

1 EDUCATION AND WORKFORCE DEVELOPMENT CABINET

2 Kentucky Board of Education

3 Department of Education

4 (New Administrative Regulation)

5 701 KAR 8:040. Conversion charter school petition, conversion, and operation.

6 RELATES TO: KRS 160.1590, 160.1591, 160.1592, 160.1593, 160.1594, 160.1595, 160.1596,

7 160.1597, 160.1598, 160.1599

8 STATUTORY AUTHORITY: KRS 160.1599

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 160.1599 requires the Kentucky Board
10 of Education to promulgate an administrative regulation to govern the processes and procedures
11 for the petition, the conversion, and the operation of a conversion public charter school. This
12 administrative regulation provides requirements for the conversion process.

13 Section 1. Definitions.

14 () “Adult student” means a student who is eighteen (18) years or older who is still eligible for
15 enrollment and attendance at a school program pursuant to KRS 158.030 and 158.100.

16 () “Applicant” is defined in KRS 160.1590(3).

17 () “Charter application” is defined in KRS 160.1590(4).

18 () “Charter contract” or “contract” is defined in KRS 160.1590(5).

19 () “Charter school board of directors” is defined in KRS 160.1590(6).

20 () “Children with special needs” or “Students with special needs” means

21 (a) Exceptional children and youth students, as defined in KRS 157.200, who are eligible

1 pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. secs. 1400 et seq. for an
2 individual education plan, as described in KRS 157.196, or an individual education program, as
3 described in KRS 158.281; and

4 (b) Students who are eligible for services under Section 504 of the Rehabilitation Act of 1973,
5 as amended, 29 U.S.C. sec. 794, to prevent substantial limitation of one or more major life
6 activities.

7 () “Conversion public charter school” or “conversion charter school” is defined in KRS
8 160.1590(7).

9 () “Days” means calendar days and shall be calculated pursuant to KRS 446.030.

10 () “Education service provider” is defined in KRS 160.1590(8).

11 () “Emancipated youth” means a student under the age of eighteen (18) who is or has been
12 married or has by court order or otherwise been freed from the care, custody, and control of the
13 student’s parents.

14 () “Grade” or “Grade Level” or “Level” means elementary, middle, or high school grade of
15 school.

16 (). “Notice” means written notice.

17 () “Notify” means provide written notice.

18 () “Parent” is defined in KRS 160.1590(11).

19 () “Persistently low-achieving non-charter public schools” means non-charter schools
20 identified for comprehensive support and improvement pursuant to KRS 160.346.

21 () “Person with custody or charge” means any adult, pursuant to KRS 159.010, who falls
22 within the definition of KRS 387.010(2) for interested person or entity and with whom the student
23 resides.

1 () “Petitioner” means the persons or organizations initiating and circulating a petition to
2 convert an existing public school to a charter school.

3 () “Student” is defined in KRS 160.1590(19) and includes any person who is entitled to
4 enrollment and attendance at a school program as provided in KRS 158.030 and 158.100.

5 Section 2. Conversion Petition and Charter Application. (1) The department shall annually
6 publish on its website a list of persistently low-achieving non-charter public schools that are
7 eligible for charter school conversion through the petition process pursuant to KRS
8 160.1599(2)(a).

9 (2) Prior to circulation of a petition to convert an existing public school to a charter school, a
10 petitioner shall file a notice of intent with the resident board of education.

11 (3) If a charter application proposes that a newly converted charter school is to be established
12 and prepared to enroll students for the next school year, both the charter application and the
13 petition, determined to be valid pursuant to subsection (9) of this section, proposing the conversion
14 of an existing public school to a charter school shall be submitted to the authorizer on or before
15 October 30.

16 (4) A petitioner shall include the following information in a petition to convert an existing
17 public school to a charter school:

18 (a) A written statement that this petition seeks to convert the existing public school to a charter
19 school;

20 (b) A written statement of the reasons the petitioner believes the public school should be
21 converted to a charter school, including descriptions of how the conversion public charter school
22 shall accomplish the purposes of KRS 160.1591(2); and

23 (c) Information for filing a complaint to the commissioner of education regarding the petition

1 or the petitioner.

2 (5) For the signatures on the petition to count toward the requirements of KRS 160.1599(2)(a)
3 or (b), a petitioner shall ensure inclusion of the following from each of the school's resident
4 parents, persons with custody or charge, adult students, or emancipated youth students signing the
5 petition:

6 (a) Their printed names;

7 (b) Their mailing and street address, phone number, and email address, as available; and

8 (c) Their signature in ink or indelible pencil;

9 (6) The inclusion of signatures, from adult students, emancipated youth students, or parents or
10 persons with custody or charge, on behalf of students who do not attend the public school as
11 residents of the district and under the attendance zone boundary policies and procedures of the
12 local board of education for the district, shall not count toward the requirements of KRS
13 160.1599(2)(a) or (b).

14 (7) Signatures from parents, persons with custody or charge, adult students, and emancipated
15 youth students shall not count toward the requirements of KRS 160.1599(2)(a) or (b) in excess of
16 the number of students attending the existing public school for whom those individuals are parents
17 or persons with custody or charge or the students themselves.

18 (8) The inclusion of an invalid signature on the petition shall not invalidate the entire petition,
19 but shall instead result in the invalid signature being stricken and not counted.

20 (9) Within thirty (30) days of receipt of a petition for conversion of a public school, a school
21 district designee of the local board of education shall conduct an examination of the signatures on
22 the petition and any necessary investigation to make a determination of whether the petition
23 contains enough signatures of qualified resident adult students, emancipated youth students, and

1 parents and persons with custody or charge of students attending the school to meet the
2 requirements of KRS 160.1599(2).

3 (10) Within three (3) days of making the determination in subsection (9) of this section, the
4 school district designee of the local board of education shall provide notice as to whether the
5 petition met the requirements of this administrative regulation and KRS 160.1599(2)(a) or (b):

6 (a) On the district website; and

7 (b) To the following:

8 1. The petitioner;

9 2. The principal;

10 3. Any school-based decision making council established under KRS 160.345; and

11 4. The local board of education.

12 (11) For a petition under KRS 160.1599(2)(b), the local board of education's majority vote to
13 convert the existing public school to a charter school shall be required prior to an applicant's
14 submission of a charter application and required to be conducted at the next regular meeting of the
15 local board of education.

16 (12) Any person who has reason to believe that the petition process was not conducted pursuant
17 the requirements of this administrative regulation or that the signatures on the petition were
18 procured through fraud, intimidation, bribery, or harassment, may file a complaint with the
19 commissioner of education and the commissioner of education shall:

20 (a) Cause an investigation to determine the validity of the petition;

21 (b) Ensure the investigation is completed within thirty (30) days of receipt of the complaint;

22 and

23 (c) Render a determination as to the validity of the petition.

1 (13) If the petition fails to meet the requirements of this administrative regulation and KRS
2 160.1599(2) or if the commissioner of education determines the petition to be invalid, the existing
3 public school shall not be eligible for conversion to a charter school unless:

4 (a) The local board of education acts pursuant to KRS 160.1599(2)(c); or

5 (b) Another petition is determined to be valid pursuant to KRS 160.1599 and this
6 administrative regulation.

7 (14) An applicant shall submit to the authorizer a charter application to convert an existing
8 public school to a charter school during the same school year as:

9 (a) The local board of education's vote to convert an existing public school to a charter school
10 pursuant to KRS 160.1599(2)(c); or

11 (b) For a petition:

12 1. The circulation of the petition;

13 2. The issuance of the determination in subsection (9) of this section that the petition is valid;

14 and

15 3. A majority vote of the local board of education, if required by KRS 160.1599(2)(b).

16 (15) The authorizer shall allow submission of a charter application to convert the existing public
17 school to a charter school during the same school year as:

18 (a) The board's vote to convert the existing public school to a charter school, pursuant to KRS
19 160.1599(2)(c); or

20 (b) For a petition:

21 1. The circulation of the petition;

22 2. The issuance of the determination in subsection (9) of this section that the petition is valid;

23 and

1 3. A majority vote of the local board of education, if required by KRS 160.1599(2)(b).

2 (16) The authorizer shall commence the charter application review and approval process
3 pursuant to KRS 160.1594 and 701 KAR Chapter 8 upon receipt of a charter application to convert
4 an existing public school to a charter school within the same school year as either:

5 (a) The local board of education's vote to convert an existing public school to a charter school
6 pursuant to KRS 160.1599(2)(c); or

7 (b) For a petition:

8 1. The circulation of the petition;

9 2. The issuance of the determination in subsection (9) of this section that the petition is valid;

10 and

11 3. A majority vote of the local board of education, if required by KRS 160.1599(2)(b).

12 (17) The authorizer shall review the petition and a submitted charter application and only
13 approve the conversion of an existing public school if the charter application meets the
14 requirements of KRS 160.1590 to 160.1599 and 161.141 and 701 KAR Title 8 and if:

15 (a) The petition meets the requirements of KRS 160.1599 and this administrative regulation
16 during the same school year as the filing of the charter application, and if the commissioner of
17 education has not determined the petition to be invalid; or

18 (b) The local board of education has voted within the same school year to convert an existing
19 public school to a charter school.

20 (18) The department shall create a charter school conversion petition guidance document that
21 applicants, authorizers, and local boards of education may utilize.

22 Section 3. Conversion.

1 (1) No conversion public charter school shall begin operation after the beginning of a school
2 year.

3 (2) After the local board of education's receipt of a valid petition, the vote of the local board
4 of education to approve the petition, if required by KRS 160.1599(2)(b), and the authorizer's
5 approval of a charter application to establish a conversion public charter school, the superintendent
6 shall:

7 (a) Notify resident students of the conversion of the school and provide information for student
8 application during the time that information on other school programs in the district is provided;

9 (b) Create with the conversion public charter school board of directors a plan for conversion
10 of the public school which will include, at a minimum, timelines, roles, responsibilities, and
11 notification requirements for the following:

12 1. Coordination of student application, lottery, enrollment, and transfer to and from the
13 conversion charter school; and

14 2. Transfer of management and operation of the conversion charter school in the same public
15 school facility the next school year;

16 (c) Meeting during the first year of the charter contract with the charter school board of
17 directors to coordinate student application, lottery, enrollment, and transfer of students; and

18 (d) Meeting throughout the charter contract with the charter school board of directors
19 regarding the usage and maintenance of the facility by the charter school board of directors.

20 (3) The local board of education and the conversion charter school board of directors shall
21 execute a lease for the public school facility prior to the operation of a conversion public school.

22 (4) The department shall create a charter school conversion process guidance document that
23 an authorizer, local board of education, and a charter board of directors may utilize.

1 Section 4. Employees.

2 (1) District employees placed in the existing public school prior to conversion, who are not
3 hired by the conversion charter school board of directors to work in the converted charter school,
4 shall retain their employment rights with the district, pursuant to KRS Chapter 161 and under the
5 provisions of any collective bargaining agreement with the district.

6 (2) A teacher, with continuing status pursuant to KRS Chapter 161, who is employed by the
7 district, who is hired by the conversion charter school board of directors to work in the converted
8 charter school, and who is granted leave by the local board of education pursuant to KRS
9 160.1593(22), shall notify the district of the teacher's intent to work in the converted charter school
10 or to return to employment with the district the next school year by April 15 of each year of the
11 granted leave.

12 (3) The department shall create a charter school conversion employee transition guidance
13 document that an authorizer, local board of education, and a conversion charter school may utilize.

14 Section 5. Students.

15 (1) The district shall provide, to the students and parents and persons with custody or charge
16 of students who attend an existing public school that has been approved for conversion to a charter
17 school, information and any plan the district will use to address the educational needs and
18 placements of students who will not be attending the conversion charter school.

19 (2) The department shall create a charter school conversion student transition guidance
20 document that an authorizer, local board of education, and a conversion charter school may utilize.

21 Section 6. Operation and Reversion of a Conversion Charter School.

22 (1) An authorizer may otherwise renew, non-renew, revoke, or take other action regarding a
23 conversion public charter school as provided in KRS 160.1590 to 160.1599 and 161.141 and 701

1 KAR Chapter 8.

2 (2) Prior to closure of a conversion charter school and reversion to a public school of the
3 district, the local board of education shall solicit feedback on the closure decision and reversion,
4 and the future of the school and the students from parents, persons with custody or charge, adult
5 students, and emancipated youth students of the school.

6 Section 7. Incorporation by Reference. (1) “Public Charter School Conversion Petition”, January
7 2018, is incorporated by reference.

8 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at
9 the Department of Education, Office of Legal, Legislative and Communication Services, 5th
10 floor, 300 Building, 300 Sower Boulevard, Frankfort, Kentucky, Monday through Friday, 8 a.m.
11 to 4:30 p.m.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

(Date)

Stephen L. Pruitt, Ph.D.
Commissioner of Education

(Date)

William Twyman, Chairperson
Kentucky Board of Education

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on _____, 2017, at 10 a.m., in the State Board Room, Fifth Floor, Sower Building, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through _____, 2017. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Kevin C. Brown, Associate Commissioner and General Counsel, Kentucky Department of Education, 300 Sower Boulevard, Fifth Floor, Sower Building, Frankfort, KY 40601, phone 502-564-4474, fax 502-564-9321, email kevin.brown@education.ky.gov.