

Kentucky Charter Schools Advisory Council

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The Kentucky Charter Schools Advisory Council convened for its first meeting on Monday July 24, 2017 at 10:00 am. The Council's work for the day included reviewing the draft regulations developed by the Kentucky Department of Education. The statement below captures the council's sentiments, questions, and suggestions concerning the draft regulations.

Summary of Endorsements and Recommendations

Overall, the Charter Schools Advisory Council was pleased with the substance and structure of each of the four regulations (8:010, 8:020, 8:030, 8:040) proposed by the Kentucky Department of Education.

The following are areas where the Council made explicit endorsement of a route proposed by the Department or responded to the Department's request for feedback concerning direction in draft regulations:

1) 8:010, Student Application, Lottery, and Enrollment

1. Kentucky Charter School Student Application

- The members endorse the development and use of a single, statewide student application that all charter schools would be required to use. The Council recognized that having a single application with student application data reported to the Department and ultimately KCEWS to become part of the Kentucky Longitudinal Data System would be beneficial for research purposes; allowing administrators and researchers to better understand what students are applying for admission to what schools, which students are being admitted and not admitted, and whether the academic growth and performance of lottery winners is significantly different from lottery losers.

The Council does not object, however, to allowing individual charter schools or charter authorizers to collect supplementary data on the application, within the bounds of what is legally permissible.

2) 8:020 – Evaluation of Authorizer Performance

1. Kentucky Charter School Application and Addendum

- The Council endorses the development and use of a single, electronic Kentucky Charter School Application and Addendum. Similar to the use of a single student application for all charter schools, a single charter school application with data reported both to the charter authorizer and the Department would be beneficial research purposes; allowing administrators and researchers to better understand who is applying for charters in Kentucky, what types of schools and approaches are being proposed, and ultimately, what types of charter applications are being approved, denied, and appealed.

The following are places where the Council believed the Department should make improvements or clarification in preparation for the 2nd reading of the regulations.

1. 8:010, Student Application, Lottery, and Enrollment

Single-Sex Schools

- The Council expressed concern about whether there was sufficient practical guidance in the regulations on how applications for single-sex charter schools would be handled. Recognizing that the statute does not allow denial of an application based on a school being only open to one sex, questions were raised as to whether there would need to also be a comparable school for the opposite sex, and if so, how similar the two schools would need to be to avoid any unlawful discrimination. Specifically, the Council was concerned about the unintended consequences of potentially having an application denied due to non-compliance with federal law. Additional guidance from the Board's legal counsel is needed regarding guidance for authorizers considering such charter applications.

Lottery

- The Council would like the regulations to provide greater clarity for charter schools regarding the 'waitlist lottery' to be conducted immediately following the enrollment lottery. Specifically, the Council would like to see language added to provide guidance on how enrollment and waitlist ordering are to be carried out for applications received past the date of

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the lottery, or if no lottery was conducted. For example, nothing legally prevents a charter schools from receiving student applications past the application and enrollment period. In the event that such applications are received and there is no waitlist, additional guidance would be helpful to charter schools. That additional language should speak to lotteries, enrollment, and waitlists.

2. 8:020, Evaluation of Authorizer Performance

- The Council suggested that greater clarity is needed regarding expectations for authorizer training, potentially including timetables. Specifically, the Council expressed concern that since a number of local boards have already voiced their opposition to charter schools, it is important not to create incentives for local boards to delay the consideration of and action on charter applications.
- Related to the above concern, the Council recommends that the Department (and/or Board) take initiative in sending out letters or otherwise informing local boards about the need to get training now and how to obtain it.
- Page 16, lines 9-16: The members recommended that the language be revised to provide greater clarity regarding the concept of charter school closure.
 - More specifically, taking over the operations of a charter school for the “rest of the school year” is not clear. E.g., whether the events that could trigger closure happen in October or April would have significant impact on such decisions.
 - Line 9: The members agreed that the word “shall” in line 9 should be replaced with “may” so as not to be so limiting and allow the authorizer adequate space to make the necessary policy decisions about closing or taking over the school.
 - Lines 9-10: The members agreed that the language in lines 9-10 is too restrictive and as written does not allow the authorizer to adequately take into account the best interests of the students.
- Page 20, line 23 through page 21, lines 1-5: The members recommended that the determination of whether to revoke or non-renew a charter school based on the department’s investigator identifying a violation of 703 KAR 5:080 should be made by the Commissioner.
 - Further, greater clarity should be provided regarding the investigation to be carried out, whether there are limiting checks on the investigator’s authority, how determinations are to be made, whether decisions made by the Commissioner may be appealed, and whether anything here could be characterized as a due process violation.
- The Council raised general concerns about an authorizer’s ability to impose unilaterally on charter schools with regard to closure, and asked the Department’s legal counsel for greater clarity on charter authorizers’ statutory authority to do so.

3. 8:030—Revocation and Nonrenewal Process for Authorizers

- Page 2, line 23 – The Council endorses the language after the “OR”, but suggested removing the phrase “automatic affirmation” to make the language clearer and less cumbersome, or at least take out “automatic” as it does not logically fit with the permissive phrase of “may result” directly preceding it.
- Although the members did not definitively agree on the exact wording that should be used, they agreed that the Board should have some discretionary ability to make decisions about its affirmation of revocation rather than that affirmation occurring automatically upon what could be a technicality, an excusable mistake, or a justifiable reason for missing a deadline.

4. 8:040—Conversion Charter Schools

- The Council would like the regulations to provide greater clarity regarding what will happen to a charter school following revocation. The Council insists, however, that guidelines align with the spirit and language of the charter schools statute. In particular, the Council recommends that the regulation be revised to clarify that when a charter is revoked, the school could potentially operate as a charter school again with a different operator, without the need for an applicant for that charter to begin at the petition stage of the process.
- The Council believes greater clarity is needed regarding what could happen with a charter school – the property and students – if charter revocation occurs during the school year. Again, this direction should align with the spirit and language of the charter schools statute.