

FY 2014 Charter Contract Guidance

One of the most important decisions an authorizer will make is whether or not to renew a charter contract. The charter renewal process is governed by Minnesota Statutes and the evaluation review process articulated in an authorizer's commissioner-approved authorizer application. Minnesota charter school contracts typically expire on June 30 and many authorizers are engaged in the charter review and renewal process on an ongoing basis. This document provides approved authorizers with important reminders and updated guidelines regarding charter contract renewal in Minnesota.

Contract Provisions

Minnesota Statutes, section 124D.10, Subdivision 6 requires an authorizer to submit a signed copy of a charter contract to MDE within 10 business days of its execution – this includes new school, renewal and transfer contracts. Additionally, Subdivision 6(1-15) identifies 15 elements and Subdivision 15(c) identifies one element (16 total elements) that must be contained in each Minnesota charter contract. Required elements, as noted below, must be clearly identified in the charter contract and all referenced contract attachments must be submitted as part of the overall contract to verify statutory compliance.

MDE reviews all new school, renewal and transfer contracts for compliance with statute. If one or more required contract elements are missing or incomplete, MDE will notify the authorizer and ask that the contract be revised and resubmitted.

NOTE: "TIPS" are provided based on previously reviewed contracts. Instructions provided in the tips may not be specifically required by statute, but are designed to ensure submission of a comprehensive contract that meets all statutory requirements. The purpose of this document is to provide helpful, general information to the public. It does not constitute legal advice nor is it a substitute for consulting with a licensed attorney. The information below should not be relied upon as a comprehensive or definitive response to your specific legal questions about charter school contracts.

Minnesota Statutes, section 124D.10, Subdivisions 6(1-15) and 15(c) address charter contract requirements. A charter contract must be in writing and contain at least the following 16 elements:

1. A declaration that the charter school will carry out the primary purpose in Subdivision 1 (improve pupil learning and student achievement) and how the school will report its implementation of the primary purpose.
 - TIP: This is new for FY14.
2. A declaration of the additional purpose or purposes in Subdivision 1 that the school intends to carry out and how the school will report its implementation of those purposes.
 - TIP: Also new in FY14, this is to be clearly differentiated from the primary purpose. One or more additional purposes must be addressed.

3. A description of the school program and the specific academic and nonacademic outcomes that pupils must achieve.
 - TIP: Specific academic and non-academic outcomes for which the school will be held accountable must be included in the contract. Generic outcomes, accountability frameworks, and references to outcomes being developed at a later time are not acceptable. All outcomes/goals must be measurable and time bound, clearly stating what is expected to be achieved by the end of the contract term. A SMART goal format is strongly encouraged. Updates to outcomes/goals can be made in future amendments to the contract should both parties agree that the contract can be altered.
4. A statement of admission policies and procedures.
 - TIP: The authorizer should work with the school to ensure that these policies and procedures are compliant with the admission requirements identified in Minnesota Statutes, section 124D.10, Subdivision 9. Sufficient information regarding the school's process *and* procedures should be included to determine compliance with state law.
5. A governance, management, and administration plan for the school.
6. Signed agreements from charter school board members to comply with all federal and state laws governing organizational, programmatic, and financial requirements applicable to charter schools.
 - TIP: This can be one agreement signed by all or a separate signed agreement from each board member.
7. The criteria, processes, and procedures that the authorizer will use to monitor and evaluate fiscal, operational, and academic performance consistent with Subdivision 15, paragraphs (a) and (b).
 - TIP: Minnesota Statutes, section 124D.10, Subdivisions 15(a) and (b) require an authorizer to conduct a formal written evaluation of the school's performance before renewing the charter contract, which must follow the specific evaluation plans and renewal criteria and processes as presented in their commissioner-approved authorizer application.
8. For contract renewal, the formal written performance evaluation of the school that is a prerequisite for reviewing a charter contract under Subdivision 15.
 - TIP: The completed formal written performance evaluation for the school, used by the authorizer to determine contract renewal, must be attached to the contract.
 - TIP: The Minnesota Department of Education's (MDE) Charter Center will review authorizers' formal written renewal evaluations as part of the performance review of authorizers and may refer to those evaluations when addressing school-specific issues, such as when a complaint is filed with MDE or when the Charter Center is notified by another MDE division that a charter school is out of compliance.

9. Types and amounts of insurance liability coverage to be obtained by the charter school consistent with Subdivision 8(k).
 - TIP: Subdivision 8(k) notes that “A charter school is a district for the purposes of tort liability under chapter 466.” Minnesota Statutes, section 466.04, Subdivision 1 details the specific required insurance amounts. It is recommended that the contract contain a reference to Minnesota Statutes, section 466.04, but that the certificate of insurance not be included as part of the contract. The school would provide the certificate to the authorizer. Regardless of the method of addressing insurance coverage in the contract, the authorizer is responsible for ensuring that the school carries proper insurance under Chapter 466 and that the contract indicates the correct amounts.
10. Consistent with Subdivision 25, paragraph (d), a provision to indemnify and hold harmless the authorizer and its officers, agents, and employees from any suit, claim, or liability arising from any operation of the charter school, and the commissioner and department officers, agents, and employees notwithstanding section 3.736.
 - TIP: Ideally, the indemnification information should appear as a single clause and contain all the information required under this section of the statute.
11. The term of the initial contract, which may be up to five years plus an additional preoperational planning year, and up to five years for a renewed contract or a contract with a new authorizer after a transfer of authorizers, if warranted by the school's academic, financial, and operational performance.
 - TIP: In order to follow the fiscal year, it is recommended that contracts run from July 1 to June 30. However, the start date of a contract may vary for new charter schools in their preoperational year.
12. How the board of directors or the operators of the charter school will provide special instruction and services for children with a disability under Minnesota Statutes, sections 125A.03 to 125A.24, and 125A.65, a description of the financial parameters within which the charter school will operate to provide the special instruction and services to children with a disability.
 - TIP: Sufficient information should be included to determine compliance with state law.
13. The specific conditions for contract renewal that identify performance under the primary purpose of Subdivision 1 as the most important factor in determining contract renewal.
 - TIP: This is new for FY14.
 - TIP: FY14 contract renewal conditions (e.g., standards, process, requirements, etc.) must be clearly stated.
14. The additional purposes under Subdivision 1, paragraph (a), and related performance obligations under clause (7) contained in the charter contract as additional factors in determining contract renewal.
 - TIP: This is new in FY14.

- TIP: Clearly differentiate from the primary purpose.
15. The plan for an orderly closing of the school under chapter 317A, whether the closure is a termination for cause, a voluntary termination, or a nonrenewal of the contract, that includes establishing the responsibilities of the school board of directors and the authorizer and notifying the commissioner, authorizer, school district in which the charter school is located, and parents of enrolled students about the closure, information and assistance sufficient to enable the student to re-enroll in another school, the transfer of student records under Subdivision 8 paragraph (p), and procedures for closing financial operations.
- TIP: The specific responsibilities of the school board and the authorizer should be clearly identified.
 - TIP: Beginning in FY14, closing plans must include a specific provision to provide sufficient information and assistance enabling students to enroll in another school.
 - TIP: Charter schools are non-profits under Minnesota law and must follow the requirements in chapter 317A in regards to the financial dissolution of the organization. Schools and authorizers should familiarize themselves with these processes and consider embedding them in the contract.
16. The agreed-upon fee structure (Minn. Stat. § 124D.10, Subd. 15(c)).
- TIP: Guidance on determining the allowable fee to be charged by the authorizer can be found on the [Charter Center website](#). Authorizers are encouraged to include both the amount and the timeframe that the fee will be invoiced in the contract.

Non-Renewal or Termination of a Charter School Contract

Minnesota Statutes, section 124D.10, Subdivision 23 provides clear direction if an authorizer decides not to renew a charter contract. This subdivision addresses specific notification deadlines, grounds upon which a contract may be terminated or not renewed, and commissioner authority to terminate a contract between an authorizer and school. MDE requests that authorizers notify the Charter Center as early as possible if they are considering non-renewal or termination of one or more existing charter contracts, but no later than 60 business days before not renewing or terminating a contract (Minn. Stat. § 124D.10, Subd. 23(a)).

Change of Authorizer

Minnesota Statutes, section 124D.10, Subdivision 23(c) provides instructions for a change of authorizers:

If the authorizer and the charter school board of directors mutually agree not to renew the contract, a change in authorizers is allowed. The authorizer and the school board must jointly submit a written and signed letter of their intent to the commissioner to mutually not renew the contract. The authorizer that is a party to the existing contract must inform the proposed authorizer about the fiscal, operational, and student performance status of the school, as well as any outstanding contractual obligations that

exist. The charter contract between the proposed authorizer and the school must identify and provide a plan to address any outstanding obligations from the previous contract. The proposed contract must be submitted at least 105 business days before the end of the existing charter contract. The commissioner shall have 30 business days to review and make a determination. The proposed authorizer and the school shall have 15 business days to respond to the determination and address any issues identified by the commissioner. A final determination by the commissioner shall be made no later than 45 business days before the end of the current charter contract. If no change in authorizer is approved, the school and the current authorizer may withdraw their letter of nonrenewal and enter into a new contract. If the transfer of authorizers is not approved and the current authorizer and the school do not withdraw their letter and enter into a new contract, the school must be dissolved according to applicable law and the terms of the contract.

- TIP: Beginning in FY14, a change in authorizer is now only possible at charter renewal.
- TIP: Timelines for FY14:
 - Thursday, January 30, 2014 – Last day for authorizer to submit transfer request to MDE for FY14 – [105 business days before end of contracts on June 30]*
 - Monday, March 14, 2014 – Commissioner’s determination of transfer request – [30 business days]*
 - Friday, April 4, 2014 – Authorizer response to MDE if determination was not favorable [15 business days] *
 - Friday, April 25, 2014 – Final determination by Commissioner [45 business days before the end of contracts on June 30]

**Timeline will adjust if the authorizer submits the request to MDE prior to the January 30 deadline.*

Additional Contract Guidance:

- Addendums/Attachments – The charter contract must be a complete document and any referenced supporting documents must be included as attachments to the contract.
- Amendments/Changes – Amendments or changes made to the contract between the time it is executed and its expiration date must be done in writing, and be approved and signed by both parties. Once signed, the new contract and/or addendum to the contract must be resubmitted to MDE within 10 business days of execution.
- MDE contract review for statutory compliance – When submitting a contract for review, if the statutory elements are not clearly labeled in the charter contract, MDE recommends that a cover letter be attached identifying where in the contract each of the required elements can be found.

- MDE does not “approve” contracts. Instead, MDE works with the authorizer to ensure compliance with all statutory requirements.
- A contract is valid upon the approval and signing of both parties and remains in force while review is pending.

Submission Instructions:

Reminder: Contracts for new schools must be completed *within 45 business days of the commissioner's approval* of the authorizer's affidavit (Minn. Stat. § 124D.10, Subd. 6).

Statutory Review:

- The authorizer must submit a copy of a complete contract (new school, renewal or transfer), including all attachments, to MDE at marsha.davis-busch@state.mn.us. The contract and all attachments must be sent as one PDF document. Only complete contracts will be reviewed for compliance.
- For practical purposes, this may be submitted for review prior to obtaining school board signatures. MDE will complete one review per contract. Note: If initially submitted as a signed contract, based on MDE's review, any required revisions will need to be completed and submitted either as a revised contract or a contract amendment.
- MDE will notify the authorizer once the review has been completed. The authorizer will then work with the school to make any necessary changes and execute the contract in a timely manner to ensure no lapse in contract terms.

Final Submission:

- The authorizer must submit the complete fully executed contract as one PDF file, including all attachments, to MDE within ten business days of execution (Minn. Stat. § 124D.10, Subd. 6).
- The contract should be scanned and submitted via email to marsha.davis-busch@state.mn.us, hand-delivered, or sent via U.S. Mail (as one complete single-sided hard copy) to:

MDE Charter Center
ATTN: Marsha Davis-Busch
1500 Highway 36 West
Roseville, MN 55113-4266

- If emailing, the subject line should read Contract between (Name of Authorizer) and (Name of Charter School).
- Confirmation of receipt will be sent within two business days.

Please contact Marsha Davis-Busch at (651)582-8297 with questions regarding submission of charter contracts to MDE.