

Kentucky Charter Schools Advisory Council
Memo to the Kentucky Board of Education, October 4, 2017

Wayne D. Lewis, Chair
Holly R. Iaccarino, Vice Chair

Thursday September 21, 2017 & Monday September 25, 2017

The Kentucky Charter Schools Advisory Council convened for its second meeting on Thursday September 21, 2017 at 9:00 am. The Council's work for the day was reviewing the draft regulations and documents incorporated by reference developed by the Kentucky Department of Education in preparation for the Kentucky Board of Education's second reading of the charter school regulations at its October 4th board meeting. The referenced regulations and incorporated documents were received by the Council the evening of Friday September 15, 2017, less than a week before the Council's meeting. The Council read and reviewed the Department's suggested changes to all four regulations and incorporated documents. By the end of the meeting, however, the Council expressed significant concern about regulation 8:020 and the charter school application and contract to be incorporated. The Council was so concerned, in fact, that it considered making the recommendation to the Kentucky Board of Education that any action be delayed on regulation 8:020 and the charter application and contract until significant structural revisions could be made.

Specifically, Council members noted that Kentucky's charter schools statute includes fairly detailed requirements for charter school operation, the content of charter school applications, and the elements that must be included in contracts between charter schools and their authorizers. The Council expressed that although charter schools should be held accountable for their performance, they need and are granted by the charter schools statute, flexibility to achieve their purpose and meet performance expectations. Further, the Council expressed that adding unnecessary requirements would likely hinder the successful implementation of charter schools. The Council noted that the drafts of the application and contract prepared by the Department for the Kentucky Board of Education's second reading included requirements that go beyond what the charter schools statute requires, and that the burdens these additional requirements would impose would be overly burdensome and hinder charter schools from functioning in the manner envisioned by the Kentucky General Assembly.

Additionally, some Council members expressed concern that the overall scheme of these documents when viewed from the perspective of practical real-world experience, could produce unintended consequences that would inhibit charter schools from operating as intended. Accordingly, the Council worried that simply suggesting minor edits to the documents as currently drafted would be neither wise nor practical -- instead, the Council believed it would be necessary to re-write entire portions of these documents.

The Council also received and considered letters of concern related to the contents of the proposed charter school application and charter school contract. Letters from the National Alliance for Public Charter Schools, the Kentucky Public Charter Schools Association, and the Foundation for Excellence in Education were sent to Dr. Lewis and shared with the Council. In general, these letters expressed concern that the application and contract as drafted would severely hamper the successful implementation of charter schools in Kentucky. The concerns of these organizations mirrored the concerns raised by Council members.

Commissioner Pruitt asked the Council to consider reconvening the following week for a specially called meeting during which the Council could continue conversation with KDE staff to come to a further understanding and hopefully some agreement on key areas of the regulation and documents so that a recommendation could be made for the Kentucky Board of Education's October 4th meeting. The Council accepted the Commissioner's request and reconvened on Monday, September 25, 2017 from noon until 5:30 pm to again consider revisions to regulation 8:020 and the charter school application and contract.

Recommendations

After more than three hours of conversation on Thursday September 21st and more than five hours of deliberation on Monday September 25, the Charter Schools Advisory Council came to consensus on the following recommendations for the Kentucky Board of Education concerning the adoption of proposed regulations 8:010, 8:020, 8:030, 8:040, and documents incorporated by reference into these regulations.

- The Council recommends adoption of proposed regulations 8:010, 8:030, 8:040 and documents incorporated by reference into those regulations.
- The Council recommends that prior to the adoption of proposed regulation 8:020, significant revisions be made, including but not limited to the following:
 - Removal of the charter contract proposed to be incorporated by reference into regulation 8:020. The Council and Department agreed that contract would be revised and provided as a resource and guidance document for authorizers and charter schools.
 - Removal of any requirement or implied requirement that a charter applicant or charter board of directors have 501c3 tax-exempt status. That requirement (also included in the proposed charter application) goes beyond and likely conflicts with the language and intent of the charter schools statute. Charter schools' legal status is defined in the statute as "a public body corporate and politic, exercising public power, including the power in name to contract and be contracted with, sue and be sued, and adopt bylaws not inconsistent with this section;"

- Adoption of all revisions and edits to the proposed charter school application agreed to between the Department and the Council during the September 25th Council meeting. These revisions and edits include but are not limited to:
 - Editorial revisions throughout the application
 - Elimination of redundancies throughout the application
 - Agreed upon revisions or eliminations in the application requirements and expectations in:
 - II School Overview
 - III Educational Program Design and Capacity
 - Program Overview
 - Curriculum and Instructional Design
 - Student Performance Standards
 - School Calendar and Schedule
 - Supplemental Programming and Health Services
 - Student Discipline
 - Educational Program Capacity
 - Programmatic Audits and Assessments
 - IV Operations Plan & Capacity Governance
 - Legal Status and Governing Documents
 - Staffing Plans, Hiring, Management, and Evaluation
 - Professional Development
 - V Financial Plan & Capacity
 - Financial Plan
 - Statement of Assurances
 - All revisions necessary for alignment of assurances with revisions to the proposed regulation and charter school application