

New Schools for New Orleans
Charter School Legal Handbook



NEW SCHOOLS FOR NEW ORLEANS

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Introduction

The Need for Legal Reviews: Preventing Charter Revocation

In Louisiana, charter schools can have their charters revoked for three reasons: poor academic performance, business mismanagement, and legal noncompliance. Nationally, more charters are revoked for business and legal infractions than for poor academic performance. The New Schools for New Orleans Charter School Legal Handbook is designed to help charter schools ensure that they are in compliance with the law so that they will not be closed due to legal violations.

The Legal Review Process

New Schools for New Orleans (NSNO) understands that leading a charter school is extremely challenging and time-consuming. For this reason, this handbook is designed for use in either of two ways, depending on the needs of each particular school:

- **Internal Reference Guide.** This handbook provides a comprehensive overview of the major areas of law that are relevant to charter schools. It may be used as an internal guide for school leaders as they draft school policies and procedures.
- **Companion to an NSNO-Led Legal Review.** This handbook may also be used as a companion guide to an NSNO-led legal review. These legal reviews are led by an NSNO staff member and overseen by lawyers from Jones Walker, Adams and Reese, Akin Gump, and Citigroup.

The purpose of the legal review is for NSNO staff to help a school ensure that it is in compliance with the law in the most efficient and unobtrusive manner possible. It consists of two parts: an on-site interview with the principal and business manager about the school's policies and an off-site comprehensive review of the school's written policies, including its employee handbook, employee contracts, student handbook, and special education policies.

Legal Representation and Confidentiality

All legal reviews done by NSNO for a charter school are covered by the attorney-client privilege. However, NSNO is not a law firm: an agreement to conduct a legal review is not an agreement to represent the school in all legal matters. If a school needs legal assistance to address a specific problem or issue, NSNO will help secure pro bono representation.

The Format of This Handbook

This handbook is divided into eleven sections, each covering a discrete area of school law. Each section begins with a brief introduction that explains its purpose and key themes, followed by a checklist detailing the specific points of law with which a school must comply. Text boxes provide legal definitions and explanations that are necessary to understand the terms of the checklist they accompany.

Although these checklists are extensive, please take note that each is an introductory guide to the law, not a substitute for it. NSNO makes every effort to keep the information in this guidebook as accurate as possible, but please be aware that the laws and policies that govern charter schools are still newly minted and continue to change rapidly.

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Section 1. Louisiana Charter School Law

The purpose of the Louisiana charter school law is to encourage school leaders to develop innovative strategies for meeting the needs of students, particularly those who are “at risk.” For this reason, charter schools are free from many of the laws and regulations governing traditional public schools. In exchange for this flexibility, they are strictly accountable for their students’ achievement.

Types of Charter Schools

Five types of charter school may be opened in Louisiana:

- **Type 1:** a new school chartered with a local school board.
- **Type 2:** a new school or a converted pre-existing school chartered with the state Board of Elementary and Secondary Education (BESE).
- **Type 3:** a converted pre-existing school chartered with a local school board.
- **Type 4:** a new school or a converted pre-existing school chartered with BESE by a local board.
- **Type 5:** a formerly “failed” school chartered with BESE and supervised by the RSD.

Currently, in New Orleans, **most charter schools open as Type 5 schools**. Type 5 schools are unique in two major ways: they must not impose any admissions criteria and they are exempt from the statewide cap on the number of charter schools that may open in Louisiana (otherwise set at 42).

There is also a temporary “freeze” on opening any Type 1 schools in New Orleans. The state has revoked Orleans Parish School Board (OPSB)’s power to issue new charters until it is no longer “in crisis.”

Accountability, Renewal, and Closure

All charter schools are initially authorized for a single five-year term. A charter school may, however, be shut down at the end of its third year if it fails to demonstrate progress towards the goals articulated in its charter. A charter school may also be shut down at any time if the school or any of its employees violates its charter, fiscal or accounting standards, or the law.

After its initial term is up, a charter school may apply for a ten-year renewal. The review process is as rigorous as the initial chartering process, and a charter will not be renewed unless the school demonstrates that it improved students’ standardized test scores in its initial term. A renewed school must continue to report its academic progress each year and it may be shut down if it fails to meet its academic targets.

Charter Schools’ Relationship with the RSD

The Recovery School District (RSD) operates a system of traditional public schools. With approval of the RSD and BESE, any of these RSD schools may convert to a Type 5 charter school. However, it is important to note that a Type 5 school’s charter is not with the RSD, but directly with BESE. This means that the RSD does not directly oversee any Type 5 school; only BESE can authorize, renew, or shut down a Type 5 school. However, the RSD does offer Type 5 schools a number of opportunities to join service contracts, including transportation and food service contracts. Type 5 schools may choose to join these contracts or to secure their own.

The RSD has no legal relationship with any Type 1, 2, 3, or 4 charter school.

Compliance Checklist

1. APPROVAL TO CONVERT (TYPES 2, 3, AND 4 ONLY)

Before converting an existing school into a charter school:

- Two-thirds of the existing school's state-certified staff must approve
- A majority of parents with children at the existing school must approve
 - Parents get one vote per child in attendance at the school

2. CHARTER APPLICATION REQUIREMENTS

- Must be submitted by a nonprofit corporation created by one of the following groups:
 - Three or more teachers
 - Ten or more citizens
 - A public service organization
 - A business
 - A licensed Louisiana college or university
 - The faculty and staff of any public school or school board
- Must be signed by at least three people with valid, current Louisiana teaching certificates.
- Type 5 schools only:** The nonprofit corporation or its leading member(s) must have at least five years of "significant experience" in a school, college, or business that provides instructional services.

- ☛ A private school, religious school, home-study program, or the leadership of these entities **cannot** apply for a charter or convert their existing school to a charter school.

3. CHARTER BOARD REQUIREMENTS

- Must be organized as a nonprofit corporation.
- No more than 20% of the board can be from the same immediate family.
- No board member may:
 - Receive compensation (except reimbursement of actual expenses)
 - Be employed by the school in any way
- Type 5 schools only:** In addition, no board member may be:
 - A member of OPSB
 - A member of BESE
 - An elected official (current or in the year prior to joining the board)

4. AT-RISK STUDENT POPULATION REQUIREMENTS (TYPES 1-4 ONLY)

An **at-risk** student meets one of the following definitions:

- S/he is eligible for free or reduced lunch
- S/he is under 20 and has missed at least one semester of school
- S/he is under 20 and has failed to pass any part of a graduation exam
- S/he is in 8th grade or under and is reading two or more grade levels behind
- S/he is the mother or father of a child
- S/he fits within the definition of "exceptional child" in R.S. 17:1943 but is not gifted or talented.

Generally, Louisiana law only requires charter schools to distinguish between two categories of at-risk students: those who are eligible for **free or reduced lunch** and those who are **otherwise at risk** (meaning that they fit one of the other criteria in the definition above).

Note that **Type 5 charter schools are exempt** from these requirements.

- New Type 1 schools only:**
 - The percent of pupils eligible for free and reduced lunch must be at least 85% of the percent eligible for free and reduced lunch in the surrounding district.
 - The remaining 15% must be comprised of other types of “at risk” pupils.
- New Type 2 schools only:**
 - The percent of pupils eligible for free and reduced lunch must be at least 85% of the percent eligible for free and reduced lunch in the state.
 - The remaining 15% must be comprised of other types of “at risk” pupils.
- Conversion Type 2, 3, and 4 schools only:**
 - The percent of pupils eligible for free and reduced lunch must not be less than the percent eligible for free and reduced lunch at the pre-existing school, unless the approved charter states otherwise.

5. DEFINED ENROLLMENT AREAS

- Type 1, 3, and 4 schools:** must enroll students from across the chartering district
- Type 2 schools:** must be open to state-wide enrollment
- Type 5 schools:** must enroll students from across the chartering district

☛ No pupil may be assigned to any charter school (unless its charter provides otherwise).

6. MANDATORY APPLICATION PERIOD

- All charter schools must set and advertise a 1-3 month application period.
- A school may not make any enrollment decisions until the end of that period.
- If a school is undersubscribed, the application period may be extended.

7. SELECTIVITY AND ENROLLMENT REQUIREMENTS

- Type 5 schools:** may not set admission requirements
 - If the school is oversubscribed, students must be admitted by lottery.
- Conversion Types 2, 3, and 4 schools:** must give preference to students who were enrolled at the pre-existing school
- Types 1-4 schools:** may set clear, nondiscriminatory admission requirements that are approved by the charter and that fit the school’s educational mission.
- All schools in their second year may give preference to current students and siblings

☛ A charter school cannot enroll more than 120% of the population approved in its charter.

☛ A charter school is a public school. It may never charge tuition or attendance fees.

8. TEACHER CERTIFICATION REQUIREMENTS

- Types 1-4 schools:**
 - 75% of teachers must be certified in Louisiana or France
 - 25% must be temporarily authorized to teach *or* must have a B.A., at least 10 years’ experience, and be supervised by a certified teacher.
 - All teachers are subject to all legally required criminal background checks.
- Type 5 schools:**
 - By the end of the second year, the school must employ the percent of certified teachers that it did before it was converted to a charter school.
 - By the end of the third year, a certified teacher must teach every core subject.

- All other staff must be temporarily authorized to teach *or* must have a B.A., at least 10 years' experience, and be supervised by a certified teacher.

9. EMPLOYEE BENEFITS AND COLLECTIVE BARGAINING RIGHTS

- The school must enable employees who were previously employed by a traditional public school to be eligible for and accrue time under their previous retirement plans.
- Types 1, 3, and 4 schools:** Unless stated otherwise in their charters, these schools are bound by all collective bargaining agreements entered into by their chartering authorities.

10. CHARTER AMENDMENT PREREQUISITES

- It is proposed by the school's governing authority
- It is designed to help further the stated objectives of the school
- It is affirmed by a vote of a majority of the chartering authority

☛ An amendment cannot extend the duration of the original charter beyond five years.

11. MANDATORY ACADEMIC REPORTS

In addition to the reports required of other public schools, a charter school must issue:

- A yearly report of its academic progress to its chartering authority.
- A comprehensive progress report to its chartering authority at the end of its third year.

12. MANDATORY FINANCIAL REPORTS

In addition to the financial practices required of other public schools, a charter school must:

- Keep separate records documenting the use of public and private funds
- Submit to appropriate financial audits per R.S. 24:513
- Submit its annual budget:
 - Types 1, 3, and 4 schools:** To chartering authority *and* to state superintendent.
 - Types 2 and 5 schools:** To state superintendent only.

13. INSURANCE REQUIREMENTS

A charter school must have all of the following insurance policies:

- Workers' compensation (\$100,000 min. limit)
- Comprehensive general liability (\$1,000 min. combined single limit per occurrence)
- Comprehensive automobile liability (\$1,000,000 combined single limit per occurrence)
- Property insurance for buildings purchased with state or federal funds
- Errors and omissions liability insurance (\$10,000 max. deductible; \$1,000,000 min. limit)

14. TRANSPORTATION

- Type 1, 3, 4, and 5 schools:** Provide bus services to all students, including special education students.

Type 1, 3, and 4 charter schools may choose to arrange their own transportation services at cost or may choose to use transportation provided by OPSB at no cost. Type 5 charter schools must pay for their own transportation services, but may choose to join any contract signed by RSD.

Section 2. The Student-Parent Handbook

For most charter schools, the Student-Parent Handbook is the major document that explains students' legal rights and outlines the systems the school has established to protect those rights. Unlike many other legal documents, however, the Student-Parent Handbook also plays a crucial role in shaping the culture of a charter school: the information in the Handbook both shapes students' and parents' expectations for the upcoming year and conveys to them what is "special" about the school.



Because the Student-Parent Handbook serves both a legal and educational function, this section of the NSNO Charter School Legal Handbook outlines both legal requirements and suggestions for educational best practices. To distinguish between the two, all **legal requirements** are marked with the fleur-de-lis symbol at the side of this page. All suggestions for best practices are suggestions only and are designed to be edited, supplemented, and adjusted to fit a particular school's message and mission.

Compliance Checklist

1. INTRODUCTION

- Welcome students and parents to the school
- Briefly state the purpose of the handbook, e.g. provide information and support

2. PARENT/STUDENT CONTRACT

- Indicate that signing the contract indicates that parents and students understand and agree to abide by the policies in the handbook
- Provide space for student, parent, teacher, and/or administrators' signatures
- Specify date and place to return signed contract

3. MISSION STATEMENT

- State the school's mission

4. DESCRIPTION OF CHARTER SCHOOLS

- Briefly describe the ways in which a charter school differs from a regular school
 - Stricter accountability
 - Greater flexibility
 - Designed to help at-risk students
- Identify the school's type (1-5) and chartering authority (OPSB or BESE)
- Types 1-4: Clearly state the school's admissions criteria (if any)

5. ACADEMIC CURRICULUM AND HOMEWORK

- Provide an overview of the school's curriculum
 - Elementary/middle school: list subjects studied and skills learned in each grade
 - High school: list classes offered and graduation requirements
- State the school's homework policy
 - Set homework expectations (time, frequency)
 - State late, missing, or incomplete work policy, including sanctions
 - Explain "reading log" or other student homework documentation method
- State the school's make-up work policy

6. HONOR CODE

- State **expectations** of, e.g., honesty, integrity, and respect
- Explain why these values are important to success
- Define and explain **violations**, e.g. lying, plagiarism, cheating, stealing
 - Give detailed examples
- State students' duty to report any violation they witness
- Explain **consequences** for cheating, plagiarizing, or other violations
 - Distinguish between punishments for first, second, and third offenses
 - Be as specific as possible about the consequences
 - State whether the violations are counted per year or cumulative
 - State that the school reserves the right to expel a student for serious incidents of any kind, even if they are first-time violations



7. GRADES

- Describe the school's grading system
- Explain, in detail, each **report card** and/or progress report that parents will receive, including alerts to behavior or academic problems
 - Timing of the report
 - Content and purpose of the report
 - Any actions required of parents (e.g. signatures indicating receipt)
- Explain, in detail, the school's **promotional standards**
 - State the specific benchmarks that students must reach in order to be promoted, e.g. a grade-point or standardized test score cut-off
 - If appropriate, give notice that it is not automatically assumed that students will pass from one grade to the next
 - Explain the school's policy on holding students back for absences
 - Explain the school's promotional standards for students with disabilities

8. REMEDIAL PROGRAMS

- Provide an overview of tutoring or extra help available
- Describe any extended-day academic programs (mandatory and/or voluntary)
 - Explain, if appropriate, that a teacher may request that a student stay after school on any given day if they think it will benefit the student
 - State the specific times and days on which the programs meet
 - Explain transportation and/or pick-up policy for after school activities
 - Explain the circumstances under which a staff member may drive a student home, if any (e.g. with parental permission)
- Describe any summer school programs

9. EXTRACURRICULAR ACTIVITIES

- State the school's eligibility policy for participation in extracurricular activities
 - State specific grade, attendance, or other requirements (e.g. drug testing)
 - Explain that participation is a privilege, not a right
- State expectations for participation (e.g. hard work, sportsmanship, respect)



10. ATTENDANCE POLICY

- Explain the school's **excused absence** procedure:
 - Describe how a parent may excuse his/her child from school, in advance and on the day of (e.g. by a signed note or a phone call to the office)
 - Explain the school's make-up work policy in detail, including deadlines

- Explain that a student who is absent from school on a given day may not participate in any extracurricular activities on that day
- Clearly define **permissible reasons** for excused absences:
 - Sickness, injury, or medical reasons (must have doctor’s note)
 - Death in the immediate family
 - Court appearance
 - Religious holy days as defined by a religious calendar
 - Other extraordinary situations with the school leader’s permission
- Explain that all other absences are **unexcused**, and give examples:
 - Questionable medical chronic absences
 - Work or babysitting
 - Family vacations or trips
- Explain, in detail, penalties for unexcused absences
 - Give more severe penalties for a greater number of absences
 - Explain when parents will be summoned for a meeting (e.g. after the third unexcused absence)
 - Explain when a student may be subject to suspension, expulsion, or failing (e.g. after the twentieth unexcused absence)
- Define **tardiness** and explain penalty (e.g. two tardies = one unexcused absence)

11. BEHAVIORAL EXPECTATIONS

- State expectations for safety, order, and discipline
 - Specifically explain what students must do to meet these expectations, e.g. arrive on time, work hard, ask questions, listen carefully, etc.
 - Explain why meeting these expectations is important, e.g. to create a positive and secure learning environment
- Require parents and/or students to sign and return the behavioral expectations to indicate they have read and agree to abide by them



12. IN-SCHOOL DISCIPLINE

- State the school’s emphasis on **positive reinforcement**, giving specific examples
- List **minor disciplinary penalties** for which parents may not be notified, e.g. losing privileges or receiving a “time out” during the school day
- Give an illustrative list of more **serious punishments**, e.g. detention, demerits
 - State the specific length, location, and content of these punishments
 - Explain how parents and students will be notified
 - Explain the penalties students will face for skipping these punishments
- Name and provide contact information for the **administrator** at the school with ultimate authority to determine the consequences for more serious punishments
 - Explain if/how parents are involved in determining these punishments




13. SUSPENSION AND EXPULSION POLICIES

The Supreme Court has defined “**short-term suspension**” as removal of a student from school for ten or fewer days and “**long-term suspension**” as removal for more than ten days. A charter school *cannot* change these definitions.

Louisiana law defines “**expulsion**” as permanent removal from school for the remainder of one semester. A charter school *can* change this definition to extend or shorten this length of time, as long as it informs parents and students of the new definition in the student handbook. **By law, the school board must place any expelled pupil in an appropriate alternative educational setting.** LA R.S. 17:416(A)(2)(c).

- Define short-term suspension, long-term suspension, and expulsion
- Explain and give specific and detailed examples of behavior that may result in **SHORT-TERM SUSPENSION**, e.g.:
 - Vandalism that causes damage
 - Leaving or skipping school without permission
 - Using or threatening force that puts others in reasonable fear of harm
 - Using school computers to access or view inappropriate websites
 - Engaging in conduct that disrupts school or classroom activity
 - Displaying insubordination or disrespectful behavior
 - Failing to complete assignments or to follow directions
 - Cheating or committing plagiarism on homework, quizzes, or exams
 - Forging notes or excuses
 - Stealing or attempting to steal
 - Engaging in acts of verbal or physical sexual harassment
 - Pulling the fire alarm when there is not an emergency
 - Using or displaying obscene or abusive language, images, or gestures
 - Repeatedly committing minor behavioral infractions that, in aggregate, may reasonably be considered serious enough to justify suspension
- ☛ If a rule of behavior is too vague, a court of law will not uphold it. A rule must be specific enough that a reasonable student will be easily able to distinguish between acceptable and unacceptable behavior.
- State that the list is **illustrative only** and that a school may give a short-term suspension for any other behavior that disrupts the learning environment
- State that punishment for a particular infraction is at the **discretion of the school leader**
- Explain **procedures** for short-term suspensions:
 - School must inform student, verbally or in writing, that s/he is suspended and the reasons for his or her suspension
 - School must provide student with an informal opportunity to deny the charges and to explain his or her side of the story
 - School must notify a student's parent(s) or guardian(s) immediately, verbally or in writing, with the following information:
 - A description of the incident
 - Specific details (e.g. dates and times) of the punishment
 - The parent has the right to a prompt conference with the administrator, either before or within the first three days of the suspension
- ☛ If a school does not follow these procedures before issuing a short-term suspension, a student may sue the school for violating the Constitution.
- Explain and give specific and detailed examples of behavior that may result in **LONG-TERM SUSPENSION** or **EXPULSION**, e.g.:
 - Possessing or using a firearm, knife, explosive, razor blade, or other dangerous weapon of no reasonable use to the student in school
 - Possessing, selling, using, or distributing any alcohol, illegal drugs, tobacco, or marijuana on school property or at other school events
 - Making a false bomb threat or pulling a false emergency alarm
 - Repeatedly engaging in conduct which seriously disrupts school or classroom activities or endangers the health, safety, or welfare of others
 - Committing, or attempting to commit, arson on school property


- Fighting another student or assaulting a staff member
- Engaging in any sexual acts on campus
- Vandalizing school property in a way that causes major damages
- Committing any act which, if done by an adult, would constitute a felony
- Committing offenses resulting in short-term suspension four or more times in a single school year
- Repeatedly committing minor behavioral infractions that, in aggregate, may reasonably be considered serious enough to justify suspension
- State that the list is **illustrative only** and that a school may issue a long-term suspension or expulsion for any other behavior that severely disrupts the learning environment
- State that punishment for a particular infraction is at the **discretion of the school leader**
- Explain **procedures for long-term suspensions and expulsions**:
 - School must inform student, verbally or in writing, that s/he is being considered for long-term suspension or expulsion and for what reasons
 - School must **notify** a student's parent(s) or guardian(s) immediately, verbally or in writing, with the following information:
 - A description of the incident
 - Specific details (e.g. dates) of the proposed punishment
 - Notice of an immediate hearing before the principal or other lead administrator at a convenient time and place, either before or within the first week of the suspension or expulsion
 - Notice that parent(s) may be accompanied by an individual of their choice, including counsel, at the hearing
 - School must provide a student with a formal **hearing** with these features:
 - Both sides allowed to present evidence
 - Arbiter must be unbiased (not involved in the incident)
 - Proceedings must be recorded or transcribed
 - Student must be given access to any evidence to be used against him or her before the hearing (except names of student accusers)
 - School must open the hearing results to student and parent inspection
 - School must provide student with at least one level of **appeal**, e.g. to the board. For Type 5 charter schools, this level of appeal must be with the RSD.
-  If a school does not follow these procedures before issuing a short-term suspension, a student may sue the school for violating the Constitution.

Why are these procedures necessary? In Louisiana, all students under 18 have a right to attend school. A school may not deprive a student of this right (by suspension or expulsion) without giving the student **notice** of the reason and providing an **opportunity to explain** his or her side of the story at a fair hearing.

How formal a hearing must be is determined by the **proposed punishment**, not by the offense. The more severe the punishment, the more elaborate the hearing must be. For example, a student who faces a short-term suspension for plagiarism must be given an informal opportunity to explain his or her side of the story, whereas a student who faces expulsion for the same offense must be given a formal hearing.

Must a school allow a student to bring a lawyer to a hearing? A student does not have the right to have a lawyer present if s/he faces short-term suspension or any less severe punishment. The Louisiana courts have not yet decided whether a student has the right to bring a lawyer to a hearing for long-term suspension or expulsion. Nationally, courts are divided on this question; to be safe, many schools give students the right to bring a lawyer even where it is not required. At a minimum, we recommend that a school give students the right to bring a lawyer whenever the school itself brings counsel to a hearing.

- Explain the school's policy on **repeat offenders**
- Explain the school's disciplinary policy for **students with disabilities**
 - If a student's IEP has disciplinary guidelines, the guidelines must be followed
 - If a student's IEP does not include disciplinary guidelines, the student may be punished by standard school policy, except in cases of suspension or expulsion
 - A student may not receive a long-term suspension or expulsion for exhibiting any behavior that is related to his or her disability, unless it seriously threatens the health, safety, or well-being of others
 - If a student with disabilities receives a long-term suspension or expulsion, the school must continue to provide him or her with a free, appropriate education in an alternative setting.

 For more information, see Section 3 on **Special Education**, below.



14. **DRESS CODE**

- State that the school dress code is mandatory
- Explain the rationale for the dress code (e.g. to emphasize professional culture)
- Explain, in detail and item by item, the requirements of the dress code
 - Style, cut, and design
 - Color and/or pattern
 - Condition, modification, manner worn



15. **COMPUTER AND TECHNOLOGY POLICY**

- Explain that network access is a **privilege**, not a right
- Explain that all hardware and software is the **property of the school**, not the student, and that students have no reasonable expectation of privacy to any information saved on or transmitted through any part of the school network
- Require parents and students to **read and sign** the policy to show agreement
- Detail specific **rules** and regulations, e.g.:
 - Student may not view, download, or transmit any offensive or inappropriate material, including racist, sexist, or illegal material
 - Student may not use the network for commercial purposes, excessive personal use, lobbying, or advertisement
 - Student may not gamble on the network
 - Student may not use the network in a way that disrupts or interrupts the work of others, e.g. playing loud music, deliberately wasting resources
 - Student may not share his or her password or permit anybody else to access school computers with his or her account
 - Student may not deliberately damage the network, or use the network to harass other users or damage any part of any network system
 - Student may not post or forward messages without permission
 - Student may not publish personal information about him- or herself or anyone else on the internet
 - Student may not illegally download copyrighted material or software, nor make unauthorized copies of any software, music, or other material
 - Student must follow all lab and equipment procedures and rules
- Explain that the school may **filter** internet content in any appropriate way
- Explain that the school may **monitor** students' technology use



16. TRANSPORTATION POLICY

- State specific **code of conduct** for school bus and school transportation, e.g.:
 - Appropriate conduct and behavior on the bus
 - Following directions of the bus driver
 - Arriving at the bus stop on time and waiting in safe and orderly manner
 - Refraining from throwing objects, eating or drinking, extending any limbs or other objects out the windows when on the bus
- Explain **disciplinary action** taken for violating any rules
- State expectations for transportation when students stay after school
 - Late bus policy, if any
 - Parent pick-up and drop-off procedure, if any
 - Policy on teachers driving students and under what conditions, if any
- Explain procedure for receiving and registering for a **parking** space (e.g. by entering lottery and providing office with copy of license and insurance)
- Explain under what conditions students are allowed to leave campus during the school day (e.g. only with a verified note)
- List parking lot rules
 - Designate areas for student and staff parking
 - Prohibit students from entering the parking lot during school hours
 - State that cars illegally or inappropriately parked may be towed
 - State speed limit and/or additional traffic rules
- State school policy on students driving other students



17. PROPERTY POLICY

- State that all buildings, desks, boards, books, lavatories, lockers, and other school materials are all the property of the school
 - Explain that students will be required to pay for damage or loss
 - Explain that willful destruction or defacement is grounds for suspension, expulsion, or other disciplinary punishment
 - Explain that student has **no expectation of privacy** for anything carried onto or stored on school property, including bookbags, lockers, or purses
- State that the school is not responsible for the loss of personal property at school
- State the school's **cell phone** and beeper policy
 - State that cell phones and beepers must be turned off during the day
 - State times, if any, at which cell phone use is authorized
 - Explain circumstances under which phone or beeper will be confiscated
 - Explain procedure for parent or student to re-acquire phone or beeper
 - Explain punishments for repeat offenders
- List any items or objects that the school will confiscate if brought onto the property, e.g. skateboards, electronic game systems, flat irons, aerosol cans
- State that **theft** is illegal and will result in disciplinary actions, including:
 - Suspension or expulsion
 - Notification of external authorities, if severity is justified




18. SEARCH AND SEIZURE

- State that a student and his or her possessions can be searched if there is a **reasonable suspicion** that that specific student violated the law or school rules
 - Explain that a school administrator or teacher may seize any contraband that is illegal or violates school rules, including weapons and drugs
- Explain that students' lockers, desks, and other school property can be searched at **any time** and for any reason, with or without notice

- Explain that students' **cars** may be searched at any time and for any reason
- State the **penalty** for refusing to comply with a lawful, reasonable search
- Guarantee that:
 - Parents will be **notified** of all searches and seizures
 - Searches will be conducted by **staff**, including at least one administrator at all times, out of the sight of other students
 - Potentially invasive searches will be conducted by staff members of the same sex as the student and in privacy
 - The school will keep all results of searches **confidential**, except to report illegal activity to the proper authorities
 - Disciplinary action will be taken against staff who violate any provisions

19. MANDATORY ABUSE REPORTING

- Explain that all employees have the obligation to report suspected **child abuse or neglect**
 - Define “abuse” (non-accidental physical, sexual, or emotional injury)
 - Define “neglect” (failure to fulfill a child’s physical or emotional needs)
-  It is a criminal misdemeanor for any school employee to fail to report child abuse.

20. HARASSMENT POLICY


- Define and explain prohibited behaviors
 - Sexual harassment (verbal, nonverbal, and physical)
 - Harassment based on any protected right (including race, sex, disability, religion)
 - Give notice that the list is not all-inclusive
- Make clear that harassment is prohibited in *all* relationships at the school (supervisor-subordinate, employee-employee, employee-student, etc.)
- Explain how a student who believes s/he is a victim can report it
 - Name individual(s) to whom the student should report
 - Describe the actions a school will take to investigate and respond
 - Explain that records will be kept confidential except as required by law

21. ANTI-DISCRIMINATION POLICY

- State that the school does not permit discrimination against students on the basis of race, color, national origin, gender, disability, sexual orientation, family situation, religion, or political affiliation
- Name the contact person to whom questions or concerns should be directed

22. SPECIAL EDUCATION POLICY

- Explain that the school has a duty under Section 504 of the Rehabilitation Act of 1973 to identify, refer, and evaluate students with disabilities
- Name the person whom a parent may contact if s/he is concerned that his or her child has a disability and wishes to learn more or request an evaluation
- Explain the process of identifying and evaluating children with disabilities:
 - Parents may request an evaluation at any time
 - If an evaluation is needed, the school must notify the parents, obtain their consent, conduct the evaluation within 60 days of consent, and provide parents with a copy of the evaluation report
 - If an evaluation is not needed, the school must notify the parents and explain why it is not needed, as well as notice of their right to appeal

 For more information, see Section 3 on **Special Education**, below.

23. **SCHOOL CALENDAR**

- Publish school calendar, flagging any days that differ from local district
- Publish dates of summer school
- Explain emergency or weather closing notification procedure

24. **DAILY SCHEDULE**

- State opening and closing times
- Give times for all periods, lunch, after-school activities, etc.



25. **SCHOOL LUNCH POLICY**

- Explain how parents may learn more about how to qualify for free or reduced lunch

26. **CRISIS PLAN**

- Inform parents where the crisis plan is and how they can gain access to it
- Explain how parents will be contacted in the event of an emergency



27. **IMMUNIZATION AND HEALTH REQUIREMENTS**

- Provide parents with blank copies of all required **health forms**, e.g. a health history, physical exam, record of immunizations, and medical release form
 - State date on which all forms must be completed and returned
 - State that a student will not be allowed to attend school if s/he does not comply
- Explain that all students entering school in Louisiana for the first time must present evidence that they are immune to, have received immunization against, or are undergoing a schedule of immunization for:
 - Measles, Mumps, Rubella
 - Diphtheria
 - Tetanus
 - Whooping Cough
 - Poliomyelitis
 - Hemophilus influenzae Type B invasive infections
- Explain how parents may request **exemption** from these requirements



28. **IN-SCHOOL MEDICINE ADMINISTRATION POLICY**

- State that parents must make every effort to schedule the administration of medication outside of school hours
- State policy for administering medicine during school hours, where necessary:
 - Store all medications in central, secure location, except for inhalers and epi pens which students may keep on their persons
 - Only trained medical personnel or other authorized administrators may administer medication
 - For prescription medications, the school must have written orders from a licensed prescriber detailing the name of the medication, the dosage, the time to be given, and the expected duration of the administration
 - For non-prescription medication, the school must have written and signed permission of the parent or guardian
 - Medicine to be administered must be in its original container and properly labeled with student's name, the name of the medication, the dosage, and the time to be administered
 - Internal records must be kept detailing the time and dose of medication
- Explain that the school has no responsibility for a student's reaction to medication when it is taken according to the prescriber's directions



29. STUDENT RECORDS POLICY

FERPA, the Family Educational Rights and Privacy Act, is a federal law that gives parents and students certain rights with respect to a student's educational records. These rights include the right to access, inspect, and request correction of these records. Every school has the duty to ensure that these rights are protected. For more information, see <http://www.doe.state.la.us/lde/uploads/3312.pdf>.

- Explain **students' and parents' rights**
 - Parents (or students over 18) have the **right to inspect** the student's records
 - Parents (or students over 18) have the **right to request that the school correct** records that they believe to be inaccurate or misleading
 - If the school decides not to make a requested change, the parent or student has the **right to a formal hearing** before the charter board
- Explain procedure by which parents (or students over 18) can gain access to their student's education records or request amendment of those records
- State **what type of information** can be disclosed without the parents' consent, which may include but is limited to the student's:
 - Name
 - Address and telephone number
 - Date and place of birth
 - Participation in officially recognized activities and sports
 - Weight and height of members of athletic teams
 - Dates of attendance at the school
 - Degrees and awards received
 - Most recent previous school or institution attended
 - Explain the process by which parents can require the school **not to release any information** without their consent.
- Notify parents that the school may disclose information to certain parties without the parents' consent (those parties who are **exempt** from FERPA)
 - School officials and **teachers** with legitimate educational interests
 - Officials and teachers of **other schools** to which a student is transferring (as long as parents are notified)
 - Authorized governmental representatives** as required by law, including audit or accreditation agencies
 - Financial aid agencies** to which students have applied
 - Organizations conducting **educational studies**
 - In **health and safety emergencies**, to appropriate officials so that they can protect the health or safety of the student or others
 - To individuals designated by lawful **subpoena** or judicial order
- State that **all other personally identifiable information may not be disclosed** without parents' written permission that specifically states the records to be released, the reasons for release, the person to whom the records should be released, and whether the parents want to receive a copy as well.

Directory information may include, but is strictly limited to, the student's name, address and telephone number, date and place of birth, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance at school, degrees and awards received, and the most recent previous school or institution attended. **Directory information is the only information that can be disclosed without parental consent.** Parents may also request that a school keep all information (including directory information) confidential, and a school must comply with any such requests.

Personally identifiable information is any fact or set of facts that reveals a student's personal identity. In general, it consists of information about the student that is released in conjunction with the student's name, parents' names, address, student identification number or social security number, or a description of his or her personal characteristics. Merely revealing a student's name would not violate FERPA. However, revealing a student's name in conjunction with his or her SAT score, grades, behavior or attendance records would violate FERPA.



30. SCHOOL RECORDS POLICY

- Inform parents (and students over 18) that they have a right to access to any of the school's **public records** upon written request
- Guarantee that the school **responds** to all written requests within five days, and:
 - Make the records available
 - Deny the request with an explanation, or
 - Acknowledge the request and state when the records will be available.
- Inform parents that they have the **right to appeal** a decision to the charter board (which must respond in writing within ten days)
- Inform parents that the school may only deny a request for one of the following **reasons**:
 - Disclosure would violate state or federal law
 - Disclosure would violate personal privacy
 - Disclosure would harm bargaining negotiations
 - The records are trade secrets which would cause substantial harm if disclosed
 - The records are law enforcement records (per LA R.S. §44:3)
 - Disclosure would endanger the life or safety of any person
 - The records are computer access codes
 - The records are purely internal materials (e.g. not statistical or factual collections of data, employee policies or instructions, or external audits)



31. NOTICE OF BOARD MEETINGS

- State that all charter school board meetings are open to the public as required by law
- Provide a schedule of all known board meetings
- Explain that all newly scheduled board meetings will be posted in a prominent space in the charter school (typically in the front office)

32. PARENT TEACHER ASSOCIATION

- Explain role of parent teacher association and methods by which parents can get involved

33. COMPLAINT PROCEDURE

- Provide telephone number for the school and hours of operation
- Explain the process for reporting complaints to the school:
 - First, attempt to deal with the individual teacher or administrator who is the source of the parent's complaint
 - If this is unsatisfactory, schedule a conference with the school leader
 - If this is unsatisfactory, schedule a conference with the board

Section 3. Special Education

Three laws govern the education of children with disabilities. The most important is the federal **Individuals with Disabilities Education Act (IDEA)**, 20 U.S.C. §§1400-1485, which is supplemented by Louisiana's Education of Children with Exceptionalities Act, LA R.S. 17:1941 *et seq.* The central mandate of these laws is that charter schools – as well as traditional schools – must provide children with disabilities with a **free, appropriate public education** that to the greatest extent possible includes them in regular classrooms. They also emphasize that charter schools are the “local educational agencies,” or **LEA's**, that are legally responsible for putting all of the necessary systems in place to ensure that children with disabilities enjoy this right to a free, appropriate public education.

The **Americans with Disabilities Act (ADA)** and **Section 504** of the Rehabilitation Act of 1973 reinforce the central idea of IDEA: to the maximum extent possible, a school must include children with disabilities in its regular activities and curriculum. Each law also adds emphasis in a particular area. The ADA requires schools to modify its physical facilities to provide students with disabilities the greatest possible access. Section 504 requires schools to actively seek out and identify children with disabilities so that it may provide them with the free and appropriate public education required by IDEA.

Compliance Checklist

1. PARENT COMMUNICATION POLICY

A charter school must:

- Summarize its special education policies and procedures in its student handbook
- Publish and make available the name and contact information of the administrator at the school responsible for special education
- Inform parents that a full explanation of their rights with respect to children with disabilities is available at <http://www.doe.state.la.us/lde/uploads/10772.pdf>
- Provide parents with written notice whenever any of the following occurs (samples are available under “Parents Rights” at <http://www.doe.state.la.us/lde/eia/505.html>):
 - Referral of their child for evaluation or initiation of services
 - Any proposed or refused change in their child's IEP
 - The transfer of rights when their child reaches the age of majority
- All of these communications must be in the parents' native language, unless impossible

2. SPECIAL EDUCATION STAFF AND TRAINING

A charter school must:

- Employ a **director of special education**
- Develop a school-wide **strategic plan** that covers:
 - Identification and evaluation of students with disabilities
 - Development and implementation of IEPs
 - Integration of students with disabilities into regular classrooms
 - Communication with parents of students with disabilities
- Provide appropriate **training** for each regular education teacher who serves a student with special needs in his or her regular classroom
 - The teacher must be trained no later than 10 days after the student is placed in his or her classroom
 - The teacher must receive a signed copy of the student's IEP no later than 5 days before the student is placed

- The teacher has the right to participate on the IEP team of any student in his or her classroom
 - The teacher has the right to call an IEP team meeting about any student in his or her classroom when s/he has good reason to do so
- ☛ It is illegal for a school to require any regular education teacher to perform any health or medical procedures for a student with disabilities (although a teacher may, if s/he wishes, perform such services after proper training)

3. IDENTIFICATION

A **child with a disability** is any child who meets both of the following criteria:

- S/he has a specific and identifiable learning disability, severe developmental delay, mental or physical impairment, or serious emotional disturbance, and
- This disability affects his or her ability to participate in the school's normal curriculum.

Before providing any special education services, a charter school must:

- Establish an in-school committee to handle all special education **referrals**
 - The committee must include the principal or his/her designee, at least one general education teacher, and at least one special education teacher
- Develop an **internal referral** policy:
 - Train teachers to recognize signs of common disabilities
 - Encourage teachers to report suspected cases of students with disabilities
 - Provide internal standard referral form
 - For each referral, call a meeting of the in-school committee that must also include the referring teacher
 - Parents must be invited to the referral meeting and must be provided with a copy of their rights, available at <http://www.doe.state.la.us/lde/uploads/10772.pdf>
 - Within 10 days of referral, this expanded committee must meet and decide whether to evaluate the student
- If a **parent** requests evaluation, the school must comply.

4. EVALUATION

Before providing any special education services, a charter school must:

- Develop an evaluation policy:
 - Prior to evaluation, the school must obtain parents' **consent** to perform the specific evaluation procedures proposed.
 - Once a parent gives consent, the school must evaluate the student within 30 days.
- ☛ If a parent does not consent, a school must conduct a hearing (described below) to determine whether evaluation is necessary. If the outcome is in the school's favor, the school must conduct the evaluation. If it is not, the school may appeal. If the appeal is denied, the school may take no further steps to evaluate the student or to provide him or her with services.
- The team of evaluators must be:
 - Certified as examiners by the LA Department of Education
 - Qualified in two or more disciplines.
- Evaluations must consist of a variety of assessments aimed to determine a child's strengths as well as his or her weaknesses.

- Evaluations must include observation of the child in his or her regular classroom by a teacher other than the referring teacher.
- The evaluation team must issue a written **evaluation report**:
 - Parents must be given a copy of the report within 3 days of completion
 - The report must be kept otherwise confidential
 - The report must contain:
 - A determination of whether the child has a disability (Y/N)
 - The basis for this determination
 - Notes on the child’s behavior from observations
 - Educationally relevant medical findings or test results (if any)
 - The team’s conclusion about the effect of the child’s disability on his or her academic achievement
 - The team’s conclusion about whether the gap between the child’s ability and achievement is correctable without special education (Y/N)
 - The team’s determination about the effects of the child’s environment, culture, or economic disadvantage, if any
- Develop a **re-evaluation** policy:
 - Parents, teachers, or administrators may request re-evaluation no more than once per school year, unless all parties agree to more.
 - Children receiving special education services must be re-evaluated at least once every three years.
- A student must receive a new evaluation prior to the initiation or cessation of special education services.
- ☛ No child can be qualified as needing special education if the discrepancy between his or her ability and achievement is due to a **lack of proper instruction** in any subject or skill evaluated, including a lack of fluency in English.
- ☛ No child who is currently using **illegal drugs** may be qualified as needing special education, even if that child would otherwise qualify.

5. INDIVIDUALIZED EDUCATION PLAN (IEP)

The IEP must be, as the name suggests, individualized based on the student’s needs. Consistently with the spirit of IDEA, it must outline a plan that places the student in the “least restrictive environment” that will facilitate learning and include him or her in the regular classroom to the maximum extent feasible. It must also be structured to encourage collaboration and cooperation among teachers and the IEP team.

Within 30 days of determining student eligibility, a charter school must:

- Convene an **IEP Team** consisting of:
 - The child’s parents
 - At least one of the child’s regular education teachers
 - At least one special education teacher
 - A school administrator qualified to make decisions about special education
 - An instructional expert (if none of the other members qualify)
 - A bilingual staff member or translator, if appropriate
 - The child, if appropriate
- Provide parents with a copy of the procedural safeguards in place to protect them under state and federal law, available at <http://www.doe.state.la.us/lde/uploads/10772.pdf>
- The IEP team must develop an **Individualized Education Plan** that states in writing:
 - The student’s present levels of academic achievement and performance

- A description of how the student's disability affects involvement and progress
- Measurable annual goals for the student, including a description of any alternative benchmarks or objectives that differ from the normal curriculum
- A description of what special education and related services will be provided
- A description of the extent, if any, to which the child will not participate in regular classroom activities
- Explanations of modifications for district or state standardized tests, if any
- The date on which services will start and the projected duration
- After a student reaches the age of **14**, his or her IEP must also state in writing:
 - Appropriate, measurable post-secondary goals for the child
 - A description of any necessary transition services
 - A statement that the child has been informed of his or her rights
- Once a parent **consents** to a child's placement as determined in his or her IEP, the student must be placed within 10 days.
- The IEP team must **review** the child's IEP at least once a year and to revise it as appropriate given the child's progress.

6. PUNISHMENT, SUSPENSION AND EXPULSION

- Unless a student's IEP states otherwise, a school may punish a student with a disability in the same way as any other student for minor infractions (not suspension or expulsion)
- Prior to suspending or expelling a student with a disability, a school must within ten days of the infraction:
 - Convene the IEP team to determine whether the conduct in question had a direct relationship to the child's disability (was a "**manifestation**" of the disability)
 - Provide notice to parents of the IEP meeting and of their rights.
 - If the behavior was a manifestation of the disability, the IEP team must conduct a behavioral assessment, implement a behavioral intervention plan, and return the student to his or her prior placement, unless the behavior was:
 - Possession or use of a weapon
 - Knowing possession, use, or sale of illegal drugs
 - Infliction of serious bodily injury upon another person at the school
- ☛ Except for the exceptions listed above, if a student's behavior is a manifestation of his or her disability, s/he cannot be suspended or expelled for such behavior and must be returned to his or her original placement
- If the behavior was **not** a manifestation of the disability, the student may be suspended for up to ten days and/or removed to an alternative educational setting.
- ☛ Unlike regular education students, a student with a disability who is expelled or suspended for more than 10 days must be provided with appropriate alternative educational services.
- The school must provide a student's parents with written notice of the conduct that gave rise to the disciplinary meeting, the results of the IEP meeting, the alternative educational setting determined, and their rights to appeal that decision.
- During IEP review proceedings, the student must remain in his or her current placement unless s/he is charged with possession or use of a weapon; knowing possession, use, or sale of drugs; or infliction of serious bodily injury.

7. SPECIAL EDUCATION HEARINGS

- If parents disagree with any identification, evaluation, discipline, or placement of their child that cannot be resolved informally, they may present a **formal complaint** to the school within one year of the event with which they disagree.
 - The school must respond to parents with an explanation of the contested event *and* notice of parents' rights within 10 days of receiving the complaint.
 - The school must give the complaint to a hearing officer within 15 days.
 - The school must forward the complaint to the appropriate BESE agency.
 - The school must keep the complaint otherwise confidential.
- The school must have **mediation** procedures that encourage amicable dispute resolution
 - The school must maintain and provide a list of qualified mediators to parents
 - * The school may not require mediation if the parents refuse it and request a hearing; mediation may not be used to get around parents' due process rights.
- If the dispute is not resolved within 30 days of the complaint, the school must provide parents with the opportunity for a formal **hearing**.
 - The hearing officer must be impartial (cannot be an employee) and trained in law
 - Both sides have the right to counsel (although if parents do not have a lawyer present, the school may not have a lawyer present either)
 - Both sides must have the opportunity to present evidence and to confront, cross-examine, and compel attendance of witnesses
 - Parents must be provided with a written record of the hearing
 - Parents must be provided with a written record of the facts determined and decisions made at the hearing
 - The school must keep all proceedings otherwise confidential, except as required to report to qualified state agencies
- If either side is displeased with the results of the hearing, they have a right to **appeal**:
 - Within 15 days, either side may appeal to a BESE review panel
 - If the decision of the review panel is unsatisfactory, either side may appeal to any federal or state court of competent jurisdiction within 90 days

Section 4. The Employee Handbook

Clear communication between a charter school and its staff about professional expectations, internal policies, and staff rights and benefits is not only legally required, it is also an essential prerequisite to building an excellent school. The Employee Handbook is one of the key documents by which a school achieves these twin ends.

Unlike the Student-Parent Handbook, each of the categories listed below is either legally required or strongly recommended. The precise language and structure, however, is flexible, providing a school with the opportunity to establish professional expectations in a way that highlights its strengths, fosters a sense of community, and marshals support for the school’s unique mission.

Compliance Checklist

1. DISCLAIMER

- State that the handbook is not a contract and does not create legally enforceable obligations for the school.
- ☛ Without the disclaimer, an employee may believe that the handbook is a legally binding contract and may sue if s/he is fired or the handbook polices are not followed.

2. INTRODUCTORY LETTER

- Describe the purpose and function of the handbook
- Encourage questions, communication, and an open culture
- Advise employees to keep the manual for future reference
- Describe what charter schools are and what body of law governs them
- State that the policies and procedures in it are subject to change

3. EXPLANATION OF CONTRACT

Most public schools sign **at will contracts** with their employees. In Louisiana, an at will contract may be terminated by either the employer or the employee at any time and for any reason, as long as that reason does not violate any state or federal statutes or the state or federal Constitution. However, the party that is leaving the employment relationship must provide reasonable notice to the other party. Both parties also are free to agree upon different terms, for example, to agree that an employee will only be fired for cause. *See LA C.C. §2747, §2024; Harrison v. CD Consulting, Inc., 934 So.2d 166 (La.App. 1 Cir. 2006).*

- State that the contract is “at will” (or state other terms, if applicable)
- Explain that “at will” means that employment can end at any time, with or without cause
- ☛ Without the “at will” statement, the handbook may constitute an agreement that the employer will not terminate any employee without cause as elaborated in the handbook.

4. COLLECTIVE BARGAINING AGREEMENT DISCLAIMER

Currently, no charter school employees in New Orleans are unionized. However, unless the school’s charter explicitly states otherwise, any new Type 1, 2, 3, or 4 school will be bound by any collective

bargaining agreement signed by the school district in which the school is physically located, as long as the agreement is in place prior to the school's chartering. Type 5 schools are exempt from this requirement.

- State that the terms of the handbook do not supersede any relevant terms of a collective bargaining agreement.
- Expressly incorporate the relevant terms of any known collective bargaining agreement.

5. **SCHOOL MISSION AND PHILOSOPHY**

- State the mission and educational philosophy of the school. This should match the mission and educational philosophy in the student handbook.

6. **PROFESSIONAL EXPECTATIONS**

- Describe employees' primary responsibilities, in order of importance. Aim high.
- Delineate specific teaching policies that teachers must follow, if any (such as policies for lesson plans, grades, attendance, homework, and exams)
- State expectations for employees' participation in the professional community.
- Explain the school's employee attendance policy
 - Hours of operation and work hours
 - Attendance expectations
 - Procedure for reporting absences
 - Penalty for failure to report absences (voluntary resignation)
 - Provision for verification of absence
- Explain the school's employee dress code
- State the school's conflict of interest policy
 - Definition of "conflict of interest"
 - Disclosure requirement (name individual to whom employee must disclose)
 - Policy on hiring relatives
 - Outside employment and activity policy
 - Gift policy
- List specific conditions and requirements for employment
 - Criminal background check and fingerprinting requirement
 - Favorable results of drug testing

Under Louisiana law, charter schools must conduct a **background check** of all employees with a position of "supervisory or disciplinary authority over children." For each such employee, this background check is a condition of employment. The charter school's board must establish procedures to ensure that such checks are done, including a procedure by which the school takes **fingerprints** of all its potential employees and sends them to the Louisiana Bureau of Criminal Identification and Information.

The charter board must determine from these checks whether an applicant has been convicted of or has pleaded no contest to the serious crimes listed in LA R.S. 15:587.1(C) (including murder, manslaughter, criminal abandonment, and serious sex offenses). It is illegal for any school to employ such individuals. The board may hire on a temporary basis pending a clean report from the Bureau. The school must keep this information **strictly confidential** and cannot disclose it to any parents, students, or other employees.

In general, an employer may condition employment upon favorable results of a test for **illegal drug use**, as long as the testing process conforms to a uniformly applied policy that gives the employee notice prior to testing. An employer may *not* condition employment upon the results of a lie detector test. It may *not* condition employment on the results of any medical tests, but after employment begins it may give such tests (and make employment decisions on the results) if the employer believes that the employee's ability to perform an essential job function may be impaired by a medical condition.

7. PROFESSIONAL EVALUATION PROCESS

- Provide details about the employee's "probationary period," including duration and conditions which must be satisfied in order to qualify as a regular employee
- Explain the school's professional review process
 - Frequency
 - Substance (what will be discussed, evaluated, and/or updated)
 - Procedure (what form the evaluation takes and how it will be recorded or used)
 - Observation policy
 - Timing, both of review and of employment decisions

8. EMPLOYMENT TERMINATION

- Describe the process by which employee may give notice of resignation
- Enumerate specific **rules of conduct**, the violation of which will result in disciplinary action including discharge
 - Give notice that the list is not all-inclusive and that an employee may be terminated at any time, with or without cause
 - Give notice that the School reserves the right to eliminate jobs when necessary and explain procedure and benefits offered for phased-out employees
- Give **written notice** to the employee that s/he is or will be fired.
- Create and explain **review** procedures
 - Give employee the opportunity to explain his/her side of the story
 - Give a hearing before an impartial body, where appropriate

There are certain **limitations** on a school's ability to dismiss employees, even though they are at-will. A school *cannot* fire an employee for any constitutionally or statutorily prohibited reason, including but not limited to: exercising his or her rights of free speech or free association; possessing characteristics protected by any civil rights act, such as age, race, sex, disability, religion, and national origin; experiencing pregnancy or childbirth; whistleblowing; exercising the right to unionize or to recover workers' or unemployment compensation; and complaining about the company's safety, wages, environmental practices, or any other violation of law.

While it is not always legally required, we also advise that a charter school protect itself against charges of illegal termination by providing employees with **due process** protections before ending employment. Specifically, we advise that a school have a policy by which it gives each such employee clear written notice of termination that explains the reasons he or she is being fired and provides him or her with the opportunity to explain his or her side of the story before an impartial group or individual.

9. HARASSMENT POLICY

- Provide a general description of prohibited behaviors, with examples
 - Sexual harassment
 - Harassment based on any protected right (sex, race, disability, etc.)
 - Give notice that the list is not all-inclusive
- Make clear that harassment is prohibited in *all* relationships at the school (supervisor-subordinate, employee-employee, employee-student, etc.)
- Explain the school's investigation and remediation procedures (including discipline)
- Explain the reporting procedure in detail
 - To whom should employees report, including more than one trained person
 - Individuals who witness harassment have a duty to promptly report
 - What actions will school take to investigate and respond
 - Records will be kept confidential except as needed during an investigation

10. WORKPLACE VIOLENCE

- Describe expected and prohibited employee behavior
- Explain the reporting procedure in detail
- List potential penalties for engaging in workplace violence (termination)

11. CONFLICT RESOLUTION

- Clearly state the school's policy and expected employee behavior
- Explain what records the school will keep and to what extent they will be confidential

12. ALCOHOL, SMOKING, AND DRUG POLICIES

- State prohibition on smoking in all school buildings, including buses
- State that it is prohibited for employees to sell, distribute, attempt to sell or distribute, or be under the influence of alcohol or any controlled substance while on school property
- Explain the school's search and drug testing procedures
 - School must have a valid **reason** to search or to test

A school has a **valid reason to search or to test** if the search or test will help the school maintain safety, security, productivity, or quality; or if it will aid in an investigation of workplace accidents. If a school targets a particular individual, it must have a specific reason for doing so. However, if a school engages in a fairly administered, random set of searches, it only needs to have a specific reason for engaging in that set of searches in general (e.g. in order to maintain a safe environment for children).

- School must administer drug tests **fairly** and consistently with stated policy
- School must administer drug tests that conform to the scientific requirements of the Louisiana Drug Testing Act
- School must keep results **confidential**
- State school's policy on drug and alcohol abuse education and training
- Explain the school's reporting policy
- List potential penalties for violating any policy (termination)

13. VISITOR POLICY

- State under what circumstances the school permits visitors, if ever

14. PROPERTY SEARCHES

- State that school property (offices, desks, computers, etc.) belongs to the school, and that staff do not have any right to privacy with respect to these items or locations
 - State policy with respect to private use of school equipment
- State that school is not responsible for loss or damage of employees' personal property
- State that employees have no expectation of privacy with respect to all communications (telephone, voicemail, e-mail, internet use, etc.)

Courts have held that an employer may search an employee and his or her possessions only when such a search does not violate the employee's **reasonable expectations of privacy**. Although there is no bright-line definition of what a "reasonable expectation" is, an employer can take two steps to minimize its risk of violating that expectation. First, its handbook should narrowly define the scope of "privacy" by specifically stating that employees have no expectation of privacy with respect to school property, personal property, and communications. Second, the school should conduct all searches in a fair, nondiscriminatory way that best serves the purpose of the search while minimizing the scope of the intrusion. *See, e.g., O'Connor v. Ortega*, 480 U.S. 709 (1987).

15. MANDATORY REPORTING

- State that all employees must report suspected **child abuse or neglect** when they have reasonable cause to believe such abuse, neglect, or crime has occurred or is occurring
 - Define “reasonable cause”
 - Define “abuse” and “neglect”
 - Outline a detailed reporting procedure for abuse, neglect, and crime
 - Require employees to report internally and designate trained “point person”
 - Explain that “point person” must report to the Department of Social Services
 - Explain that “point person” will use the state’s form for external reporting:
<http://www.dss.state.la.us/Documents/OCS/CPI-2.pdf>.
 - State school’s confidentiality policy for internal reports, including how long the file will be kept at the school and who has access to it
 - Explain school’s policy on parent communication about abuse reporting
 - State the school’s procedure for training staff to identify and report abuse
- ☛ Failure to report child abuse is a criminal misdemeanor and may result in a lawsuit.
- State that each employee has a **general duty to report** all potentially illegal or unethical conduct by the school or a fellow employee, as well as potential violations of the school code or ethics handbook
 - Identify the authority to whom each employee should report, including options for bypassing that authority when necessary
 - Explain what should be included in the employee’s report
 - Explain the school’s investigation and remediation procedure

16. STUDENT CONFIDENTIALITY

- State that employees may not disclose any privileged information about a student except to authorized individuals (parents, teachers, and designated state officials)
 - Provide examples of information that should not be disclosed
 - State that the list is not comprehensive
 - Identify the persons (parents, guardians, specific personnel, etc.) with whom an employee can share privileged information (e.g. medical records, grades, etc.)
- Outline the procedure for requesting third party disclosure
- Notify employee that obligation of confidentiality continues after employment ends

What information must be kept confidential, and what may be disclosed, is determined by the **Federal Educational Rights and Privacy Act (FERPA)** and Louisiana’s **Public Records Act**, discussed respectively in Sections 7 and 8, below. As a rule of thumb, an employee should only disclose information about a student when s/he has a **legitimate educational reason** for doing so. For example, a teacher has a legitimate educational reason to disclose individual students’ test scores to the charter board when those scores help inform the school’s actions with respect to that student or the school’s policies more broadly. However, the same teacher would not have a legitimate educational reason to disclose the same test scores to a newspaper reporter.

17. TELECOMMUNICATION POLICY

- List activities that are expressly prohibited on the school communications network, e.g.:
 - Use for illegal, obscene, unauthorized, and inappropriate purposes
 - Use for non-school related business purposes
 - Use to advertise or lobby
 - Intentional disruption of the network, including “hacking”

- Activities that violate federal copyright law (list and explain)
- Destruction or alteration of information
- Unauthorized interference with private information
- Provision of access to unauthorized persons
- State that employee has no expectation of privacy with respect to e-mails or other information accessed on or transmitted by the school's network
- State that the employee assumes all risks of using the network, including indemnification of the school if it is sued for damage caused by the employee's actions on the network
- State that the school has no duty to inform the employee of changes to the policy
- List potential penalties for violating the policy

18. **FIELD TRIP POLICY**

- Explain procedure for requesting field trip authorization from central office
- Explain where to obtain blank parent consent forms
- Explain where to obtain a checklist of field trip safety procedures

19. **REIMBURSEMENTS**

- List expenses eligible for reimbursement
- Explain procedure for requesting reimbursement

20. **COPYRIGHT POLICY**

- State that all writings and other creations, including curriculum, are the property of the school and not of the individual who created them

21. **EMPLOYEE FILES AND EMPLOYEE RECORD POLICY**

- Explain **what information** is contained in each employee file
 - In compliance with the ADA, medical records must be kept separately
- State that the employee files are the **property of the school**
- Explain the **procedure** by which employee may exercise the right to access, review, copy, or add to his or her file (LA R.S. 17:1232 *et seq.*)
 - Provide employee with opportunity to rebut and respond to any document
 - State that rebuttal must be filed within 15 days of signature
 - State conditions upon which document will be amended/destroyed
 - Ensure that all of this information is transferred with file
- State that the employee has the **responsibility** to provide correct information and to notify the school of any changes
 - List the specific types of data (name, address, etc.) to be provided
 - State penalties for providing inaccurate data
- State situations when school will **release** employee information to third parties
 - Certain types of information (e.g. dates of employment) may be released without prior authorization
 - Any information may be released when required by law
 - Explain the procedure by which an employee may authorize the school to disclose information to a third party
- Explain how long information about an employee will be kept:
 - Information about retirement plans must be kept at least 6 years.
 - All other employee information must be kept for at least 5 years.

22. STUDENT DISCIPLINE POLICY

- Explain the school's disciplinary rules (consistently with Parent-Student Handbook)
- List disciplinary procedures and misbehavior justifying such procedures
 - In-school suspension policy and other internal punishments
 - Suspension policy (short-term and long-term) and procedures
 - Expulsion policy and procedures
 - Punishments for repeat offenders
- Explain due process procedures that must be offered to students
 - Notice
 - Opportunity to be heard
 - Impartial trial
 - Separate proceedings for students with disabilities under IDEA
- Explain the school's policy on **searching** students and/or seizing their belongings

The law on searching a student is consistent with the law on searching a teacher: a school employee may search a student and his or her possessions only when such a search does not violate the student's **reasonable expectations of privacy**. These expectations vary based on the age and sex of the student, the nature of the search, and the surrounding circumstances.

In general, an employee must have **good cause** to search an individual student. This means that, before searching a student, the teacher must have reason to believe that the student violated a specific law or school rule. The teacher must also limit the scope of his or her search depending on the violation. For example, a strip search would be appropriate if a student is suspected of carrying a loaded gun, but not if s/he is suspected of having stolen \$100. Except in cases of emergency, random searches or searches of an entire group of students for no specific reason, or for a vague reason like "drugs," are unconstitutional.

23. STUDENT CELLULAR TELEPHONE POLICY

- Explain under what circumstances, if any, the school permits student cell phone use
- Explain penalty (i.e. confiscation) for violation and the method by which a parent or student can re-claim his or her phone.

24. STUDENT MEDICINE POLICY

- State the school's policy on administering medicine to students during school hours:
 - All medications stored in central, secure location, except for inhalers and epi pens which students may keep on their persons
 - Only trained medical personnel and authorized administrators may give medicine
 - For prescription medications, the school must have written orders from a licensed prescriber detailing the name of the medication, the dosage, the time to be given, and the expected duration of the administration
 - For non-prescription medication, the school must have written and signed permission of the parent or guardian
 - Medicine to be administered must be in its original container and properly labeled with student's name, the name of the medication, the dosage, and the time to be administered
 - Internal records must be kept detailing the time and dose of medication
 - Explain that the school has no responsibility for a student's reaction to medication when it is taken according to the prescriber's directions

25. EQUAL OPPORTUNITY EMPLOYMENT

- State that the school is an equal opportunity employer that prohibits discrimination in hiring and employment
- Explain that the school will make reasonable accommodations for otherwise qualified individuals with disabilities under the ADA
 - Explain the process by which an employee can request provision of such accommodations

26. IMMIGRATION AND NATIONALITY ACT

- Explain that under the Immigration Reform and Control Act, any offer of employment is conditioned upon proof of an employee's ability to remain and work legally in the U.S.
- State what documentation the employee must provide to comply

27. OCCUPATIONAL EXPOSURE POLICY

- Explain the school's policy for limiting employee exposure to blood and other potentially infectious bodily fluids (pursuant to OSHA)
- If a school takes any steps to ascertain whether there are toxic substances in its workplace, employees have a right to access that information per LA R.S. 23:1126.

28. EXPLANATION OF EMPLOYMENT CATEGORIES

Define the following categories of employment:

- Full-time (30+ hours per week)
- Part-time (less than 30 hours per week)
- Temporary (up to full-time hours but less than 1,000 hours per year)
- Exempt (teachers, administrators, and other instructional staff exempt from overtime under Fair Labor Standards Act, 29 U.S.C.A. §213(a)(1))
- Non-Exempt (eligible for overtime under FLSA)
- Consultants (defined by low level of direct school control over operation and presence of contract of definite duration, not eligible for benefits)

29. SALARY STRUCTURE

- Develop a well-considered, written salary scheme
 - Categories of employment should be defined and justified by objective, non-discriminatory criteria
 - If merit pay is used, ensure that it is written, clearly defined, and applied fairly and equally across employees
 - If the school provides opportunities to earn extra pay, explain them clearly and define all necessary prerequisites
 - If the school offers bonuses, clearly explain the circumstances under which they will be awarded and along what lines

☛ If the salary scheme is not clearly defined, it may lead to an *ad hoc* allocation of funds that, even if not intentional, opens the school to charges of discrimination

- State overtime policy
- State drive time policy

30. TIME REPORTING PROCEDURE

- State log-in, log-out, and time recording policy for non-exempt staff
- Identify person to whom records must be submitted and method of acknowledgement
- Explain penalties for failing to record correctly and for falsifying records

31. PAYROLL PERIOD

- State frequency and timing of pay, including lag time
- Explain direct deposit option, if any, and the procedure for setting it up
- Explain 12-month pay option, if any, and the procedure for setting it up
- Explain lost paycheck policy

32. DEDUCTIONS AND GARNISHMENTS

- Explain that deductions, both required and optional, will be made automatically
- List deductions that are legally required
 - Federal and state income tax
 - FICA (social security)
 - Medicare
 - SDI (state disability)
 - Paid family leave contributions
 - City or local taxes (where applicable)
- Request that employees keep pay stubs for recording purposes
- Tell employees what a W-2 is and when to expect it
- Explain school's garnishment policy

33. LEAVE POLICY

- Define terms of the policy ("family," "serious health condition," etc.)
- Explain **paid time off policy** (vacation time and personal days)
 - List categories of employment eligible for PTO (full time only, or distinguish among PTO for different categories of employment)
 - Explain, in detail, the rate at which employees accrue PTO, and whether this rate is based on calendar days or school days
 - State whether PTO will roll over from year to year or not
 - State whether PTO is counted separately from or cumulatively with other types of leave (e.g. sick leave)
 - Exempt holidays from days counted as PTO
 - Explain policy by which an employee must request time off and the staff member who has discretion over whether to authorize it
 - Explain policy on **personal days**, if separate from vacation days
- List **school holidays** and holiday policy
- Explain procedure for **severe weather days** or other emergency closings
- Explain **sick leave** policy in detail
 - Annual allotment or method of accrual
 - Penalty (no compensation) for exceeding number of days
 - Requirement of physician certification, if desired
 - Policy on whether sick leave days roll over or expire
 - Explain whether and to what extent employees can take sick days to care for ill family members or domestic partners
- Explain **pregnancy and maternity leave policy**
 - For schools with under 50 employees:
 - Must offer "reasonable leave" equal to that offered to employees with temporary disability, but no more than six weeks for a "normal" pregnancy and no more than four months for any other.
 - State terms, if any, under which employee may be transferred to less strenuous employment
 - State notice requirement, if any

- State medical certification and re-certification requirements, if any
- State reinstatement policy
- Explain integration with other leave policies
- Explain health insurance coverage during pregnancy (must provide same benefits and privileges offered to those employees who are temporarily disabled, but there is no baseline minimum coverage)
- State that school will not discriminate on basis of pregnancy or family
- For schools with 50 or more employees:
 - Must offer policy consistent with FMLA (see below)
 - State that school will not discriminate on basis of pregnancy or family
- Explain **bereavement leave policy**
- Explain **jury duty leave policy**
- Explain **voting day policy**
- Explain **military leave policy** consistent with USERRA
- Include clause permitting **discretionary leave** on school leader's authority

34. PROFESSIONAL DEVELOPMENT POLICY

- Explain professional development leave policy, if any
- Explain tuition payment and educational assistance policy, if any

35. FAMILY MEDICAL LEAVE ACT (SCHOOLS WITH OVER 50 EMPLOYEES ONLY)

- Describe **situations in which leave is available** (birth or adoption of a child; care for a child, spouse, or parent with a serious health condition; or care for self due to a serious health condition that makes work impossible)
- Describe employee's prerequisites for **eligibility** (12 months total previous work and 1,000 hours in the 12 months prior to commencement of FMLA leave)
- Describe **benefits** the school must offer:
 - Up to 12 weeks of leave during a given 12 month period
 - Leave is unpaid, unless employee chooses to substitute vacation leave that would otherwise be paid under school policy
 - At school's discretion and employee's application, leave may be intermittent
 - Eligibility for participation in school benefits and retirement plans, if any (after returning, employee has no right under FMLA to any benefit or position which s/he would have been entitled to had s/he not taken leave, but during absence, s/he must be allowed to continue enrollment in any health benefits plan s/he was enrolled in prior to requesting leave).
- State procedure for requesting leave
 - Advance notice (if foreseeable, 30 days or as soon as possible)
 - Medical certification requirement, if any (including date, duration, appropriate medical information, and statement that the employee is needed to care for relative or unable to perform his or her job)
- Explain **reinstatement procedure** (the employee is entitled to the same or a position equivalent in pay, status, benefits, and other terms and conditions of employment).
- Explain **penalty** if employee seeks not to return to work (e.g. the school may recover its benefits contribution)
- State that the policy does not pre-empt any state or local laws and does not seek to provide greater rights than provided under FMLA

36. INSURANCE AND RETIREMENT POLICIES

- Explain **medical** insurance policy
 - Which employees are eligible

- Date from which the policy is effective
- Name of health care provider
- Eligibility requirements for specific coverage or direction to the health care provider literature where this information may be found
- Whether insurance is optional or required
- Amount, schedule, and automatic withholding of employee contributions, if any
- Explain **dental** insurance policy, if any
 - Process for electing coverage
 - Name of dental care provider
- Explain **vision** care policy, if any
- Explain **disability insurance** policy (recommended but not legally required)
- Explain **life insurance** policy
- Explain **retirement** policy
 - Ensure that employees who were previously employed at traditional district schools may elect to maintain their previous retirement policy
- Explain how an employee may opt out or **decline** any benefits or policy
- State that the school reserves the right to alter benefits, with notice

37. WORKERS AND UNEMPLOYMENT COMPENSATION POLICY

- State that workers' compensation policy is consistent with federal and state law
 - Explain procedure for reporting on-duty injuries
- Describe unemployment compensation policy

38. COBRA

- Describe circumstances under which employee is eligible for COBRA benefits and state terms of eligibility (including family members)

39. SCHOOL CONTACT INFORMATION

- Identify the individual to be contacted if employee has questions
- Provide address, telephone number, and fax number for school and human resources director

40. EMPLOYEE GRIEVANCE POLICY

- State that grievances will be taken seriously
- Explain procedure for filing formal complaints
 - State non-retaliation policy
 - Name authority to whom employee should report
 - Explain appeal process

41. EMPLOYEE ACKNOWLEDGEMENT

- Require employee to sign and date an acknowledgement that s/he has read, understands, and promises to abide by all of the policies and procedures in the handbook.

Section 5. Employee Contracts

The employment contract defines the relationship between the school and its employees. A charter school should therefore choose the language, content, and structure of the contract with care, since the contract alone will define the parties’ rights and responsibilities if a dispute between them arises in court. However, it is important to note that **employment contracts are not legally required** in Louisiana. If a school does not sign employment contracts, all employment is “at the will” of the employer.

A charter school board – which has exclusive authority over all employment decisions at the school – may wish to sign contracts with its employees because contracts provide an opportunity to define how much flexibility and decision-making power the board wants a particular employee to have. Contractual promises of certain benefits or a level of job security may also serve as an important recruiting tool for certain employees, particularly higher-level employees.

Guiding Questions

In order to ensure that its system of employee contracts supports student learning and achievement, NSNO suggests that a charter school board keep in mind three overarching questions as it writes each employment contract:

1. **What behavior should be rewarded?** Should the board define these behaviors in terms of employee actions or student achievement?
2. **How much power should the board have to redefine an employee’s responsibilities—or the whole team’s responsibilities?** By extension, how much discretion should a school leader have to make these choices without the board?
3. **What procedures should be developed and implemented to ensure that employees are treated fairly?** What procedures are necessary to create a positive work environment that is conducive to collaboration and communication?

Compliance Checklist

1. **PARTIES TO THE CONTRACT**
 - State that the contract constitutes a “contract” or “agreement” between [full name of charter school board] and [full name of employee]
2. **EMPLOYEE INFORMATION**

The contract, or a related internal document, must contain the following information about each employee, to be kept in the school’s files:

 - Full name
 - Mailing address
 - Social security number (must be kept confidential under all circumstances)
3. **EXPLANATION OF CONTRACT**
 - State that the contract is “at will” (if it is not intended to guarantee a fixed term)
 - State other terms if the contract is for a fixed term of employment
 - Explain that “at will” means that employment can end at any time, with or without cause
 - State that any written or oral statement to the contrary is invalid

Without the “at will” statement:

- * The contract may constitute an agreement that the employer will not terminate any employee without cause, or that the employer guarantees employment for the entire duration of the stated term.

Most public schools sign **at will contracts** with their employees. In Louisiana, an at will contract may be terminated by either the employer or the employee at any time and for any reason, as long as that reason does not violate any state or federal statutes or the state or federal Constitution. However, the party that is leaving the employment relationship must provide reasonable notice to the other party. *See* LA C.C. §2747, §2024; Harrison v. CD Consulting, Inc., 934 So.2d 166 (La.App. 1 Cir. 2006).

Both parties are free to bargain for and agree upon different terms. For example, schools frequently sign **fixed term contracts** with their higher-level administrative employees, such as school leaders. A fixed term contract may only be terminated for just cause. *See* LA C.C. §2748-2750, Meredith v. Louisiana, 209 F.3d 398 (5th Cir. 2000).

“**Just cause**” must be connected in some way to the employee’s working conditions or performance on the job, such as his or her failure to report, disobedience, disrespect, or breach of school rules. McGraw v. Postal Data, 319 So.2d 797 (La.App. 1st Cir. 1991). Because of the “just cause standard,” a fixed term contract may be more attractive to higher-level individuals who seek a higher degree of job security. However, a fixed term contract also makes it harder and more expensive for a board to document a pattern of behavior severe enough to justify firing an employee.

4. TERM OF EMPLOYMENT

- State the **specific dates** of the expected term of employment
- If the contract is at will, clearly state that the term is **not guaranteed**, but subject to at-will termination
 - * If the contract does not state again that it is at will, any stated dates may be interpreted to guarantee a fixed term of employment.
- If there is potential for extension, state the **specific conditions** for renewal

5. POSITION, STANDARDS, AND DUTIES

- Name the **position** in which the employee will serve
 - Job title
 - Location (especially if the chartering authority has multiple schools or campuses, or may open multiple schools or campuses)
- Identify the position to whom the employee will report
- State the employee’s required hours per day and required days per year
- State whether employment is **full-time, part-time, or temporary**
- * Because different employers can and do set different expectations about what constitutes full-time, part-time, and temporary employment, if a contract does not specify the employee’s status the employer could be required by law to give an employee greater or different benefits than intended for the position.
- Explain employee’s **function and duties**
 - List, in detail, the specific responsibilities and duties unique to the position, either explicitly or by reference to a job description

- State that employee is also responsible for other duties assigned by his or her supervisors during the course of employment
- State general expectations, e.g. attendance, engagement, proper instruction or supervision, expected standard of achievement
- Tell the employee that, by signing the contract, she or he agrees to adhere by the policies, standards, and responsibilities described in the handbook

To be enforceable, an employment contract must specify three terms: the identity of the parties, the nature of the employment, and the compensation awarded. The “**nature of the employment**” does not have to be described in every detail, but it must give an employee enough guidance so that she is aware of what she has agreed to do. Traditionally, teachers’ unions used this section of the contract to limit teacher workloads by setting a cap on the class size, number of classes, length of classes, and other terms of employment. While most charter schools do not work with unionized employees, a charter school board should still be aware that a highly detailed and rigid position description may prevent the board from later requiring its employees to make reasonable accommodations to the changing needs of the workplace.

6. **CONFIDENTIALITY**

- Require the employee to keep **confidential** all non-public information about the school, its personnel, students, and families, except as otherwise required by law

7. **OWNERSHIP OF WORK PRODUCT**

If the school desires to own the employee’s work product:

- State that the school, and not the employee, owns all rights (including intellectual property rights) to any content, materials, or **work product** created or invented by the employee:
 - In the course of employment
 - With the use of school resources or facilities

8. **COMPENSATION**

- State the employee’s **wages** (defined annually, weekly, or hourly)
 - State the method of payment (e.g. cash, check, or direct deposit)
 - State and ensure that the wage comports with the school’s objective, nondiscriminatory wage schedule
 - State that the school will abide by the payroll practices in its manual and those required by law, e.g. mandatory withholdings
 - State whether the employee is exempt from or eligible for overtime under the Fair Labor Standards Act

- * If an employer does not state an employee’s wages, method of payment, or frequency of payment in the employment contract, she or he will be subject to fines or imprisonment under the Louisiana Wage Payment Act, LA R.S. 23:633.

A charter school may not award employees **different levels of pay** if those differences would violate state or federal law. For example, it is obvious that a school may not pay men and women different wages for the same work. However, a school may award employees different levels of pay if it has good reasons for doing so. For example, a school may pay more experienced teachers higher salaries or give teachers “incentive” pay for additional hours or superior teaching. However, a school should take care that the wage schedule it sets for its employees fits a clearly defined salary scheme. Otherwise, the school risks that its payroll practices will reflect unintentional discrimination that expose the school to a lawsuit.

- List and explain the eligibility criteria for any employee **benefits**
 - State the school’s **retirement policy**, as stated in the approved charter
 - Explain the school’s **paid time off policy**, including the rate or other method by which time off is accrued
 - State the school’s **health insurance** policies, if any
 - List policies available (e.g. medical, dental, vision)
 - State the rate at which the school contributes to each policy
 - Explain whether family coverage is available
 - State the dollar amount of the **life insurance** policy, if any
 - State the terms of the **disability** insurance policy, if any

Neither Louisiana nor federal law requires an employer to pay its employees for vacation, holiday, severance, or sick time, even if the time off is otherwise required by law. Nor does Louisiana or federal law require an employer to provide health, life, or disability insurance benefits of any kind. If, however, an employer offers any of these provisions in a contract of employment, they are considered **vested rights** that the employee must be given (or for which s/he must be compensated) once they are earned. R.S. 23:631(d)(1), Wyatt v. Avoyelles, 799 So.2d 1197 (La.App. 3d Cir. 2001).

- Explain that all benefits are **subject to subsequent modification** at the board’s discretion
- Require the employee to abide by employee and school policies stated in the **handbook** to be eligible for benefits
 - Clearly state that the handbook policies and guidelines do not constitute a binding contract and are subject to change

9. EVALUATION

- Explain when, how, and by whom **assessment** will be conducted, either explicitly or by reference to the employee handbook
- Identify the individual or body with authority to increase wages or benefits

10. TERMINATION (fixed-term contracts only)

- Explain the procedure by which the **board** or other hiring authority may cancel the contract of employment
 - Explain **notice** requirements, distinguishing between procedures for canceling a contract “for cause” and “not for cause”
 - Time required to give notice
 - Form in which notice must be given (e.g. a signed writing)
 - Give specific examples of acts that will count as “**for cause**” (e.g. dishonesty, fraud, misrepresentation, conflict of interest, breach of fiduciary duty)
- Explain the procedure by which the **employee** may cancel the contract
- State that the contract is automatically cancelled if the employee **dies**

Teachers’ unions also traditionally protected their jobs by bargaining for termination provisions that severely limited a board’s power to fire them—for example, by requiring that layoffs progress in the order of seniority. Again, a charter school board should be aware of the potential of these or similar restrictions to limit its ability to expand or contract its workforce according to the changing needs of students and the school.

11. BACKGROUND CHECK

- State that the offer of employment is contingent upon a successful and satisfactory criminal background check and fingerprint check
- Require the employee to affirm, by signing the contract, that:
 - S/he has no current, past, or pending criminal charge or criminal conviction in any jurisdiction
 - S/he has accurately and truthfully represented his or her academic and professional credentials and certificates

Under Louisiana law, charter schools must conduct a **background check** of all persons who apply for or who have been given a position of “supervisory or disciplinary authority over children.” For each such employee, this background check is a condition of employment. The charter school’s board must establish regulations, requirements, and procedures to ensure that such checks are done. These regulations must include a procedure by which the school takes **fingerprints** of all its potential employees and sends them to the Louisiana Bureau of Criminal Identification and Information.

The charter school’s board must determine from the results of these checks whether an applicant or employee has been convicted of or has pleaded *nolo contendere* to certain serious crimes listed in LA R.S. 15:587.1(C) (including, for example, murder, manslaughter, criminal abandonment or negligence, and serious sex offenses). It is illegal for any school to employ such individuals. The board may hire an employee on a temporary basis pending a clean report from the Bureau. Other than as required by state and federal law, the board must keep this information **confidential**. See LA R.S. §17:3991(E)(5)(b) and §15:587.1.

The charter school must shoulder the **cost** of these checks. If, however, an employee resigns within 90 days of starting work, the school can require reimbursement. See LA R.S. §23:897(A) and §23:634(B); R.S. 23:634(B) and 23:897(K).

12. CHOICE OF LAW CLAUSE

- Specify that the terms and enforcement of the contract are governed by Louisiana law

A “**choice of law**” clause provides that a particular law (in this case, Louisiana law) should be used to interpret the contract in the event of a later disagreement between the parties. Technically, under Louisiana R.S. 23:921(A)(2), a choice of law clause that is signed before a dispute arises between the parties is null and void. However, it is still best practice to include a choice of law clause. Identifying a single body of governing law helps to set background expectations for the parties about the terms of the contract.

13. SAVINGS CLAUSE

- State that if any portion of the contract is unenforceable, it affects only that portion; the other provisions remain binding

14. ZIPPER CLAUSE

- State that the contract constitutes the entire agreement between the parties and that anything not written in the contract is not part of the contract

15. AMENDMENT PROCEDURE

- Explain that one party’s failure to require the other to perform any part of the contract does not constitute a waiver or amendment of that or of any other part of the contract

- State that the contract cannot be changed or renewed orally.
- Explain the process for amendment
 - All amendments must be in writing
 - List parties who must sign amendment for it to be effective

16. ACCEPTANCE OF EMPLOYMENT

- Require employee to sign contract
- Require board, principal, or other hiring authority to sign contract
- State that employee's signature indicates that s/he:
 - Promises that all information s/he provided to the school is true
 - Has read and agrees to be bound by the terms of the contract
 - Understands that the contract supercedes all other letters, contracts, and/or agreements with the school
- Provide space to insert the date and time of agreement

Section 6. Human Resource Policies

Compliance Checklist

1. ADVERTISEMENT, POSTING, AND RECRUITMENT

- Post all job openings in publicly available media (e.g. newspapers, internet job sites), even if an internal hire is being considered, R.S. 44:12.1
- Do not present any information or images in a way that may be interpreted as discriminatory with respect to a protected class or characteristic (see list in 3, below)
- Do not use family relations to recruit or as a requirement for employment, R.S. 42:1119
- Include in the ad notice that the school is an equal opportunity employer

2. APPLICATION FORM

Statements about the application and the job:

- The employer is an equal opportunity employer
- Any employment would be at-will
- The application expires within a reasonably short period of time
- The application is not an offer of employment

Requests for information from the applicant:

- Specific position sought
- Detailed employment history, education, training, degrees, and certifications
- Names and contact information for references
 - Grant of permission to contact references
 - Release of his or her references from liability to fullest extent of R.S. 23:291
- Whether accommodation is required for the employee to complete the **application** (NOT to perform the job), and if so, what accommodation is required
- All names previously used by the applicant
- Prior criminal convictions (excluding arrests or minor convictions, e.g. traffic tickets)
 - In general, prior conviction may not be automatic grounds for disqualification, but may be considered when making employment decisions
 - Exception: a school may not employ anyone conviction of a serious or violent crime listed in R.S. 17:15

Requests for applicant to consent to the following:

- Verification of the accuracy and completeness of the application
- Conducting a background check of the applicant's criminal records and, if essential to the job, driving records
- For the school to conduct drug, alcohol, and polygraph tests

An employer may condition employment on favorable results of **drug, alcohol, and polygraph** tests, as long as these tests are mandatory, administered uniformly, and meet all other specifications imposed by law. In general, an employer may NOT condition employment on favorable results of a physical or mental **medical examination**, unless the test is likely to provide the school with scientifically reliable indication that an employee's health would *seriously* impair his or her ability to perform *essential* functions of the job. This prohibition is based on the concern that pre-offer medical testing would be used to discriminate against applicants with disabilities. See 42 U.S.C.A. §12112(d)(2)(A); R.S. 23:323(B)(4).

Requests for acknowledgement:

- Employment is conditional upon favorable results of any tests
- The school is immune from liability for disclosing any public information provided by or about the applicant to the full extent permitted by law, LA R.S. 23:291
- The applicant is not subject to any contract that conflicts with the job applied for
- The application is true, accurate, complete, and correct
- Misrepresentations or omissions may result in the application being disregarded, or, if the applicant is hired, discipline including possible termination, LA R.S. 23:1228.1

3. **PROHIBITED INTERVIEW OR APPLICATION TOPICS**

- Age (unless question is whether employee is old enough to legally work)
- Gender (unless it is related to a *bona fide* occupational qualification, e.g. a female supervisor of a women's locker room)
- Pregnancy, children, marital status, or family plans
- Race or color (including eye or hair color or complexion)
- Religion, Church affiliation, religious holidays observed
 - After hiring, an employer may ask whether an employee needs religious accommodation, but may only dismiss the employee if these accommodations cause serious inconvenience.
- National origin, citizenship, place of birth, genealogy, length of residence
- Political Affiliation
- Sexual Orientation
- Union Membership
- Wage Garnishment
- Military Service, Discharge, or Reserve Status
- Genetic Information
- Disability
 - Medical history or frequency of illness
 - Workers' compensation history or past job-related injuries (except for a legitimate reason after a conditional offer of employment, e.g. to ensure payment of the "second injury" workers fund, R.S. 23:1371)
 - Past or present use of lawful drugs
 - Past addiction to illegal drugs
 - Height, weight, sickle cell trait, or any other physical or medical characteristics

What disability-related questions CAN an employer ask about and consider during the hiring process? An employer can ask any questions regarding an applicant's *bona fide* ability to perform the job as explained in the job description, "either with or without reasonable accommodation." For example, she or he can ask about an applicant's past attendance records and his or her current use of alcohol or illegal drugs.

Under what circumstances may an employer rescind an offer of employment on the basis of an employee's disability? An employer cannot rescind an offer of employment on the basis of a disability unless the applicant (1) cannot perform an essential function of the job, even with reasonable accommodations or (2) poses a direct threat to him- or herself, or to others, that cannot be reduced by reasonable accommodation. See 29 C.F.R. §1630.14(b)(3), §1630.2(r).

4. CONDUCTING REFERENCES AND BACKGROUND CHECKS

- Secure written, signed consent by the prospective employee prior to contacting a reference, LA R.S. 23:291(D)
- Never ask about a topic that would be prohibited in an interview (listed above)
- Document the information obtained and record its source
- Contact all or at least multiple references (to protect the school against subsequent charges of discriminatory and/or negligent hiring)

- Obtain the prospective employee's signature on the consent form provided by the Louisiana Bureau of Criminal Identification and Information prior to requesting criminal conviction records, R.S. 15:587(E)
- Only conduct a check of the employee's driving records when driving is an essential function of the job (e.g. as a bus driver).

Under Louisiana law, an employer may be sued if it knowingly hires a **dangerous** employee or fails to conduct the background checks necessary to discover whether an employee is dangerous. A school, in particular, may be sued if it hires or fails to dismiss an employee who is a convicted felon. To protect itself, a school should promptly fulfill its duty to inquire about the criminal history of each new employee. See, e.g., Lou-Con v. Gulf, 287 So.2d 192 (La.App. 4th Cir. 1973).

5. GIVING REFERENCES ON FORMER EMPLOYEES

- Designate and train the specific individuals who are authorized to provide references and prohibit anyone else from giving unauthorized references
- Make every effort to be sure all facts disclosed are true.
 - Clearly distinguish between facts and opinions about the employee
 - Support references with objectively verifiable facts and/or data
- Ensure that the current or former employee has provided signed, written consent to the employer's release of information by or about the employee (recommended, not required)
- Ensure that disclosure of information by or about the employee would not:
 - Violate any state law protecting the employee's privacy. (For example, R.S. 23:323(B)(9) and 23:368 require an employer to keep information about an employee's disability and genetic information confidential).
 - Violate any of the school's internal policies or specific agreements with the employee to keep certain information confidential.
- Take care not to disclose any disputes that were, are, or may be subject to any legal claim between the school and the employee.

Under Louisiana law, both the employer who provides a reference and the employer who relies upon that reference enjoy civil immunity—they cannot be sued for giving or relying upon information as long as it is given in good faith and not in retaliation, and does not violate the employee's privacy as protected by law. LA R.S. 23:291. An employer can be sued, however, if she or he provides a reference that is **defamatory**—that untruthfully and unfairly harms the reputation of the employee. Sassone v. Edler, 626 So.2d 345 (La.1993). An employer should therefore take care to ensure that the information she or he shares while giving a reference is true to the best of his or her knowledge and ability. Even if the information is later proved to be false, an employer cannot be sued if she or he honestly and in good faith believed it to be true.

6. REQUIRED DOCUMENTATION

- Obtain proof of age of any minor employees prior to employment and keep a copy of their work permits on file, R.S. 23:182
- Within three days of employment, verify that the employee is eligible to work in the U.S. by completing the INS I-9
- View the employee's social security card and record the employee's full name and social security number on the W-2, LAC 40:IV §§319(A), 313

7. SALARY STRUCTURE

- Define and justify salary structure with objective, non-discriminatory criteria
- If merit pay is used, ensure that it is written, clearly defined, and applied fairly
- Clearly explain any opportunities to earn extra pay, and define all necessary prerequisites

- ☛ If the salary scheme is not clearly defined, it may lead to an *ad hoc* allocation of funds that, even if not intentional, opens the school to charges of discrimination

- State overtime policy
- State drive time policy

8. TERMINATION PROCEDURE

- Enumerate specific rules of conduct, the violation of which will result in disciplinary action including discharge
 - Give notice that the list is not all-inclusive and that an employee may be terminated at any time, with or without cause
 - Give notice that the School reserves the right to phase out or eliminate jobs when necessary and explain procedure and benefits offered for phased-out employees
- Explain the school's notice and review procedures
 - Give employee an opportunity to explain his/her side of the story
 - Give notice or a hearing before an impartial body, where appropriate
- Thoroughly and objectively investigate the reasons for termination prior to every decision
 - Deal with similar incidents consistently
 - Accurately record reasons for and/or incidents leading to dismissal

9. EMPLOYEE RECORDS

The school must:

- Maintain the following records about each employee for at least five years:
 - Name
 - Home address
 - Date of birth
 - Gender
 - Occupation
 - Time of day and day of week on which his or her work week begins
 - Hours worked per day and per work week
 - Regular rate of pay (or, for exempt employees, basis of payment)
 - Total straight time and overtime (for non-exempt employees)
 - All additions to and deductions from earnings
 - Polygraph records
 - Records of occupational illness and injury
 - Collective bargaining agreements and related payments
 - Total wages paid, date of payment, and payment period covered
 - Sales and purchase records

- Workers' compensation records
- Maintain the following records for at least one year:
 - All records related to any kind of discrimination charge
 - All records related to employee benefit plans
 - The school's seniority or merit rating system
 - Applications of any rejected applicants (to rebut discrimination claims)
- Maintain the following information about each employee on site during employment:
 - Fingerprint record and results of criminal background check
 - Teacher certification information
 - Applications and resumes
 - Communications with the employee

10. CONFIDENTIAL INFORMATION

- Medical records
- Unemployment records, R.S. 23:1660(C)
- Disability, R.S. 23:323(B)(9)
- Workers' compensation claims, R.S. 23:1293 and 23:1127(C)(4)
- Results of drivers' record check, 18 U.S.C.A. §§2721-2725
- Results of criminal background check, R.S. 40:1300.54
- Name of bank and account number of any employee's direct deposit account, R.S. 44:11
- Upon employees' request:** employees' home telephone number and address (except of school board members to recognized educational groups)

11. PUBLIC INFORMATION

- Names of all applicants to and employees of the charter school, R.S. 44:12.1

12. EMPLOYEE MEDICAL RECORDS

- Unless it has the employee's consent, a school must keep all medical and related records of its employees strictly confidential except:
 - May be disclosed to safety and first aid personnel
 - May be disclosed to supervisors to the extent necessary to ensure the employee receives proper job accommodations
 - May be disclosed to the employee him- or herself
 - May be disclosed to government officials who are investigating legal compliance
 - May be disclosed if required by law, subpoena or court order.
- A health care provider may only disclose medical information to the school without the employee's written consent if:
 - The protected health information relates to work-related illness, injury, or tests
 - The employer needs the information in order to comply with certain regulations, e.g. workers' compensation;
- The school must keep medical information separate from other personnel records:
 - All health care or insurance information
 - All sick leave history and/or requests
 - Records of all work-related injuries or workers' compensation information
 - FMLA records
 - Genetic information
- The school may not keep a record or disclose information concerning the disability of a prospective employee for discriminatory purposes, R.S. 23:323(B)(9)

13. REQUIRED POSTERS

Federal posters are available at: <http://www.dol.gov/osbp/sbrefa/poster/matrix.htm>

- Employees' rights under the Fair Labor Standards Act, 29 C.F.R. §516.4, available at <http://www.dol.gov/esa/regs/compliance/posters/flsa.htm>
- Your Rights Under the Family and Medical Leave Act of 1993, 29 U.S.C.A. §2619(a) and (b) (if more than 50 employees), available at <http://www.dol.gov/esa/regs/compliance/posters/pdf/fmlaen.pdf>
- Equal Opportunity Is the Law, 29 C.F.R. §1601.30(a) and (b), available at <http://www.dol.gov/esa/regs/compliance/posters/pdf/eeopost.pdf>
- Job Safety and Health Protection (OSHA 2203), 29 U.S.C.A. §657(c)(1); 29 C.F.R. §§1903.2(a)(1) and 1904.5, available at <http://www.osha.gov/Publications/osh3165.pdf>
- USERRA, 38 U.S.C.A. §4334 (re-employment and health care continuation rights and other benefits for employees called to uniformed service), available at http://www.dol.gov/vets/programs/userra/USERRA_Private.pdf

State posters are available at: <http://www.postercompliance.com/louisiana.html>

- Fair Employment and Age Discrimination, R.S. 23:314
- Minor Labor Law, R.S. 23:217
- Notice of Compliance to Employee (workers' compensation rights), R.S. 23:1302
- Notice to Workers (unemployment benefits), R.S. 23:1622
- Out-of-State Motor Vehicle (requirement to register), R.S. 47:501.1
- No Smoking, R.S. 40:1300.261(A)
- Sick Cell Trait (prohibition on discrimination), R.S. 23:354
- Genetic Information and Privacy, R.S. 23:369
- New Hire Compensation Notice, R.S. 23:633
- Earned Income Tax Credit Notice, R.S. 23:1018.1

Section 7. Student Information and Records

By law, charter schools must maintain complete, accurate, and current information about their students. These records must include a student’s contact and identifying information, attendance records, medical records, academic progress, and behavior records, as well as the school’s communications about the student with parents or the state. This is a mountain of information, and we recommend that a charter school develop clear and workable **student information policies** to record, organize, and manage it.

“Big Picture” Objectives

We recommend that charter schools keep in mind four “big picture” objectives when developing their student information policies to ensure compliance with Louisiana and federal law:

1. Schools must keep complete, accurate, current student records.
2. Schools must retain all student records for a minimum of three years.
3. Schools must provide parents with access to their children’s records.
4. Schools must take great care to keep students’ records otherwise confidential.

Specifically, we recommend that a charter school adhere to the following guidelines when developing their student information and records policies.

Compliance Checklist

1. INTERNAL STUDENT FILE

- Maintain and update cumulative **student records**, including:
 - Name
 - Gender
 - Social Security Number or state-assigned identification number
 - Date of admission to the school
 - Date of birth
 - Name and address of parents, legal guardian, and/or next of kin
 - Language or means of communication, spoken or understood
 - Cumulative record of student’s progress through the curriculum
 - Health history
 - Results of vision and hearing screening
 - Immunization record (cumulative)
 - Grades
 - Attendance records
 - Scores on LEAP 21 tests and any other standardized tests
 - Information or rationale for any decisions about student placement, promotion, retention, remediation, and/or acceleration
 - Results of student’s participation in any remedial programs
 - A copy of the letter informing the student’s parent of the student’s placement in or removal from a remedial program
- Maintain the following additional information for **students with disabilities**:
 - Records of all parent/teacher conferences prior to the student’s referral
 - Results of all educational screening information
 - Educational interventions and their results
 - Multi-disciplinary evaluation reports

- The student's current IEP
- The student's current IAP
- A copy of the parent's written consent for the student's placement
- Log of who has accessed the student's special ed file and for what reasons
- LEAP 21 Individual Student Reports

2. **ACADEMIC RECORDS AND REPORT CARDS**

- Provide teachers with a form or **roll book** to record student progress in each class and require its completion and submission to the principal by the end of the year.
- Report student progress to parents/guardians via report cards at set intervals
 - Report progress of special education students with respect to the short-term objectives on their IEP
- Inform parents of the results of all state standardized tests
- Upon authorized request, transfer all education records to a school to which a student is seeking to transfer or enroll within 10 days

3. **ATTENDANCE RECORDS**

- Require teachers to check student attendance each day and each period
- Maintain attendance records in "inspection-ready" condition at all times
- Report any unexcused absences and/or habitual tardiness to the state's designated supervisor of child welfare and attendance, and make all records available to him or her
- Notify a student's parent or guardian of any unexcused absences, habitual tardiness, or "cutting class"

4. **CHILD IDENTIFICATION CARD (GRADES 1-6)**

- Assist the sheriff in creating a child identification card for designated students:
 - All students entering 1st grade, unless their parents opt out
 - All students in other grades whose parents opt in
- Fill out the card with the following information:
 - The child's name, address, school, and date of birth
 - The name of the child's parent or guardian
 - The date the ID card was created
 - Space for the child's photograph
 - Space for the child's fingerprints
 - The statement that: "This ID card is the property of the parent of the child described hereon. Possession of this card or a copy of this card without written permission of the parent of the child is a violation of the law."
- Notify parents of all incoming first graders that their child will have an ID card prepared, the date and place of the preparation, and that they have the right to opt-out
- Notify parents of all other incoming students that they may have an ID card prepared, the date and place of the preparation, and the procedures for opting in
- Keep the ID card secure and confidential, except to deliver it to:
 - Another school in the state, if the child transfers
 - To the parents, upon written request or at the end of sixth grade
 - To law enforcement, with parents' written permission or after a hearing
- Ensure that no photocopies of any completed ID card are made

5. **ACCESS TO STUDENT RECORDS
(FERPA, THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT)**

FERPA, the Family Educational Rights and Privacy Act, 20 U.S.C. 1232(g), is a federal law that gives parents and students certain **rights** with respect to their child's educational records. These rights include the right to access, inspect, and request correction of these records. Every school has a duty to ensure that these rights are protected. For more information, see <http://www.doe.state.la.us/lde/uploads/3312.pdf>.

- Publish the school's FERPA policy in its student handbook
- Ensure that the following student and parent rights are protected:
 - Parents (or students over 18) have the right to inspect the student's records
 - Parents (or students over 18) have the right to request that the school change records that they believe to be inaccurate or misleading
 - If the school decides not to make the change, the parent or student has the right to a formal hearing before the charter school's board
- Follow these rules about privacy and disclosure:
 - Directory information may be disclosed to third parties without consent, unless a parent requests otherwise.
 - Unless parents consent, all personally identifiable information must be kept confidential, except it may be disclosed to:
 - Parents or legal guardians
 - School officials and teachers with legitimate educational interests
 - Officials and teachers of other schools to which a student is transferring
 - Authorized governmental representatives as required by law
 - Financial aid agencies to which students have applied
 - Organizations conducting educational studies
 - To appropriate officials in health and safety emergencies
 - To individuals designated by lawful subpoena or judicial order
 - Parents' consent is not valid unless it is in writing and specifically states the records to be released, the reasons for release, the person to whom the records should be released, and whether the parents want to receive a copy as well.
- Develop procedures for parents to request access, amendment, and nondisclosure

Directory information may include, but is strictly limited to, the student's name, address and telephone number, date and place of birth, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance at school, degrees and awards received, and the most recent previous school or institution attended. **Directory information is the only information that can be disclosed without parental consent.** Parents may also request that a school keep all information (including directory information) confidential, and a school must comply with any such requests.

Personally identifiable information is any fact or set of facts that reveals a student's personal identity. In general, it consists of information about the student that is released in conjunction with the student's name, parents' names, address, student identification number or social security number, or a description of his or her personal characteristics. Merely revealing a student's name would not violate FERPA. However, revealing a student's name in conjunction with his or her SAT score, grades, behavior or attendance records would violate FERPA.

- Keep a **record of access** with each student's education record that includes:
 - The names of all individuals, agencies, or institutions (other than teachers or school officials) who have viewed the student's record

- The legitimate interest that each had in obtaining the information
- The date and time of access
- Ensure that the record of access is only disclosed to parents and authorized school and government officials
- Require all persons requesting access to records fill out a **request form** that must contain the following information and be filed in the student's record:
 - Name of person requesting the information
 - Requester's contact information
 - Name of the student whose record is being requested
 - Date of the request
 - Relationship of the requester to the student
 - Reason for the request
 - A "redisclosure" statement (the requester's agreement that, as a condition of obtaining access, s/he will not permit anyone else to access the information without the parents' consent)

☛ **If the school fails to follow these policies, it risks losing all of its federal funding.**

6. REQUESTING AMENDMENTS OF STUDENT RECORDS

- Make available to parents (or students over 18) an **amendment request form** stating:
 - The name of the parent or student making the request
 - The name of the student whose record the request seeks to amend
 - The date of the request
 - The relationship of the requester to the student
 - An explanation of why s/he believes the record should be amended
 - The wording of the proposed amendment
- Notify** the parent (or student) **in writing** of the school's decision to accept or reject the request.
 - If rejected, provide the parent (or student) with notice of and the opportunity for a **formal hearing** before the charter board.
 - Notify** the parent (or student) in writing of their right to attach a statement to the student's record indicating their dispute.

☛ **If the school fails to follow these policies, it risks losing all of its federal funding.**

Section 8. School Information and Records

As public schools, all charter schools must make its business, financial, and operational information open to the public upon request. This includes any public document created by the school, including all letters, memos, emails, and published internal policies. This **transparency** is not only required by law, but is also an excellent tool for building confidence in and public support for the school.

It is important to note, however, that not all of a school's documents are public. Among the documents that are not considered "public" – and that a school should take steps to keep confidential – are confidentiality agreements, student information, and any other information that is legally protected, such as documents that record information about employee disabilities.

Charter schools are also subject to **public accountability** laws that help ensure they are fulfilling their essential public mission. These laws require charter schools to maintain and/or periodically submit information about its enrollment, test scores, and finances.

Compliance Checklist

1. PUBLIC INFORMATION

- Publish the school's public records policy in the student handbook
- Develop a policy that guarantees parents (and students over 18) access to any of the school's **public records** upon written request
- Respond** to all written requests within five days, and:
 - Make the records available
 - Deny the request with an explanation, or
 - Acknowledge the request and state the date when the records will be available.
- Provide parents with the **right to appeal** to the charter board (which must respond in writing within ten days)
- Only deny a request for one of the following **reasons**:
 - Disclosure would violate state or federal law
 - Disclosure would violate personal privacy
 - Disclosure would harm bargaining negotiations
 - The records are trade secrets which would cause substantial harm if disclosed
 - The records are law enforcement records (per LA R.S. §44:3)
 - Disclosure would endanger the life or safety of any person
 - The records are computer access codes
 - The records are purely internal materials (e.g. not statistical or factual collections of data, employee policies or instructions, or external audits)

A charter school must make "public information" open to inspection by the public. This means that a school must make its public records available for inspection – it does not mean that a school must do additional work to find a specifically requested item, to explain a particular document, or to present information in a particular format. A school is never required to make photocopies of documents for free or to allow a parent to take documents off site. For example, if a parent requests to see a copy of the school's transportation contract, a charter school is in compliance with the law if, within a week of the request, the school provides the parent with an appointment at a reasonable time of day and at that time provides him or her with access to the file cabinet where the parent can find the requested information.

2. **SYSTEM AND SCHOOL REPORTING**

- File an **Annual School Report** with the Department of Education
- Report the names, birth dates, race, parents' names, and residence of all students in registered **attendance** at the school to the school's chartering authority within the first 30 days of the school year (unless otherwise specified in the charter).
- Report a final list of **graduating seniors** to the Department of Education, accompanied by an assurance statement signed by the principal and a certificate of high school credits, by June 15 (for spring graduates) and February 15 (for winter graduates).
- File regular reports on the status of or need for **construction and renovation** projects with the Department of Education

3. **FINANCIAL REPORTING AND SYSTEMS**

- Submit a copy of the school's adopted **budget** to the State Superintendent by September 30th of each year.
- Establish a reliable **accounting system** for all activity funds
- Conduct an **annual audit** for all activity funds
- Maintain accurate **accounts** and documentation of all allocated state and federal funds
- Maintain a **school fund** for the management of any money that accrues for the school

4. **TEXTBOOK RECORDS**

- Keep record of all textbooks (and specifically note new, outdated, and damaged books)

Section 9. Open Meeting Law

Because charter schools are publicly funded, charter school board meetings must be **open to the public** in accordance with the Louisiana Constitution and Open Meetings Law, R.S. 42:4.1 *et seq.*

- * Failure to comply with open meeting requirements will subject a board to a \$100 fine per violation and render null and void any decisions reached at these meetings.

Compliance Checklist

1. QUORUM

- A majority of the board must be present at any meeting.

2. PUBLIC NOTICE

- Create a board meeting **schedule** at the beginning of each school or calendar year
- Publish regularly scheduled board meetings on the official school **calendar**
- Prior to every board meeting, post **notice** of the date, time, agenda, and place of the meeting in the school's central office (where parents and visitors check in)
 - Notice must be posted at least **one day prior** to the meeting
 - If any topic will be covered in an executive session (see below), this fact must be stated in the posted notice.
 - The board may not discuss any **new topic** not included on the posted agenda, unless 2/3 of the board votes to add the item to the agenda.

3. PUBLIC COMMENT

- At meetings, allow time for public comment on each agenda item prior to voting. (Note that the board does not have to allow time for comment on any item that is not on the agenda or one that is not up for a vote, nor is it required to respond to any public comments or to answer any questions posed during the time for public comment.)
- Adopt and announce rules and procedures for public comment (time limits, sign-up sheets, etc.) before the start of every meeting.
- A board may remove any member of the public who is intentionally disruptive or threatens the health or safety of anyone at the meeting.

4. VOTING PROCEDURE

- Conduct all votes “**viva voce**” (individual verbal vote)
- * Votes may not be taken by “secret ballot,” proxy vote, or any other manner in which votes are not made public to everybody in attendance.
- Record all votes in the minutes, including each individual's vote on each issue

5. MINUTES REQUIREMENTS

- Keep **written** minutes with the following information:
 - The date, time, and location of the meeting
 - The attendance or absence of each member
 - The substance of all matters decided
 - The individual votes of each member taken on every issue

- If applicable, the reasons for moving into executive session and voting records of all members with respect to moving into executive session
- Make the minutes publicly available within a reasonable amount of time after the meeting

6. SOUND AND VIDEO RECORDINGS

- Tape record or film any or all of any public meeting, if desired
- Establish standards for lighting, recording, or broadcasting to ensure order, if necessary

7. EXECUTIVE SESSION (CLOSED MEETINGS)

- Executive sessions (closed meetings) may only be called to discuss one of the following:
 - Strategy or negotiations relating to collective bargaining
 - Discussions of any prospective litigation
 - Security plans, personnel, or devices
 - Allegations of misconduct
 - Extraordinary emergencies, such as natural disasters, threatened epidemics, civil disturbances, repelling of invasions, etc.
 - Problems with specific students or parents, unless the parent requests that the discussion be held in an open meeting
 - The character, professional competence, or physical or mental health of any person
 - The person to be discussed must be given written notice at least 24 hours prior to the meeting
 - The person to be discussed may request and require the discussion to be held in an open meeting

☛ An executive session may never be used to discuss the appointment of a person to the board or another public body.

- Prior to moving into executive session, at least 2/3 of the full board is present and a majority of the members vote to move into executive session
- No binding or final actions are taken in the executive session
- The reason for moving into executive session and the vote of each individual board member with respect to moving into the executive session is recorded in the minutes

Section 10. Public Bid Law

The goal of the Louisiana Public Bid Law is to prevent corruption and waste by requiring public agencies, which spend public dollars, to award major contracts to the lowest able and responsible bidder. Charter schools must follow this law when they undertake major building or facilities repair projects. They are not required to follow public bid requirements for purchase of large quantities of materials and supplies. R.S. 17:399; R.S. 38:2212(A)(1)(b).

If a charter school signs a contract that is subject to, but does not comply with, any provisions of public bid law, at least one and perhaps all of the following will happen:

- ☛ The contract will be declared null and void.
- ☛ A bidder or a group of citizens will sue the school for compliance.
- ☛ The District Attorney and/or the Attorney General will sue the school, resulting in up to a \$50,000 penalty.

Because the Louisiana Public Bid Law is extremely detailed and frequently amended, this outline is a guide only. For the current version of the law, see LA R.S. 38:2211-2296.

Compliance Checklist

1. WHEN DOES PUBLIC BID LAW APPLY?

- Solicitation of a bid for a **public works contract** that will cost **over \$100,000**.

Public works include: the erection, construction, alteration, improvement, or repair of any public facility or immovable property that is owned, used, or leased by the school, e.g. construction or remodeling of school buildings or annexes, overhaul of drainage structures, installation of utilities. The **total cost** of the project is calculated by adding the costs of: labor (including wages, benefits, and supervision), equipment, materials, and no more than 15% overhead.

2. WHEN DOES IT NOT APPLY?

- When a school solicits a bid for a public works jobs valued at less than \$100,000
- When a school undertakes maintenance of public works already constructed
- When a school buys materials and supplies

3. REQUIREMENTS FOR PUBLIC WORKS CONTRACTS UNDER \$100,000

These contracts are not subject to the full terms of public bid law, but a school must still:

- Hire a licensed Louisiana contractor for all contracts **over \$50,000**.
- Record all contracts **over \$25,000** in the official mortgage records of the Clerk of Court.
- Reduce to writing all contracts **over \$5,000**.

4. RESTRICTIONS

- It is illegal for a school to divide or separate any public works project or procurement into smaller divisions in order to avoid the terms of the public bid law. R.S. 38:2212(H).
- Contracts to buy supplies needed in small but recurring quantities throughout the year must be structured as requirements contracts (based on the estimated total value of the supplies bought that fiscal year).

- It is illegal for a school to offer a cost-plus contract (a contract that reimburses the contractor for all expenses plus pays a fixed profit). LA R.S. 38:2221(B)
- A school must abide by **open specification** requirements, LA R.S. 38:2212.1(C)

Open specification law requires a school to give equal consideration to all bids that are different from, but *functionally equivalent* to, a bid that meets its written specifications. A school can most easily meet this requirement if it writes its specifications as desired *performance results*, rather than a description of the means by which results will be reached. A school may specify a brand, make, model, or manufacturer, but only to denote the quality standard of the product desired, and must clearly state that equivalent products will be accepted.

- Specifications must include no more than three alternate sets of requirements. When deciding among bids that meet different alternates, the alternates must be valued in the order they are listed.
- All public works contracts must authorize change orders within the scope of the contract.

5. ADVERTISING REQUIREMENTS

If an RFP meets the threshold dollar values above, the school must:

- Advertise in at least one local print newspaper, R.S. 38:2212(A)(1)(f). (It may also advertise online, but may not do so exclusively.)
- Make available complete plans and specifications from the date of advertisement.
- Specify in each ad:
 - Where detailed specifications can be obtained
 - Where bids will be received and opened
- Publish advertisements at least once a week, for three different weeks, beginning at least twenty-five (25) days before the bid opening date.
- If an addendum to the specification is issued within 72 hours of the bid opening:
 - The bid deadline must be extended at least 7 but no more than 21 working days. R.S. 38:2212(C)(2)(b).
 - The school must transmit a copy by hand, fax, or e-mail of the addendum to all prime bidders who have requested bid documents within 24 hours. It must follow up with a mailed paper copy.
- Advertising requirements do not apply in declared emergencies.

6. OPENING OF BIDS, R.S. 38:2214(A)

- Bids must be opened at the advertised time and place.
 - Bids not received by the advertised time and place may not be considered and must be returned to the bidder unopened.
- Bids must be conducted or opened before the charter school board (unless otherwise specified by charter)
 - Sealed bids must be opened and read aloud, if possible.
 - Bids are public records subject to inspection and copying.
- The low bid or the award may not be discussed at the opening.

7. BID EVALUATION AND AWARD

*After evaluating the bids, the school must do one of the following **within 45 days**:*

- Award the contract to the lowest responsible bidder** who bid according to the contract, plans, and specifications as advertised.

A “**responsible**” bidder is one whose character or quality makes him or her safe to do business with. If a bidder is disqualified for lack of responsibility, s/he must be given notice and a hearing.

- Reject all bids for just cause.
- Extend the deadline by mutual consent with the lowest responsible bidder.
- ☛ Failure to do one of these may result in a court order to grant the contract to the lowest responsible bidder.

8. BID CANCELLATION AND WITHDRAWAL

- Before* the bid opens, a bid solicitation may be cancelled for any reason.
- After* the bid opens, a bid solicitation may only be cancelled for just cause (including, but not limited to, insufficient funds, all bids coming in over budget, major change in scope or design of project, or decision not to go forward with the project for at least 12 months).

9. IN-STATE PREFERENCES

- If an out-of-state bidder is the low bidder, s/he may be rejected in favor of a Louisiana bidder if:
 - The out-of-state bidder's home state gives him or her a preference
 - The Louisiana bidder would win if favored by the same measure of preference as the other state's law favors in-state bidders. *See* R.S. 38:2225(B).
- Agricultural and forestry products that are grown, manufactured, or processed in Louisiana generally must be given a **10% price preference** over out of state products.
- For all other products, a school may choose to award a bid to a bidder who offers a Louisiana product whose bid is within 10% of the low bid.
- As long as it does so in writing, a school may require as a condition of the contract that no less than 80% of the persons employed to fulfill the contract are state residents.

10. OTHER AUTHORIZED PREFERENCES


- A school board may set aside up to 10% of the value of its local procurement contracts or public works contracts for small, minority-owned, or woman-owned businesses. R.S. 38:2233.

Section 11. Health and Safety


Compliance Checklist

1. BUILDINGS AND FACILITIES

- Ensure that all physical facilities and equipment conform to Louisiana **Sanitary Code** standards (including, for example, space, light, heat, air, drinking water, and sewage)


-  The full text of the Sanitary Code is available at:
<http://www.dhh.louisiana.gov/offices/publications/pubs-206/Title%2051%20Public%20Health%20Sanitary%20Code.pdf>

- Develop and keep on file a plan to regulate hazardous substances
 - Maintain an inventory of these substances in the central office and at the local fire chief's office
 - Designate a site safety officer to supervise safe practice in the storage, use, and distribution of all chemicals
- Regularly inspect the school for asbestos and take steps to reduce exposure as required by RS 30:2341 *et seq*, including:
 - Train all custodial employees how to identify and handle asbestos
 - Inform employees and students about inspections and any risks
 - Keep records of inspections available for at least three years
 - Designate a site safety officer to ensure compliance

-  Individual school officials may be fined up to \$25,000 *per day* if they do not comply with federal requirements to inspect and take steps to remove asbestos from their property. 15 U.S.C.A. §2641-2656.

2. PESTICIDE USE AND SAFETY

- Spray pesticide only when students and employees are not present and will not be present for 8 hours after spraying
- Keep a record of children whose parents have identified as hypersensitive to pesticide, and notify their parents whenever pesticide will be applied
- Develop a pesticide application plan in keeping with the Louisiana Agriculture Regulations, <http://doa.louisiana.gov/osr/lac/07v01/07v01.pdf>
- Record the following information for each pesticide application:
 - The type, brand name and EPA # of the pesticide
 - The pest to be controlled by the pesticide
 - The type and location of the treatment
 - Any other methods of pest control that will be used
 - The name and certification number of the certified commercial applicator(s).

 For more information, pesticide FAQ's are available at:
<http://www.dhh.louisiana.gov/faq.asp?ID=1&CID=56#Cat-56>

3. EMERGENCY PREPAREDNESS

- Establish written **plans and procedures** for emergency situations
 - Establish a procedure for making special calls to the police, fire department(s), and/or hospitals

- Establish a procedure for reporting accidents to parents
- Delegate the individual(s) with necessary authority to make decisions in the absence of the principal in an emergency
- Establish procedures for canceling school when necessary
- Establish procedures for the evacuation of the building in the event of fire, explosions, severe weather conditions, or bomb threats
- Conduct practice drills to ensure the effectiveness of all emergency procedures
- Abide by the fire safety code, http://www.dps.state.la.us/sfm/insp_crl.htm#nfc and <http://doa.louisiana.gov/osr/lac/55v01/55v01.pdf>.

4. SAFE WORK ENVIRONMENTS

- Develop and follow a working operational safety plan to reduce accidents
- Conduct safety inspections and safety meetings, as necessary
- Require all employees to report job-related injuries as soon as possible
- Investigate any job-related injury that requires a visit to a clinic as soon as possible after the injury is reported
- Keep all records related to employee accidents or injuries for at least one year

5. FIREARM FREE ZONE

- Post permanent notice at and around the school that any person who carries a firearm or other dangerous weapon onto school property shall be fined up to \$2,000 and sentenced to 5 years of hard labor.
- If a student is carrying the firearm, notify the student's parents immediately.
- ☛ Any school leader who fails to report a firearm shall be fined up to \$500 and sentenced to not more than 40 hours of community service.

6. HEARING AND VISION SCREENINGS


- Test the sight, including ability to see colors, of all first grade students, in the first semester of the school year or within 30 days of the admission of any new student
- Test the hearing of all students, in the first semester of the school year or within 30 days of the admission of any new student
 - Parents may opt out of both requirements
 - Screenings must be conducted by trained personnel in accordance with American Academy of Pediatrics guidelines
- Keep records of all examinations
 - Report all results to the Superintendent of Education
 - Notify, in writing, the parent or guardian of every student found to have any defect of sight or hearing
 - Otherwise keep all records strictly confidential
- Follow up on any deficiencies within 60 days

7. IMMUNIZATIONS AND HEALTH RECORDS

The principal of the charter school must:

- Ensure that all students entering school in Louisiana for the first time present evidence that they are immune to, have received immunization against, or are undergoing a schedule of immunization for all diseases required by the Department of Health, including but not limited to:
 - Measles, Mumps, Rubella
 - Diphtheria
 - Tetanus

- Whooping Cough
- Poliomyelitis
- Hemophilus influenzae Type B invasive infections
- Ensure that the school's additional immunization requirements (not required by the DoH) are approved by the office of public health
- Exempt students whose parents, guardians, or physicians request it
- Report all immunization records to the state by October 1 of each year

 Louisiana's school health forms are available at:
<http://www.dhh.louisiana.gov/publications.asp?ID=255&Detail=932>

8. COMMUNICABLE DISEASE PREVENTION

If there is an outbreak of **communicable disease**, the principal may exclude un-immunized children from school until the student presents immunization records or the disease incubation period expires. If a student or staff member has a confirmed communicable disease spread by casual contact, the superintendent may suspend him or her for up to five days. If a student or staff member has a confirmed communicable disease not spread by casual contact, the school must treat each case on a case-by-case basis in accordance with the guidelines in the BESE Administrator Guidebook, §1131(I) *et seq.*, and compile a review panel for each case within 48 hours after the disease is reported, which must set a course of action within three business days.

- Report all legally required communicable diseases to the state health officer. (These diseases are listed on p. 70 of the Louisiana Health Code.)
- Implement procedures to handle blood or bodily fluids in school and on buses
 - Train all employees and ensure that they all strictly adhere to procedure
- Keep confidential all medical information about students and staff unless otherwise required under federal or state law
- Provide instruction to students and staff members about:
 - The principal modes by which communicable diseases (including, but not limited to, HIV infection) are spread
 - The best methods for restricting and preventing these diseases
- Never condition employment or attendance on a favorable result on tests for communicable diseases not spread by casual contact (e.g. HIV or Hepatitis B)

9. ADOLESCENT HEALTH INITIATIVES AND SCHOOL HEALTH CENTERS

- Allow the Office of Public Health to set up a school health center, if applicable, according to regulations at <http://www.dhh.louisiana.gov/offices/?ID=255>

10. DRUG USE PREVENTION

- If the school or its chartering authority receives funding under the Safe and Drug-Free Schools and Communities Program (NCLB Title IV), then the school must ensure that those funds are only used for designated programs aimed at preventing violence and drug use. (Currently, OPBS receives Title IV funding but RSD does not.)