, increase teaching innovation, provide students and parents with more choice, increase accountability, and provide competition within the public school system.<sup>3</sup> Since that time, the number of charter schools in Florida has grown from the initial five charter schools that served 574 students to 356 charter schools serving 98,755 students in 2006-07 school year.

Florida's charter schools are publicly funded, nonsectarian schools that operate under contracts (charters) with their sponsors, usually local school boards.<sup>4</sup> They are largely independent of the school districts in which they operate and are

<sup>1</sup> Section [11.51\(6\)](#), *F.S.*

<sup>2</sup> *Charter School Application Requirements Are Reasonable; Financial Management Problematic*, [Report No. 05-11](#), March 2005; *Charter School Performance Comparable to Other Public Schools; Stronger Accountability Needed*, [Report No. 05-21](#), April 2005.

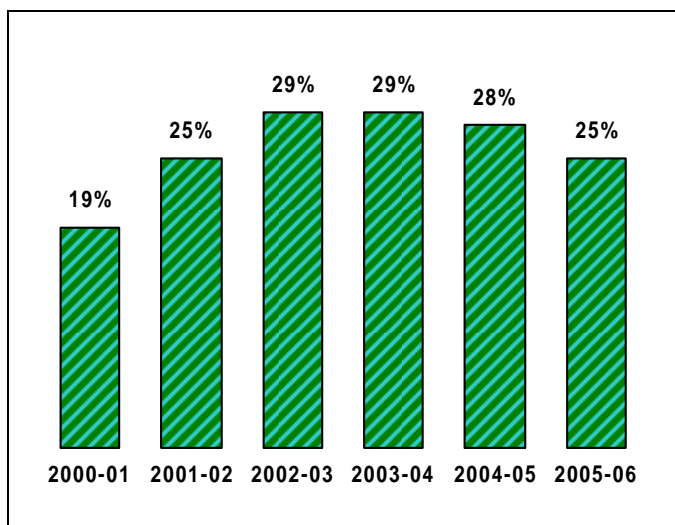
<sup>3</sup> Chapter 96-186, *Laws of Florida*.

<sup>4</sup> A university may grant a charter to a developmental research (laboratory) school created under s. [1002.32](#), *F.S.*, limited to one school per university except charter lab schools authorized prior to June 1, 2003.

managed by their own governing boards. Florida's charter schools are open to all students and may offer a specialized curriculum that emphasizes science, the arts, and/or programs for at-risk students.

Some charter schools struggle financially. The Auditor General's most recent audits found that while the percentage of charter schools with year-end deficits has declined since 2002-03, one in four charter schools operated with a year-end financial deficit in Fiscal Year 2005-06 (see Exhibit 1).<sup>5</sup> Furthermore, the Auditor General identified 14 charter schools that closed during the 2005-06 fiscal year and another 15 whose ability to continue operations on an ongoing basis is questionable.<sup>6</sup>

**Exhibit 1**  
**In 2005-06, the Percentage of Charter Schools With a Financial Deficit Decreased Slightly**



Source: Auditor General Report Nos. 03-047, 2004-058, 2005-054, 2006-034, 2007-015, and 2008-018.

Our previous reports made several recommendations to improve the financial condition, operation, and accountability of charter schools, and the performance of students attending them.

## Current Status

The Florida Legislature and the Department of Education have taken several steps to help identify and better assist financially struggling charter schools. However, the department has not yet fully implemented our recommendations to improve charter schools' financial condition, accountability, and student performance. Additional steps would further improve the financial management and performance of charter schools. These include strengthening reporting and technical assistance requirements for charter schools experiencing financial emergencies, requiring the development of a financial monitoring system to identify and assist financially struggling charter schools earlier, and requiring that charter school applicants receive training and technical assistance during the application process.

### ***Additional financial reporting requirements and increased assistance should help financially struggling charter schools***

Since our 2005 reports, both the Legislature and the department have taken steps to better identify and support struggling charter schools.

The Legislature strengthened charter schools' financial auditing and reporting standards. The Florida Legislature addressed several of our previous reports' recommendations. The 2006 Legislature amended s. 1002.33, *Florida Statutes*, to strengthen financial audits of charter schools, require a charter school's governing body to be notified when a financial emergency exists, and require that financially struggling charter schools develop recovery plans.<sup>7</sup> These changes should help identify those charter schools in financial crisis and allow administrators to take appropriate corrective action.

<sup>5</sup> The Auditor General reported two reasons for this decline. First, nine of the charter schools which reported deficits at June 30, 2005, closed subsequent to the year-end and did not file reports for the year ended June 30, 2006. Second, some charter schools with reported deficits eliminated the deficits through the forgiveness of debt or a renegotiation of fees due to the charter school's management company. One charter school reported a forgiveness of debt totaling approximately \$3.4 million.

<sup>6</sup> Auditor General [Report No. 2008-018](#).

<sup>7</sup> Chapter [2006-190](#), *Laws of Florida*.

The 2006 Legislature also amended ss. 218.503 and 1002.33, *Florida Statutes*, to direct the Department of Education to establish guidelines for developing financial recovery plans. In March 2007, the department posted general guidelines on its website for charter schools' use in developing such plans.<sup>8</sup> The guidelines outline the components that should be part of the plan, including audit findings, financial status, time frame for correction, projected weighted full-time equivalent students, identified cost reductions, and internal measures to monitor the plan's implementation.

However, current law does not require that charter schools' financial recovery plans be submitted to the Department of Education or be included in the department's annual compilation report required under s. 1002.33, *Florida Statutes*. Current law also does not provide consequences for charter schools with persistent serious financial problems. As a result, the department lacks information on what steps charter schools are taking to deal with financial emergencies and it has limited ability to provide assistance to these schools.

To address these issues, the Legislature may wish to amend Florida law to

- require charter school sponsors to file a copy of a financial recovery plan with the Commissioner of Education;
- require the Department of Education to report this information annually to the State Board of Education;
- require the Department of Education to provide direct technical assistance to charter schools and their governing bodies that are experiencing financial emergencies; and
- expand the causes for non-renewal or termination of a charter to include charter schools that exhibit one or more of the conditions for financial emergency provided in s. 218.503, *Florida Statutes*, for two consecutive years.

Additional action needed to establish stronger financial monitoring system. Currently Florida has no systematic means to identify charter schools that are experiencing financial difficulty but are not yet in a crisis situation. The Department of Education has taken limited steps to implement our previous recommendation to develop a systematic means to identify charter schools that are experiencing financial difficulty. Florida law requires that charter school sponsors monitor charter school revenues and expenditures typically through monthly expenditure reports. Our previous report pointed out that stronger monitoring systems are needed to identify schools experiencing financial difficulty to help them avoid eventually closing due to financial problems.

In February 2007, the department created a finance director position in the Office of Independent Education and Parental Choice. This position is intended to help ensure that charter school sponsors are fulfilling their duties as outlined in s. 1002.33(5)(b), *Florida Statutes*. The finance director's duties include assessing the needs of charter school sponsors and charter schools, identifying available resources, and determining what monitoring systems or activities will best serve the needs of the schools and sponsors.

However, the department has made little progress in developing a monitoring system for use by charter school sponsors to identify charter schools with high potential of experiencing financial difficulty. To do so, the department should develop a comprehensive list of financial indicators that would identify charter schools at greatest risk for financial difficulty and/or deteriorating financial conditions. However, according to department officials, current Florida law does not provide the department the authority to develop a systematic means for charter school sponsors to identify charter schools that are experiencing financial difficulty.

---

<sup>8</sup> [Charter School Financial Recovery Plan Guidelines, Technical Assistance Paper No: 2007-21.](#)

The department also has not implemented our recommendation to strengthen charter school financial reporting requirements. Section 1002.33(9)(h), *Florida Statutes*, requires charter schools to provide an annual financial report and report program cost information in a state-required format. The purpose of this information is to inform parents and the public concerning how funds were spent to operate the school during the prior fiscal year and to provide useful information to manage the education system. However, the department has found charter school program cost report data to be inaccurate and unreliable and it excludes this cost data from reports such as the department's school indicators report and return on investment report.

As a result, state reporting on the cost of education programs per student in Florida is under-represented by the cost of those programs in charter schools. This cost information also is used to fulfill federal reporting requirements and establish the weighting for various components of the Florida Education Finance Program (FEFP). To make this program cost information usable, the department indicates it needs to be reconciled with audited figures. However, department officials believe that the department does not have the statutory authority or resources to perform this reconciliation.

The Legislature could consider additional steps to assist financially struggling charter schools. These include amending current law to

- direct the department to develop a list of indicators for charter school sponsors to use to identify charter schools with high potential of experiencing financial difficulty;<sup>9</sup>
- require charter school sponsors to notify the charter school governing body when certain financial conditions exist as well as require a corrective action plan to address the situation within a specified timeframe;

<sup>9</sup> These financial indicators could include: a substantial decline in student enrollment without a commensurate reduction in expenses, insufficient revenues to pay current operating expenses, insufficient revenues to pay long term expenses, disproportionate administrative expenses, excessive debt, inadequate fund balances or reserves, failure to meet financial reporting requirements pursuant to s. [1002.33\(9\)](#), *F.S.*, weak financial controls or other adverse financial conditions identified through an internal audit or annual audit conducted pursuant to s. [218.39](#), *F.S.*, and negative financial findings cited in Auditor General or OPPAGA reports.

- require sponsors file charter schools' corrective action plan with the Commissioner of Education;
- require charter schools to describe the implementation status of any corrective action plans in their annual report required under s. [1002.33\(9\)\(l\)](#), *Florida Statutes*;
- require the Department of Education to establish guidelines for developing corrective action plans and to provide direct technical assistance to charter schools and their governing bodies in developing the plans; and
- require charter schools to work with their sponsors to reconcile charter school program cost information to audited figures to make the program cost information comparable to the financial information reported by other public schools.

Collectively, these steps would provide a stronger monitoring system for charter school finances. The department could use this to better target its resources to help charter schools and their sponsors address financial problems that arise, and would also enable the department and the Legislature to better monitor the overall financial status of charter schools.

The Department of Education has provided planning, budgeting, and management assistance to charter schools. The 2006 Florida Legislature amended s. [1002.33](#), *Florida Statutes*, to direct the Department of Education to provide additional training and technical assistance to charter school applicants to improve planning and the day-to-day management of charter schools. In August 2006 and July 2007, the department delivered training that covered several topics including developing business plans, estimating costs and income, projecting enrollment, and identifying available funding sources. Thirty-one charter school representatives attended these two training sessions.<sup>10</sup> The department plans to offer similar training sessions annually each summer. In addition, the department developed two technical assistance papers for charter schools on funding and financial management.

<sup>10</sup> The department also offers this training [online](#) through its website.



However, current law does not require that charter school applicants receive this training and technical assistance during the application process. Of the 32 individuals who attended the department's August 2006 and July 2007 training sessions, only four indicated that they were prospective charter school applicants.<sup>11</sup> As noted in our prior report, newly opened charter schools have the highest risk of financial difficulties and subsequent closings. If the Legislature wished to address this issue, it could amend s. 1002.33(6)(g), *Florida Statutes*, to require that one or more representatives from charter school applicants attend the department's training prior to filing their applications. This would help ensure that new charter school operators understand their financial responsibilities and develop skills that would help minimize financial difficulties and risk of closing during their first years of operation.

***Department has taken steps to improve academic accountability, but dissemination of school improvement resources could be expanded***

The Department of Education has begun implementing our prior recommendations to improve charter schools' accountability. These actions include creating a template for charter school contracts, providing training on establishing clear academic objectives, and making school improvement resources available to low performing charter schools.

The department is in the process of developing a template for charter school contracts. To address our previous findings that charter school contracts often contained insufficient performance criteria, the 2006 Legislature amended Florida law requiring the department to provide charter school sponsors with a standard contract template.<sup>12</sup> Since January 2007, the department, in conjunction with the National Association of Charter School Authorizers,

has been developing contract and contract renewal templates as well as application templates and application review guidelines for school boards. The department reports the contract templates are nearing completion and should be available in early 2008. The department completed and distributed a new application template and review guidelines which also are posted on the department's website.<sup>13</sup>

The department has provided training on establishing clear academic objectives and measurable outcomes. To further improve the clarity and usefulness of charter school contracts and annual reports, the department has offered several training sessions. For instance, it provided training on establishing performance objectives at Florida's annual charter school conference held November 30 – December 1, 2006. In addition, the department contracted with the National Association of Charter School Authorizers to provide a series of workshops for charter school authorizers including a workshop held January 2007 on performance contracting and a workshop held March 2007 on academic performance monitoring.

The department is assisting poorly performing charter schools but should disseminate effective school practices. To address our recommendations to improve the academic performance of students attending poorly performing charter schools, the department now includes charter schools in its school improvement and assistance process, giving priority to schools receiving a grade of "D" or "F" under Florida's A-Plus Program. This assistance includes requiring districts to develop a two-year plan of individualized intervention for each school in danger of not meeting state standards and requiring districts to develop and implement a student progress monitoring system.

<sup>11</sup> The remaining participants represented current charter schools (5), school districts (5), and various other organizations (18) including charter school management companies and charter school consulting firms. Department attendance records did not permit us to determine whether individuals representing organizations such as charter school management companies and charter school consulting firms were or intended to be applicants, or planned to share training materials and information with prospective charter school applicants not in attendance.

<sup>12</sup> Section [1002.33\(21\)](#), *F.S.*

<sup>13</sup> These documents are available on the [charter schools home page](#) of the department's website.

Holding charter schools accountable for academic performance is complicated by the fact that charter schools are three times more likely than traditional schools not to be subject to the state's school grading program due to their grade configuration or small enrollment. In 2006-07, 42% (146) of the 351 charter schools did not receive a school grade compared to 14% of traditional schools.<sup>14</sup> Therefore it is important that these schools' charters contain meaningful and measurable performance objectives and that their performance is clearly reported to their sponsor and the public. It is also important that the department track this information in order to have notice when school improvement assistance is needed. To address this issue, the department should ensure that charter schools, especially those not included in the school grading system, are provided training and technical assistance on practices that are widely recognized as promoting high academic achievement. The department should also use charter school annual reports to identify and assist schools that are not graded and that appear to be experiencing poor academic performance.

The Legislature may wish to make additional changes. The Legislature may wish to consider additional steps to improve charter school contracts and accountability. This could include strengthening existing law to require that sponsors verify whether performance outcomes contained in charter school contracts have been met, pursuant to s.1002.33(5)(b)1.a., *Florida Statutes*. This could include amending s.1002.33, *Florida Statutes*, to require sponsors to certify to the State Board of Education that charter schools are meeting the performance expectations established in their contracts.

### ***Conflict of interest provisions in law are not uniformly applied to charter schools, and clarification is needed***

In recent years several examples of charter school board members encountering potential conflicts of interests have been noted. For example, the Auditor General has reported irregularities and instances of board members receiving personal gains. There have also been numerous news articles questioning alleged conflicts of interest between governing board members and charter school operations. The charter school law does not address directly conflicts of interest for governing board members. In certain instances, the applicability of the Code of Ethics for Public Officers and Employees to charter schools is unclear and can vary depending on the organization's legal structure and the district in which the charter school is located. The Legislature could amend Florida law to make the application of conflict of interest laws clear and consistent.

The nature of the entity operating the charter school could determine which conflict of interest provisions apply. Charter schools in Florida may be operated by municipalities or by nonprofit corporations. Municipalities that operate charter schools can have several different charter school governance structures. In some municipalities the city council serves as the governing body, while others appoint a separate governing body, and some appoint advisory boards that are organizationally placed between the school and the elected officials. The Code of Ethics for Public Officers and Employees (Ch. 112, Part III, *Florida Statutes*) applies to all of these bodies and prohibits certain transactions and employment or contractual relationships unless an exemption is authorized in statute.<sup>15</sup>

<sup>14</sup> Schools with fewer than 30 students per grade level and schools that do not serve grades 3-10 are not included in the school grading program. Of the 146 charter schools that did not receive a school grade in 2006-07, 32 were schools that served students in the non-tested grades (PK-2, 11, and 12). In addition, according to Department of Education staff, 12 of the ungraded charter schools in 2006-07 meet the criteria for inclusion under the School Improvement Ratings for alternative schools in the 2007-08 school year as provided in s. [1008.341](#), *F.S.*

<sup>15</sup> The applicability of portions of Ch. [112, Part III](#), *F.S.*, varies depending on the nature of the officeholder and the potential conflict; charter school board members may be subject only to portions of Part III.

However, there is less clear direction from the law on whether the Code of Ethics applies to the governing boards of charter schools owned or operated by nonprofit corporations. Specifically, it is not clear whether governing board members of such charter schools would be considered “public officers” as defined in s. 112.313(1), *Florida Statutes*, and would thus be subject to the requirements set forth in the Code of Ethics for Public Officers and Employees.<sup>16</sup>

In addition, s. 617.0832, *Florida Statutes*, pertains generally to nonprofit corporation director conflicts of interest, which could include the members of certain governing boards of charter schools owned or operated by nonprofit corporations. However, this section of law would only apply to charter school governing board members who are also members of the nonprofit corporation’s board of directors. Furthermore, the requirements of s. 617.0832, *Florida Statutes*, are less stringent than those provided in Ch. 112, Part III, *Florida Statutes*.

Some charter school sponsors have attempted to clarify in the charter document that the Ch. 112, *Florida Statutes*, conflict of interest provisions apply. However, sponsors vary in whether they require charter schools to follow conflict of interest laws. For instance, some sponsors, such as the Broward County School District, require that charter school contracts provide that all governing board members and employees must comply with the provisions of Ch. 112, Part III, *Florida Statutes*. In contrast, other sponsors, such as the Alachua County School District, do not require that charter schools comply with the Ethics Code in Ch. 112, Part III, *Florida Statutes*.

The Legislature could amend the law to make the application of conflict of interest laws consistent. The Legislature may wish to clarify what conflict of interest prohibitions are applicable to charter schools and consider whether all charter school governing boards should be subject to the same conflict of interest provisions. To do so, the Legislature could amend Florida law and place new language to address potential conflict of interest issues for charter school governing boards in the charter school law, s. 1002.33, *Florida Statutes*, so that all interested persons would have clear notice of the requirements. These requirements could

- clarify whether all charter school governing boards are subject to the same conflict of interest prohibitions whether operated by municipalities or by nonprofit corporations;
- apply financial disclosure requirements to charter school governing boards;
- prohibit governing board members from doing business with their agency (charter school) and having conflicting employment or contractual relationships as provided in ss. 112.313(3) and (7), *Florida Statutes*;
- establish procedures for a board member to seek an exemption from the prohibitions of ss. 112.313(3) and (7)(a), *Florida Statutes*, upon extraordinary vote of the governing board to waive the particular conflict, as provided in s. 112.313(12), *Florida Statutes*, or otherwise; and
- require that all charter school governing boards are subject to voting conflict provisions similar to those provided in ss. 112.3143(3) and (4), *Florida Statutes*.

---

<sup>16</sup> “The term public officer includes any person elected or appointed to hold office in any agency...”[s. 112.313(1), *Florida Statutes*,] where “agency” includes any public school. [s. 112.312(2), *Florida Statutes*].

## *The Florida Legislature*

# *Office of Program Policy Analysis and Government Accountability*



---

OPPAGA provides performance and accountability information about Florida government in several ways.

- [OPPAGA publications and contracted reviews](#) deliver program evaluation, policy analysis, and Sunset reviews of state programs to assist the Legislature in overseeing government operations, developing policy choices, and making Florida government better, faster, and cheaper.
- [Florida Government Accountability Report \(FGAR\)](#), an Internet encyclopedia, [www.oppaga.state.fl.us/government](http://www.oppaga.state.fl.us/government), provides descriptive, evaluative, and performance information on more than 200 Florida state government programs.
- [Florida Monitor Weekly](#), an electronic newsletter, delivers brief announcements of research reports, conferences, and other resources of interest for Florida's policy research and program evaluation community.
- Visit OPPAGA's website, the Florida Monitor, at [www.oppaga.state.fl.us](http://www.oppaga.state.fl.us)

---

OPPAGA supports the Florida Legislature by providing evaluative research and objective analyses to promote government accountability and the efficient and effective use of public resources. This project was conducted in accordance with applicable evaluation standards. Copies of this report in print or alternate accessible format may be obtained by telephone (850/488-0021), by FAX (850/487-3804), in person, or by mail (OPPAGA Report Production, Claude Pepper Building, Room 312, 111 W. Madison St., Tallahassee, FL 32399-1475). Cover photo by Mark Foley.

Project supervised by David D. Summers (850/487-9257)

Project conducted by Jan Bush, Kathleen Del Monte, and Mark Frederick (850/487-9251)

Jane Fletcher, Education Policy Area Staff Director

Gary R. VanLandingham, Ph.D., OPPAGA Director