

## **Kentucky Charter Schools Advisory Council**

Wayne D. Lewis, Chair

Holly R. Iaccarino, Vice-Chair

The Kentucky Charter Schools Advisory Council convened on Monday July 27, 2017 at 1:00 p.m. to discuss proposed responses to the Comments on the proposed regulations. For organizational purposes and ease of discussion, the Council grouped the comments received thus far into general categories and offers below the following summary of the Council's general responses.

**1. Comments Related to Conversion** – There were several comments expressing some concern about the process of model school labs becoming charter schools and particularly the Model Lab school at ECU.

- The Council noted that most of the issues raised here are already addressed by the statute. The statute specifies three conditions under which a conversion school can become a charter school.
- Model school could apply to become a charter school as specified by the statute. Under the current charter school statutes, if Model chose to apply to become a charter school, its route to doing so would be as a start-up charter school, and not as a conversion charter school. Start-up charter schools are only permitted to provide preference in enrollment for students who come from economically disadvantaged backgrounds, children with disabilities, and children of charter school board members and staff members.

**2. Comments Related to Special Education Concerns**

- The statutory language requires charter schools to meet the needs of students with disabilities, and the Council generally believes that the statute and the proposed regulations address these concerns fairly extensively.

**3. Comments Received From KSBA**

The Council expressed great appreciation for the level of detail and care that went into the KSBA's detailed comments, which addressed 5 areas in particular:

**a. Use of a Required Contract**

- Concerning the suggestion of incorporating by reference a model contract into the regulations, the Council explained its prior concerns with requiring, or appearing to require, a uniform contract and the reasons that the idea of a required contract previously was discarded. Specifically, a required contract for all authorizers and charter schools could have the effect of inhibiting the flexibility of charter authorizers and charter schools; flexibility needed to craft contracts for schools that feature particularly innovative approaches to meeting the diverse needs of students.
- Most other states do not have a required contract but utilize a "Guidance" document that assists in explaining what the contract should and could include. Similarly, the Council and KBE have proposed the use of a Guidance Document that can assist parties in formulating their own contracts.
- That said, the comment/suggestion that this Guidance Document needs to be posted in a place where parties can easily access it and know about it, and also should be periodically reviewed and "updated" as needed, is well taken.

**b. Training**

- In general, the Council supported the comment concerning training requirements and suggests that the KBE consider whether the presently proposed requirements could potentially have the practical and unintended consequence of imposing a duplicative burden on local school boards with regard to training. The Council does not believe that the intent behind the regulations was to impose any onerous burden on local school boards. If the training courses that are already required of school boards are duplicative of the training required for authorizers, it may be beneficial to allow for some overlap.
- However, any key components unique to charter schools still should be required. One idea may be to at least require initial training on the aspects specific to charter schools. Or, more broadly speaking, since all school boards are

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authorizers perhaps there could be a more holistic approach to all the training required for all school boards. But because it is possible for some entity other than a school board to become an authorizer, the required training components that are specific to charter schools should be clearly identified and retained.

c. Unilaterally Imposed Conditions

- The Council generally agrees that the KBE should give consideration to the concern raised by this comment about the regulatory definition of “unilaterally imposed conditions.” However, in doing so, it is also important to make sure the authorizer cannot retroactively impose an additional condition/burden after the contract has already been signed by both parties.

d. Appeal Deadline

- The Council recommends that the KBE carefully consider this comment and ensure that the 30-day deadline is clear. While there should be a clear bright-line point after which an appeal cannot be taken, based on the Council's past discussions of this issue, the Council has also expressed concern about losing the right to appeal based on a technicality or inconsequential oversight. Simply putting back into the regulation the exact language that was there before could generate some confusion as to the appeals process itself. While the deadline for filing the appeal should be clear, the requirements for doing so also need to be clear.

e. RIF

- The Council did not have any objection to the suggestions made by the KSBA concerning the need for clarity regarding a reduction in force when a school is converted to a charter school, and suggests the KBE carefully consider the comment on this point.

#### **4. Comments Received From OEA**

- The Council expressed appreciation for the level of detail and thoughtful effort reflected in the OEA's comments. In general, the OEA is concerned that the proposed regulations as written still may exceed their statutory authority in certain places or at least are not entirely clear in identifying the statutory authority for what they entail. The OEA expressed concern that KBE overstepped its bounds in some areas and has requested clarification on specific listed points.
- The Council agrees with OEA that the proposed regulations should not go beyond the statute in the requirements they impose. As the Council has noted in past meetings, the statute has a comprehensive list of what the regulations can and cannot do, as well as detailed requirements for charter schools, required content of the contracts and applications, etc... and, as with all regulations, the proposed regulations should not overstep the boundaries set by the legislature. The KBE has made several changes already to the proposed regulations due to this concern.
- The Council noted that its own past discussions also have raised similar concerns as those expressed in the OEA's comments, and strongly recommends that the KBE give serious consideration to their comment, explaining the statutory authority for each area of concern when issuing its response to this comment. To the extent that clear statutory authority for the regulations cannot be clearly identified, if that is the case, then the KBE should consider changing language accordingly.

In closing, the Council affirms the overall regulatory framework for charter schools created by the four proposed regulations. While most states continually update their charter school statutes and regulations, the Council feels confident that the overall regulatory framework provided by the regulations should lead to the establishment of high quality public charter schools in Kentucky.