

KENTUCKY DEPARTMENT OF EDUCATION

STAFF NOTE

Review Item:

701 KAR 8:010, Charter school student application, lottery, and enrollment
701 KAR 8:020, Evaluation of charter school authorizers
701 KAR 8:030, Charter school revocation and non-renewal process
701 KAR 8:040, Conversion charter school petition, conversion, and operation

(First Reading)

Rationale:

To bring forward proposed administrative regulations implementing the requirements of HB 520 from the 2017 General Assembly authorizing public charter schools in the Commonwealth of Kentucky. These administrative regulations are specifically required by HB 520 (2017). Feedback from the first reading will be utilized for drafting final versions that will be presented in October for approval, then filing the administrative regulations with the Legislative Research Commission (LRC) to proceed through the regulatory promulgation/review process.

Applicable Statute or Regulation:

HB 520 (2017) created new statutes that are now codified as KRS 160.1590, 160.1591, 160.1592, 160.1593, 160.1594, 160.1595, 160.1596, 160.1597, 160.1598, 160.1599, and 161.141

History/Background:

Existing Policy: HB 520 from the 2017 General Assembly establishes a public charter school program in the state. The law became effective on June 29, 2017. The law requires that the Kentucky Board of Education (KBE) promulgate administrative regulations governing student application, lottery, and enrollment; governing the evaluation of charter school authorizers; governing the appeal process for a charter school's appeal of the revocation or non-renewal of a charter; and governing conversion charter school petition, conversion and operation.

Summary:

701 KAR 8:010, Charter school student application, lottery, and enrollment

This administrative regulation guides student application, lottery, and enrollment in public charter schools. Section 1 defines terms utilized in the administrative regulation. Section 2

and Section 3 outline the application and lottery processes, respectively. Section 4 details the student enrollment policies that must be adopted by a public charter school, prohibits discrimination in enrollment, and addresses enrollment in conversion charter schools. Section 5 incorporates by reference a uniform charter school student application (which will be included in materials for the October KBE meeting).

701 KAR 8:020, Evaluation of charter school authorizers

This administrative regulation establishes the process to be used to evaluate the performance of a charter school authorizer and to address deficits in that performance. Section 1 defines terms utilized in the administrative regulation. Section 2 requires authorizers to create policies and procedures governing the authorizer's duty to review charter applications, including a strategic vision for chartering, and transparency in the criteria and evaluation of charter applications, charter performance, renewal, non-renewal, and revocation. Section 3 creates the general standards for authorizer performance, including training requirements for authorizers. Section 4 outlines standards of authorizer performance related to the charter application process. Section 5 outlines standards of authorizer performance related to charter contracts, including pre-opening requirements, financial solvency requirements, closure requirements, and requirements related to the duties of the charter board of directors. Section 6 outlines standards of authorizer performance related to charter school monitoring, including enforcement of the charter contract by the authorizer and actions required of an authorizer if a charter school's operating revenues fall below two percent (2%) or if an authorizer otherwise suspects a charter school may close prior to the end of the school year or charter term. Section 7 outlines standards of authorizer performance generally regarding charter approval, revocation, renewal, and non-renewal, including requirements for charter application approval. Section 8 provides the charter school closure protocol requirements. Section 9 provides the KBE the authority to require investigation of an authorizer. Section 10 provides the actions to be taken in response to failures in authorizer performance. Section 11 provides the annual reporting requirements for the Kentucky Department of Education (KDE) on the statewide performance and evaluation of charter authorizers and charter schools. Section 12 incorporates by reference a uniform charter contract, charter application, and notice of intent (all of which will be included in materials for the October KBE meeting).

701 KAR 8:030. Charter school revocation and non-renewal process

This administrative regulation establishes the procedural requirements for a charter school's appeal of an authorizer's decision to revoke or non-renew a charter. Section 1 defines terms utilized in the administrative regulation. Section 2 provides the authorizer policy and procedure requirements for transparency in its revocation and non-renewal of charters and appeals of these decisions. Section 3 includes the requirements for an appeal of a revocation or non-renewal decision. Section 4 provides the procedural requirements for an emergency action by the authorizer. Section 5 provides the circumstance for the KBE's automatic affirmation of an authorizer's decision to revoke or non-renew a charter. Section 6 incorporates by reference a uniform notice of appeal form (which will be included in materials for the October KBE meeting).

701 KAR 8:040, Conversion charter school petition, conversion, and operation.

This administrative regulation establishes the process to be used to convert an existing public school to a charter school. Section 1 defines terms utilized in the administrative regulation. Section 2 provides the requirements for a petition to convert an existing public school to a charter school and for the separate charter application required in addition to the petition for conversion of an existing public school. Section 3 provides the requirements for conversion of an existing public school to a charter school after authorizer approval. Section 4 includes provisions regarding school district employees and conversion charter schools. Section 5 includes provisions regarding students and conversion charter schools. Section 6 includes provisions for operation and reversion of a conversion charter school to a school under the authority of the district. Section 7 incorporates by reference a uniform charter school conversion petition (which will be included in materials for the October KBE meeting).

Budget Impact: These administrative regulations have an indeterminable fiscal impact upon the KDE's budget. A public charter school division with an anticipated four (4) staff members is being created within KDE to provide guidance, assistance and resources to both charter authorizers and charter schools. This division will also be tasked with securing federal charter school grants available to state education agencies. Including personnel and operating costs, it is anticipated this division will require approximately \$400,000 in funding within the KDE budget. Administrative hearings required when an authorizer denies a charter school application will result in increased costs for the KBE/KDE in staffing the hearing and obtaining the services of a hearing officer.

Groups Consulted and Brief Summary of Responses:

On July 24, 2017, the Charter Schools Advisory Council (CSAC) reviewed the administrative regulations. Feedback from CSAC will be shared with the KBE at the August meeting. On July 25, 2017, the Local Superintendents Advisory Council (LSAC) reviewed the administrative regulations. Feedback from LSAC will be shared with the KBE at the August meeting. Both the CSAC and LSAC will review the administrative regulations again prior to the October KBE meeting and will provide written feedback to the KBE at that time.

KDE has consulted, in the drafting of the administrative regulations, with staff from the Education and Workforce Development Cabinet.

KDE has utilized best practices from other states and from national charter school and charter school authorizer organizations, as well as directly communicated with state-level charter school program staff in other states to gain additional insight as to other states' experiences with charter school regulation and oversight.

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