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Automatic Closure of Low-Performing Public Charter Schools

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Over the past several years, state lawmakers have devoted increasing attention to enacting legislation to better support the growth of high-quality public charter schools. While passing laws to lift caps on charter growth, allowing nondistrict entities to serve as charter authorizers, and providing better funding and facilities support to charters, state lawmakers have also been strengthening accountability provisions for these innovative public school options.

As part of these accountability efforts, a growing number of states have enacted laws that require charter schools to close if they do not meet certain performance benchmarks. In states such as Ohio, these laws have sometimes been borne out of state lawmakers' frustration that authorizers have not been making the tough decisions to close charter schools that have failed to meet the academic goals in their charter contracts. In other states, including Mississippi and Washington, state lawmakers have enacted such provisions as more of a precautionary measure to ensure that as public charter schools open for the first time in these states, if there are under-performing charter schools, they will actually be closed.

This document provides a brief description of existing state policies regarding the automatic closure of low-performing public charter schools. As of September 2015, 15 states had enacted such policies: Alabama, California, Florida, Indiana, Louisiana, Michigan, Mississippi, Nevada, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, and Washington.

As state lawmakers consider these policies, they need to give serious thought to several issues, including the track record of authorizers in closing low-performing public charter schools, the sophistication of their states' accountability systems, and how to handle public charter schools that serve high percentages of at-risk students. We strongly encourage lawmakers to work closely with their states' public charter school stakeholders as they investigate this policy issue.

State	Description
Alabama	<p>Alabama law provides that an authorizer cannot renew a charter contract if the school failed to meet the performance expectations set forth in its charter contract or failed to attain the minimum state standard for public charter schools in each year of their operation and over the charter term—unless the school demonstrates and the authorizer affirms, through formal action of its board, that other indicators of strength and exceptional circumstances justify the continued operation of the school. The law states that any public charter school that receives a grade of “D” or “F” on the statewide accountability system for all public schools for two consecutive years or for two of the three most recent years shall be considered to fall below the minimum state standard.</p> <p><i>Citation: Senate Bill 45, Section 8, (c), (9), 2015 Regular Legislative Session</i></p>
California	<p>California law provides that a charter school must meet at least one of five academic performance criteria established in the law prior to renewal:</p> <ul style="list-style-type: none"> • The school has met its Academic Performance Index (API) growth target in the prior year, in two of the last three years, or in the aggregate for the previous three years. • The school has ranked in deciles 4 to 10 on the API in the prior year or in two of the last three years. • The school has ranked in deciles 4 to 10 on the API for a demographically comparable school in the prior year or in two of the last three years. • The entity that granted the charter has determined that the academic performance of the charter school is at least equal to both the academic performance of the public schools that the charter school students would otherwise have been required to attend and the academic performance of the schools in the school district in which the charter school is located, taking into account the composition of the student population that is served at the charter school. • The school has qualified for an alternative accountability system. <p>If a school does not meet at least one of these criteria, the authorizer must not renew its charter.</p> <p><i>Citation: California Education Code § 47607</i></p>

Florida

Florida law requires authorizers to terminate a charter if the charter school earns two consecutive “F” grades on its state report card unless:

- The charter school was established to turn around the performance of a district public school;
- The majority of the charter school’s student population resides in a school zone that is served by a district public school that earned an “F” on its state report card in the year before the charter school opened, and the charter school earns at least a “D” in its third year of operation (this exception does not apply to a charter school in its fourth year of operation and thereafter); or
- The state board grants the charter school a waiver of termination because the charter school has demonstrated that the learning gains of its students on state-wide assessments are comparable to or better than the learning gains of similarly situated students enrolled in nearby district public schools. (The waiver is valid for one year and may be granted only once. Charter schools that have been in operation for more than five years are not eligible for a waiver.)

Citation: Florida Statutes § 1002.33, 8, (n), 4

Louisiana

A state-authorized charter school in Louisiana receiving an academically unacceptable performance label based on state assessment and accountability program results from the school’s fourth year of operation (or for subsequent renewals, the year prior to the submission of a renewal application) will not be eligible for renewal unless one of these conditions is met:

- A charter school that, by contract, serves a unique student population where an alternate evaluation tool has been established between the charter operator and the board may be renewed for a term not to exceed five years.
- A charter school in its initial term that has been given academically unacceptable school (AUS) status but has met its growth target at the end of year four or that has a growth performance score above AUS may be renewed for a term not to exceed three years.
- A charter school in its initial term that is given AUS status but has fewer than 30 percent of enrolled grades testable under state accountability may be renewed for a term not to exceed three years.
- If, in the superintendent’s judgment, the nonrenewal of an AUS status charter school in its initial charter term would likely require many students to attend lower-performing schools and if the superintendent recommends its renewal, the charter may be renewed for a term not to exceed three years. Prior to recommending such renewal, the superintendent must demonstrate that efforts to find a new, high-quality operator for the school were unsuccessful.
- The school has made 20 points of assessment index growth from its pre-assessment index.

Citation: Louisiana Administrative Code Title 28, Part CXXXIX, Bulletin 126, Chapter 15, 1503, B, 5

<p>Michigan</p>	<p>Michigan law requires the closure of any charter school that:</p> <ul style="list-style-type: none"> • Has been serving children for at least four years, • Is in the lowest-achieving 5 percent of all public schools in the state, and • Is in its second year of federal government-mandated restructuring sanctions. <p><i>Citation: Michigan Compiled Laws § 380.507 (5)</i></p>
<p>Mississippi</p>	<p>Mississippi law provides that the state authorizer may not renew the charter of any charter school that earns an “F” during its final operating year under the term of its charter contract.</p> <p><i>Citation: Mississippi Code Annotated § 37-28-33 (9)</i></p>
<p>Nevada</p>	<p>Nevada law provides that the authorizer of a charter school shall revoke the written charter or terminate the charter contract if the charter school receives the state’s lowest performance rating for three consecutive years.</p> <p><i>Citation: Nevada Revised Statutes § 386.5351</i></p>
<p>North Carolina</p>	<p>North Carolina law requires the state board of education to adopt criteria for adequate performance by a charter school and to identify charter schools with inadequate performance. The criteria must include a requirement that a charter school that demonstrates no growth in student performance and has annual performance composite scores below 60 percent in any two years out of a three-year period is inadequate.</p> <p>If a charter school has inadequate performance in two of the first three years of its charter, the law requires the school to develop a strategic plan to meet specific goals for student performance that are consistent with state board criteria and the mission approved in its charter. The state board must review and approve the plan. The law authorizes the state board to terminate or not renew a charter for failure to demonstrate improvement under a strategic plan.</p> <p>If a charter school has inadequate performance for two out of any three consecutive years and has been serving students for more than five years, the law requires the state board to oversee an improvement plan for the school. If the school does not improve, the state board can terminate the charter, not renew the charter, or seek applicants to assume the charter through a competitive bid process established by the state board.</p> <p><i>Citation: North Carolina General Statutes § 115C-238.29G (a1)</i></p>

<p>Ohio</p>	<p>Ohio law provides that the following circumstances trigger automatic closure of a charter school, except one in which a majority of the students are receiving special education:</p> <ul style="list-style-type: none"> • Schools serving no grade above 3: For the 2013-14 school year, a charter school will be automatically closed if for two of the past three years it has been in Academic Emergency or has received an “F” in the kindergarten through 3rd grade literacy measure. • Schools serving any grade from 4 to 8 but no grade above 9: For the 2013-14 school year, a charter school will be automatically closed if for two of the past three years it has been in Academic Emergency, and it has shown less than one year of growth in either reading or math or has received an “F” performance index score and an “F” value-added score. • Schools serving any grade from 10 to 12: For the 2013-14 school year, a charter school will be automatically closed if for two of the past three years it has been in Academic Emergency or has received an “F” performance index score and has not met the annual measureable objectives. <p>Ohio law includes automatic closure requirements specific to dropout recovery public charter schools. It provides that an authorizer shall close any such school that has received a designation of “does not meet standards” for at least two of the past three years.</p> <p><i>Citation: Ohio Revised Code § 3314.35 and § 3314.351</i></p>
<p>Oklahoma</p>	<p>Oklahoma law requires the state board of education to determine which public schools fall into the bottom five percent regarding academic performance. If at the time of renewal a charter school that is not a state-recognized alternative school is in the bottom five percent based on a three-year average, the authorizer may not renew the school. However, if the authorizer finds a valid reason to renew the school, the authorizer must appear before the state board of education to justify its decision. The state board of education may uphold the authorizer’s decision or take one of the following actions: transfer sponsorship to another authorizer, order the closure of the school, or reduce administrative fees the authorizer can collect from the school. The law requires the state board of education to consider special student populations, student population mobility, annual improvement of the school, and whether a majority of students in the school to be closed would be forced to attend an even lower performing school in making its decision. The law provides that schools closed by the state board of education may not apply to another authorizer.</p> <p><i>Citation: 70 O.S. 2011, § 3-137, G</i></p>
<p>South Carolina</p>	<p>South Carolina law provides that an authorizer shall permanently close any charter school at the conclusion of the school year after receiving the lowest performance rating, as defined by the federal accountability system, for three consecutive years. This provision does not apply to any charter school serving 50 percent or more students with disabilities or any charter school designated as an Alternative Education Campus by its authorizer, per state law.</p> <p><i>Citation: S.C. Code § 59-40-110</i></p>

<p>Tennessee</p>	<p>Tennessee law provides that a charter agreement shall be revoked or denied renewal if the school receives identification as a priority school unless the school was authorized by the achievement school district or is a conversion charter school.</p> <p><i>Citation: Tennessee Code § 49-13-122</i></p>
<p>Texas</p>	<p>Texas law provides that at the end of the charter term for an open-enrollment charter school, the state education commissioner may not renew the charter if</p> <ul style="list-style-type: none"> • the charter holder has been assigned the lowest performance rating for any three of the five preceding school years, • the charter holder has been assigned a financial accountability performance rating indicating financial performance that is lower than satisfactory for any three of the five preceding school years, • the charter holder has been assigned any combination of these ratings for any three of the five preceding school years, or • any campus operating under the charter has been assigned the lowest performance rating for the three preceding school years and has not been closed. <p>Texas law also requires the state education commissioner to revoke the charter of an open-enrollment charter school if the charter holder has been assigned an unacceptable performance rating under state law for the three preceding school years; the charter holder has been assigned a financial accountability performance rating under state law indicating financial performance lower than satisfactory for the three preceding school years; or the charter holder has been assigned any combination of these ratings for the three preceding school years.</p> <p><i>Citation: Tex. Educ. Code § 12.115 (c) and Tex. Educ. Code § 12.1141 (d)</i></p>
<p>Washington</p>	<p>Washington law provides that a charter may not be renewed if at the time of the renewal application the school's performance falls in the bottom quartile of schools on the state's accountability index unless the school demonstrates exceptional circumstances that the authorizer finds justifiable.</p> <p><i>Citation: Washington Revised Code § 28A.710.200 (2)</i></p>