

110TH CONGRESS
1ST SESSION

H. R. 2904

To amend the Elementary and Secondary Education Act of 1965 to reauthorize the laws relating to public charter schools to improve academic achievement of all students.

IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2007

Mr. BOUSTANY (for himself, Mr. McKEON, Mr. CASTLE, Mr. HOEKSTRA, Mrs. McCARTHY of New York, and Mr. FORTUÑO) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend the Elementary and Secondary Education Act of 1965 to reauthorize the laws relating to public charter schools to improve academic achievement of all students.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Charter School Pro-
5 gram Enhancement Act of 2007.”.

6 **SEC. 2. CHARTER SCHOOLS PROGRAM.**

7 (a) PURPOSE.—Section 5201 of the Elementary and
8 Secondary Education Act of 1965 (20 U.S.C. 7221) is
9 amended—

1 (1) in the matter preceding paragraph (1) by
2 striking “to increase national understanding of the
3 charter schools model by—” and inserting “to sup-
4 port the Nation’s charter schools in increasing the
5 academic achievement of students, by—”;

6 (2) in paragraph (3)—

7 (A) by inserting before the semicolon the
8 following: “, especially those students that at-
9 tend schools that have been identified as in
10 need of improvement”; and

11 (B) by striking “and” at the end;

12 (3) by redesignating paragraph (4) as (6); and

13 (4) by inserting after paragraph (3) the fol-
14 lowing:

15 “(4) encouraging the replication of successful
16 charter school models;

17 “(5) disseminating charter school innovations
18 throughout public education; and”.

19 (b) PROGRAM AUTHORIZED.—Section 5202 of that
20 Act (20 U.S.C. 7221a) is amended—

21 (1) in subsection (a) by inserting after “State
22 educational agencies” the following: “and authorized
23 public chartering agencies”;

24 (2) in subsection (b) by striking “5203(c)” and
25 inserting “5203(d)”;

1 (3) in subsection (c)—

2 (A) in paragraph (1)—

3 (i) by striking “under this section”
4 and inserting “or authorized public char-
5 tering agencies under this section”; and

6 (ii) by striking “3 years” and insert-
7 ing “5 years”; and

8 (B) by amending paragraph (2) to read as
9 follows:

10 “(2) GRANTS TO ELIGIBLE APPLICANTS.—

11 Grants awarded by the Secretary to eligible appli-
12 cants under subsection (b) or subgrants awarded by
13 State educational agencies or authorized public char-
14 tering agencies to eligible applicants under section
15 5204(g)(1) shall be for a period of not more than 3
16 years. The eligible applicant shall use a portion of
17 that period for planning and program design and a
18 portion for the initial implementation of a charter
19 school.”;

20 (4) by striking subsection (d);

21 (5) by redesignating subsections (e) and (f) as
22 (d) and (e), respectively;

23 (6) in subsection (d) (as so redesignated)—

24 (A) by amending paragraph (1) to read as
25 follows:

1 “(1) IN GENERAL.—In awarding grants under
2 this subpart from any funds appropriated under sec-
3 tion 5211 (other than funds reserved to carry out
4 section 5205(b)), the Secretary shall—

5 “(A) exclude applications from a State to
6 the extent the State has laws that meet the cri-
7 teria described in paragraph (4), unless the ap-
8 plication demonstrates that such laws do not
9 stifle growth of charter schools or limit parental
10 options; and

11 “(B) give priority to States to the extent
12 that the States meet the criteria described in
13 paragraph (2) and one or more of the criteria
14 described in paragraph (3).”;

15 (B) in paragraph (2)—

16 (i) by striking “paragraph (1)” and
17 inserting “paragraph (1)(B)”;

18 (ii) by striking “periodic” and insert-
19 ing “annual”; and

20 (iii) by striking “, at least once every
21 five years unless required more frequently
22 by State law,”;

23 (C) in paragraph (3)—

24 (i) by striking “paragraph (1)” and
25 inserting “paragraph (1)(B)”;

1 (ii) in subparagraph (A) by inserting
2 after “State educational agency” the fol-
3 lowing: “, authorized public chartering
4 agency,”; and

5 (iii) by striking subparagraphs (B)
6 and (C) and inserting the following:

7 “(B) The State provides for one authorized
8 public chartering agency that is not a local edu-
9 cational agency, such as a State chartering
10 board, for each individual or entity seeking to
11 operate a charter school pursuant to such State
12 law.

13 “(C) The State allows for an appeals proc-
14 ess for the denial of an application for a charter
15 school.

16 “(D) The State ensures that each charter
17 school has a high degree of autonomy over the
18 charter school’s budgets and expenditures and
19 an independent governing board that enters
20 into a written performance contract with an au-
21 thorized public chartering agency.

22 “(E) The State provides public charter
23 schools with funding commensurate with that
24 provided to other public schools, including pro-
25 vision for school facilities, and ensures that

1 local educational agencies send to public charter
2 schools the Federal, State, and local dollars to
3 which they are entitled in a timely manner.

4 “(F) The State makes it a priority to cre-
5 ate charter schools in districts or geographical
6 areas with large numbers of schools designated
7 as in need of improvement.

8 “(G) The State demonstrates that a high
9 percentage of its charter school students are ei-
10 ther achieving at or above the proficient level or
11 making sufficient progress toward proficient
12 levels on the State reading or language arts,
13 and mathematics, assessments administered
14 under section 1111(b)(3).”; and

15 (D) by adding at the end the following:

16 “(4) EXCLUSION CRITERIA.—The criteria re-
17 ferred to in paragraph (1)(A) are the following:

18 “(A) The laws limit the number of charter
19 schools in the State.

20 “(B) The laws limit the number of new
21 charter schools per year.

22 “(C) The laws limit the number of start-
23 up charter schools.

24 “(D) The laws limit the number of charter
25 schools per approved authorizer.

1 “(E) The laws limit the number or per-
2 centages of students who may attend a charter
3 school.

4 “(F) The laws limit the number or per-
5 centages of a State’s student population who
6 may attend a charter school.

7 “(G) The laws limit the percentage of a
8 school district’s budget allocated to charter
9 schools.

10 “(H) The laws limit, in any other way the
11 Secretary considers material, the ability of the
12 State to use charter schools to serve students in
13 the State.”; and

14 (7) in subsection (e) (as so redesignated)—

15 (A) by striking “subpart” and inserting
16 “section”;

17 (B) by inserting after “State educational
18 agency” the following: “or authorized public
19 chartering agency”;

20 (C) by striking “take into consideration”
21 and inserting “consider”; and

22 (D) by inserting before the period at the
23 end the following: “and the number of sub-
24 grants the Secretary believes the State edu-

1 cational agency or authorized public chartering
2 agency would be able to make”.

3 (c) APPLICATIONS.—Section 5203 of that Act (20
4 U.S.C. 7221b) is amended—

5 (1) in subsection (a) by striking “may require”
6 and inserting “may reasonably require”;

7 (2) in subsection (b)—

8 (A) in paragraph (1) by striking “and” at
9 the end;

10 (B) in paragraph (2) by striking “and” at
11 the end;

12 (C) by redesignating paragraph (3) as (4);

13 (D) by inserting after paragraph (2) the
14 following:

15 “(3) describe the criteria that the eligible entity
16 will use to award subgrants to eligible applicants to
17 ensure high-quality charter schools; and”;

18 (E) in paragraph (4) (as so redesign-
19 ated)—

20 (i) in subparagraph (F) by striking
21 “authorized public chartering agency will
22 provide for continued operation” and in-
23 serting “State educational agency will pro-
24 vide for continued funding”;

1 (ii) by redesignating subparagraphs
2 (G) through (M), and subparagraph (N),
3 as (H) through (N), and (Q), respectively;

4 (iii) by inserting after subparagraph
5 (F) the following:

6 “(G) a description of how the State edu-
7 cational agency will ensure that the creation of
8 charter schools are targeted toward those dis-
9 tricts or geographical areas with a large num-
10 ber of schools designated as in need of improve-
11 ment;”;

12 (iv) in subparagraph (I) (as so redesi-
13 gnated) by inserting before the semicolon
14 at the end the following: “and how such
15 funds will be used for planning and pro-
16 gram design and for the initial implemen-
17 tation of a charter school”;

18 (v) in subparagraph (J)(ii) (as so re-
19 designated) by inserting before the semi-
20 colon at the end the following: “, including
21 a description of how the eligible applicant
22 will hold a lottery if the number of appli-
23 cants exceeds the number of seats avail-
24 able”;

1 (vi) in subparagraph (N) (as so redesi-
2 gnated)—

3 (I) by striking “under section
4 5202(e)(2)(C)” and inserting “as de-
5 scribed in section 5204(g)(6)”; and

6 (II) by striking “and” at the end;
7 and

8 (vii) by inserting after subparagraph
9 (N) (as so redesignated) the following:

10 “(O) information demonstrating support of
11 the application from the State’s charter school
12 community;

13 “(P) a description of how the State en-
14 courages the inclusion, on independent gov-
15 erning boards, including those overseeing multi-
16 campus charters, individuals with a diversity of
17 skills, including business management, financial
18 management, real estate finance, and cur-
19 riculum and instruction; and”;

20 (3) by redesignating subsections (c) and (d) as
21 (d) and (e), respectively;

22 (4) by inserting after subsection (b) the fol-
23 lowing:

24 “(c) AUTHORIZED PUBLIC CHARTERING AGENCY’S
25 APPLICATION.—

1 “(1) IN GENERAL.—Each authorized public
2 chartering agency desiring a grant under section
3 5202(a) shall submit an application to the Secretary
4 at such time, in such manner, and accompanied by
5 such information as the Secretary may reasonably
6 require.

7 “(2) CONTENTS.—Each application submitted
8 pursuant to paragraph (1) shall contain the informa-
9 tion and assurances described in subsection (b), as
10 appropriately applied to authorized public chartering
11 agencies.”; and

12 (5) in subsection (e) (as so redesignated)—

13 (A) in the matter preceding paragraph (1)
14 by striking “subsection (e)” and inserting “sub-
15 section (d)”;

16 (B) in paragraph (1)—

17 (i) by striking “(A) through (N)” and
18 inserting “(A) through (Q)”;

19 (ii) by striking “(J), (K), and (N)”
20 and inserting “(K), (L), and (Q)”;

21 (C) in paragraph (2)(B) by striking
22 “5204(e)” and inserting “5204(f)”.

23 (d) ADMINISTRATION.—Section 5204 of that Act (20
24 U.S.C. 7221c) is amended—

1 (1) in subsection (a)(7) by striking “(f)(6)(B)”
2 and inserting “(g)(6)(B)”;

3 (2) by striking subsection (g);

4 (3) by redesignating subsections (b) through (f)
5 as (e) through (g), respectively;

6 (4) by inserting after subsection (a) the fol-
7 lowing:

8 “(b) SELECTION CRITERIA FOR AUTHORIZED PUB-
9 LIC CHARTERING AGENCIES.—

10 “(1) IN GENERAL.—The Secretary shall award
11 grants to authorized public chartering agencies
12 under this subpart on the basis of the quality of the
13 applications submitted under section 5203(c), after
14 considering such factors as—

15 “(A) the contribution that a proposed
16 grant will make to assisting educationally dis-
17 advantaged and other students in meeting State
18 academic content standards and State student
19 academic achievement standards;

20 “(B) the degree of flexibility afforded by
21 the State educational agency to charter schools
22 under the State’s charter school law;

23 “(C) the ambitiousness of the objectives
24 for the proposed project;

1 “(D) the quality of the strategy for assess-
2 ing achievement of those objectives;

3 “(E) the likelihood that the proposed grant
4 will meet those objectives and improve edu-
5 cational results for students;

6 “(F) the number of high-quality charter
7 schools created under this subpart by the agen-
8 cy; and

9 “(G) in the case of an authorized public
10 chartering agency that proposes to use grant
11 funds to support dissemination activities under
12 subsection (g)(6)(B), the quality of those activi-
13 ties and the likelihood that those activities will
14 improve student academic achievement.

15 “(2) REQUIREMENTS.—The Secretary may
16 award a grant to an authorized public chartering
17 agency only if the Secretary determines that—

18 “(A) the agency has the capacity to make
19 subgrants effectively; and

20 “(B) making the grant would benefit char-
21 ter schools in the State.”;

22 (5) in subsection (c) (as so redesignated)—

23 (A) in the matter preceding paragraph (1)
24 by striking “5203(c)” and inserting “5203(d)”;

1 (B) by striking paragraph (4) and insert-
2 ing the following:

3 “(4) the objectives for the charter school and a
4 description of how such objectives will be fulfilled,
5 including steps taken by the charter school to in-
6 clude teachers, parents, and communities in fulfilling
7 the objectives;” and

8 (C) in paragraph (7) by striking
9 “(f)(6)(B)” and inserting “(g)(6)(B)”;

10 (6) in subsection (d) (as so redesignated) by in-
11 sserting after “State educational agency” the fol-
12 lowing: “or authorized public chartering agency”;

13 (7) in subsection (e) (as so redesignated)—

14 (A) in the matter preceding paragraph (1)
15 by inserting after “State educational agency”
16 the following: “or authorized public chartering
17 agency”; and

18 (B) in paragraph (2) by striking “, such as
19 approaches designed to reduce school size”;

20 (8) in subsection (g) (as so redesignated)—

21 (A) by amending paragraph (1) to read as
22 follows:

23 “(1) STATE EDUCATIONAL AGENCIES AND AU-
24 THORIZED PUBLIC CHARTERING AGENCIES.—Each
25 State educational agency or authorized public char-

1 tering agency receiving a grant under this subpart
2 shall use such grant funds to award subgrants to
3 one or more eligible applicants in the State to enable
4 such applicant to plan and implement a charter
5 school in accordance with this subpart, provided that
6 most of the funds be awarded to charter school de-
7 velopers, equitably distributed among public non-
8 profit organizations, private nonprofit organizations,
9 and groups of teachers, administrators, parents, and
10 others. A State educational agency or authorized
11 public chartering agency may vary the dollar amount
12 per grant that it awards to eligible applicants based
13 upon a variety of factors, including whether the eli-
14 gible applicant is a start-up charter school or a con-
15 version charter school and whether the eligible appli-
16 cant is creating a charter school under a new char-
17 ter or an existing charter.”;

18 (B) in paragraph (2) by striking “or a
19 State educational agency” and inserting “, or
20 from a State educational agency or authorized
21 public chartering agency,”;

22 (C) in paragraph (3)—

23 (i) in subparagraph (A) by striking
24 “and” at the end;

1 (ii) in subparagraph (B) by striking
2 the period at the end and inserting “;
3 and”; and

4 (iii) by adding at the end the fol-
5 lowing:

6 “(C) dissemination activities as described
7 in paragraphs (2) and (6).”;

8 (D) in paragraph (4) by amending sub-
9 paragraph (A) to read as follows:

10 “(A) STATE EDUCATIONAL AGENCY AND
11 AUTHORIZED PUBLIC CHARTERING AGENCY AD-
12 MINISTRATIVE EXPENSES.—Each State edu-
13 cational agency or authorized public chartering
14 agency receiving a grant pursuant to this sub-
15 part may reserve not more than 5 percent of
16 such grant funds for administrative expenses
17 associated with the charter school grant pro-
18 gram assisted under this subpart.”; and

19 (E) in paragraph (6)—

20 (i) in subparagraph (A)—

21 (I) by striking “IN GENERAL”
22 and inserting “CHARTER SCHOOL”;
23 and

24 (II) by striking “whether or not
25 the charter school has applied for or

1 received funds under this subpart for
2 planning, program design, or imple-
3 mentation,”; and

4 (ii) by adding at the end the fol-
5 lowing:

6 “(C) STATE DISSEMINATION ACTIVITIES.—

7 “(i) GENERAL RULE.—A State edu-
8 cational agency or authorized public char-
9 tering agency may use funds authorized to
10 be reserved for dissemination activities
11 under paragraph (3) to make subgrants
12 for dissemination activities, described in
13 subparagraph (B), for charter schools de-
14 scribed in subparagraph (A), to—

15 “(I) eligible applicants; or

16 “(II) non-profit organizations
17 that have demonstrated knowledge of,
18 and experience with, the activities de-
19 scribed in subparagraph (B).

20 “(ii) SPECIAL RULE.—A State edu-
21 cational agency may also use funds author-
22 ized to be reserved for dissemination under
23 paragraph (3) to make a subgrant, for dis-
24 semination activities described in subpara-
25 graph (B), to an authorized public char-

1 tering agency that does not receive a direct
2 grant from the Secretary under section
3 5202.”.

4 (e) NATIONAL ACTIVITIES.—Section 5205 of that
5 Act (20 U.S.C. 7221d) is amended—

6 (1) in subsection (a)—

7 (A) in paragraph (1) by inserting after
8 “State educational agencies” the following: “or
9 authorized public chartering agencies”;

10 (B) in paragraph (3)(E) by inserting be-
11 fore the period at the end the following: “, au-
12 thorized public chartering agencies, and charter
13 support organizations”; and

14 (C) by striking paragraph (5) and insert-
15 ing the following:

16 “(6) To provide technical assistance to charter
17 schools on how to meet the requirements of part B
18 of the Individuals with Disabilities Education Act.”;

19 (2) in subsection (b)—

20 (A) in paragraph (2)(A) by striking “sub-
21 section” and all that follows through “the Sec-
22 retary shall” and inserting “subpart, the Sec-
23 retary may”;

24 (B) in paragraph (4) by striking subpara-
25 graph (B) and inserting the following:

1 “(B) ELIGIBILITY.—To be eligible to re-
2 ceive a grant under this subsection, a State
3 shall—

4 “(i) establish or enhance, and admin-
5 ister, a per-pupil facilities aid program for
6 charter schools in the State, that is speci-
7 fied in State law and provides annual fi-
8 nancing, on a per-pupil basis, for charter
9 school facilities; or

10 “(ii) provide funding for operations,
11 capital costs, and interest for charter
12 schools in the State in an amount that, on
13 a per-pupil basis, is commensurate with
14 what it provides for those costs to public
15 elementary and secondary schools in the
16 State.”;

17 (C) in paragraph (6) by striking “(A), (B),
18 and (C) of paragraph (3), of section 5202(e)”
19 and inserting “(A) through (G) of paragraph
20 (3), of section 5202(d)”;

21 (D) by adding at the end the following:

22 “(7) EVALUATIONS.—The Secretary shall carry
23 out evaluations of, technical assistance for, and in-
24 formation dissemination regarding, the per-pupil fa-
25 cilities aid programs. In carrying out the evalua-

1 tions, the Secretary may carry out one or more eval-
2 uations of State programs assisted under this sub-
3 section, which shall, at a minimum, address—

4 “(A) how, and the extent to which, the
5 programs promote educational equity and excel-
6 lence; and

7 “(B) the extent to which charter schools
8 supported through the programs are—

9 “(i) held accountable to the public;

10 “(ii) effective in improving public edu-
11 cation; and

12 “(iii) open and accessible to all stu-
13 dents.”; and

14 (3) by adding at the end the following:

15 “(d) DISSEMINATION GRANTS.—

16 “(1) IN GENERAL.—The Secretary may reserve
17 not more than 7 percent of the funds appropriated
18 under section 5211 for any fiscal year to make
19 grants, on a competitive basis, to State educational
20 agencies, authorized public chartering agencies, local
21 educational agencies, nonprofit organizations, or a
22 consortium of charter schools, in any combination,
23 for multi-State dissemination activities designed to
24 increase the number of high-quality charter schools
25 nationally by carrying out such activities as—

1 “(A) assisting others with the planning
2 and start-up of one or more new public schools,
3 including charter schools;

4 “(B) developing partnerships designed to
5 improve student academic achievement;

6 “(C) developing curriculum materials, as-
7 sessments, and other materials that promote in-
8 creased student achievement and are based on
9 successful practices within charter schools;

10 “(D) conducting evaluations and devel-
11 oping materials that document successful prac-
12 tices at charter schools and that are designed to
13 improve student performance in other schools;
14 and

15 “(E) training personnel of the adopting
16 local educational agencies, charter schools, au-
17 thorized public chartering agencies, and charter
18 support organizations in the innovative practice
19 developed at the original site.

20 “(2) APPLICATION.—An eligible entity desiring
21 a grant under paragraph (1) shall submit an appli-
22 cation to the Secretary at such time, in such man-
23 ner, and containing such information as the Sec-
24 retary may reasonably require.”.

1 (f) DEFINITIONS.—Section 5210 of that Act (20
2 U.S.C. 7221i) is amended—

3 (1) in paragraph (1)—

4 (A) by striking subparagraph (L);

5 (B) by redesignating subparagraphs (C)
6 through (K) as (D) through (L);

7 (C) by inserting after subparagraph (B)
8 the following:

9 “(C) has an independent governing board
10 that enters into a performance-based agree-
11 ment—

12 “(i) that encompasses one or more
13 campuses with an authorized public char-
14 tering agency in the State;

15 “(ii) that includes a description of
16 how student performance will be measured
17 in charter schools pursuant to State as-
18 sessments that are required of other
19 schools and pursuant to any other assess-
20 ments or evaluations mutually agreeable to
21 the authorized public chartering agency
22 and the charter school and criteria for re-
23 newal or revocation;”;

24 (D) in subparagraph (I) (as so redesign-
25 nated) by inserting before the semicolon at the

1 end the following: “, and does not give admis-
 2 sions preference to any student on the basis of
 3 prior academic achievement”;

4 (E) in subparagraph (K) (as so redesign-
 5 nated) by adding “and” at the end; and

6 (F) in subparagraph (L) (as so redesign-
 7 nated) by striking “; and” and inserting a pe-
 8 riod;

9 (2) by amending paragraph (3) to read as fol-
 10 lows:

11 “(3) ELIGIBLE APPLICANT.—The term ‘eligible
 12 applicant’ means—

13 “(A) a developer that has applied to an au-
 14 thorized public chartering authority to operate
 15 a charter school and provided adequate and
 16 timely notice and a copy of the application to
 17 that authority under section 5203(e)(3); or

18 “(B) a charter support organization.”;

19 (3) in paragraph (4) by striking “or other pub-
 20 lic entity” and inserting “other public entity, private
 21 nonprofit entity, or a consortium of entities”; and

22 (4) by adding at the end the following:

23 “(5) CHARTER SUPPORT ORGANIZATION.—The
 24 term ‘charter support organization’ means a public
 25 or private nonprofit organization that provides as-

1 3462(b)(1))), the Secretary shall use the amounts avail-
2 able”.

3 (b) APPLICATIONS.—Section 5223(b)(4) of that Act
4 (20 U.S.C. 7223b(b)(4)) is amended by inserting before
5 the semicolon at the end the following: “, including how
6 the applicant will offer a combination of rates and terms
7 more favorable than those that a charter school could re-
8 ceive without assistance under this subpart”.

9 (c) CHARTER SCHOOL OBJECTIVES.—Section
10 5224(2) of that Act (20 U.S.C. 7223c(2)) is amended by
11 inserting after “construction” the following: “(including
12 predevelopment costs, even in rare instances where con-
13 struction or renovation cannot proceed as a result of pre-
14 development findings)”.

15 (d) RESERVE ACCOUNT.—Section 5225(a) of that
16 Act (20 U.S.C. 7223d(a)) is amended by adding at the
17 end the following:

18 “(5) Making limited loans to charter schools,
19 under such terms and conditions as the Secretary
20 may prescribe.”.

21 (e) LIMITATION ON ADMINISTRATIVE COSTS.—Sec-
22 tion 5226 of that Act (20 U.S.C. 7223e) is amended by
23 striking “0.25 percent of the funds received” and inserting
24 “two percent of the funds received for any fiscal year”.

1 (f) AUTHORIZATION OF APPROPRIATIONS.—Section
2 5231 of that Act (20 U.S.C. 7223j) is amended by striking
3 “for fiscal year 2002” and all that follows through the
4 period at the end and inserting “for fiscal year 2008 and
5 such sums as may be necessary for each of the five suc-
6 ceeding fiscal years.”.

○