

**160.1596 Board of directors of public charter schools -- Required elements of charter contract with authorizer -- Calculation of daily average attendance -- Proportional transfer of funds -- Services -- Negotiation by collaborative -- Calculations for first year -- Authorizer fee -- Schedule for funds transfer -- Grants -- Share of state and federal funds -- Distribution of closed school's assets -- Administrative regulations -- Annual report by authorizer.**

- (1) (a) For purposes of this section, a member of the board of directors of a public charter school shall be considered an officer under KRS 61.040 and shall, within sixty (60) days of final approval of an application, take an oath of office as required under KRS 62.010.
- (b) Within seventy-five (75) days of the final approval of an application, the board of directors and the authorizer shall enter into a binding charter contract that establishes the academic and operational performance expectations and measures by which the public charter school will be evaluated.
- (c) The executed charter contract shall become the final authorization for the public charter school. The charter contract shall include:
  1. The term of the contract;
  2. The agreements relating to each item required under KRS 160.1592(3) and 160.1593(3), as modified or supplemented during the approval process;
  3. The rights and duties of each party;
  4. The administrative relationship between the authorizer and the public charter school;
  5. The allocation of state, local, and federal funds, and the schedule to disburse funds to the public charter school by the authorizer;
  6. The process the authorizer will use to provide ongoing oversight, including a process to conduct annual site visits;
  7. The specific commitments of the public charter school authorizer relating to its obligations to oversee, monitor the progress of, and supervise the public charter school;
  8. The process and criteria the authorizer will use to annually monitor and evaluate the overall academic, operating, and fiscal conditions of the public charter school, including the process the authorizer will use to oversee the correction of any deficiencies found in the annual review;
  9. The process for revision or amendment to the terms of the charter contract agreed to by the authorizer and the board of directors of the public charter school;
  10. The process agreed to by the authorizer and the board of directors of the public charter school that identifies how disputes between the authorizer and the board will be handled; and
  11. Any other terms and conditions agreed to by the authorizer and the board of directors, including pre-opening conditions. Reasonable conditions

shall not include enrollment caps or operational requirements that place undue constraints on a public charter school or are contradictory to the provisions of KRS 160.1590 to 160.1599 and 161.141. Such conditions, even when incorporated in a charter contract, shall be considered unilaterally imposed conditions.

- (d) 1. The performance provisions within a charter contract shall be based on a performance framework that sets forth the academic and operational performance indicators, measures, and metrics to be used by the authorizer to evaluate each public charter school. The performance framework shall include at a minimum indicators, measures, and metrics for:
    - a. Student academic proficiency;
    - b. Student academic growth;
    - c. Achievement gaps in both student proficiency and student growth for student subgroups, including race, sex, socioeconomic status, and areas of exceptionality;
    - d. Student attendance;
    - e. Student suspensions;
    - f. Student withdrawals;
    - g. Student exits;
    - h. Recurrent enrollment from year to year;
    - i. College or career readiness at the end of grade twelve (12);
    - j. Financial performance and sustainability; and
    - k. Board of directors' performance and stewardship, including compliance with all applicable statutes, administrative regulations, and terms of the charter contract.
  2. The performance framework shall allow the inclusion of additional rigorous, valid, and reliable indicators proposed by a public charter school to augment external evaluations of its performance. The proposed indicators shall be consistent with the purposes of KRS 160.1590 to 160.1599 and 161.141 and shall be negotiated with the authorizer.
  3. The performance framework shall require the disaggregation of student performance data by subgroups, including race, sex, socioeconomic status, and areas of exceptionality.
  4. The authorizer shall be responsible for collecting, analyzing, and reporting to the state board all state-required assessment and achievement data for each public charter school it oversees.
- (e) Annual student achievement performance targets shall be set, in accordance with the state accountability system, by each public charter school in conjunction with its authorizer, and those measures shall be designed to help each school meet applicable federal, state, and authorizer goals.
  - (f) The charter contract shall be signed by the chair of the governing board of the

authorizer and the chair of the board of directors of the public charter school. An approved charter application shall serve as a charter contract for the public charter school.

- (g) No public charter school may commence operations without a charter contract executed according to this section and approved in an open meeting of the governing board of the authorizer.
- (2) Within five (5) days after entering into a charter contract, a copy of the executed contract shall be submitted by the authorizer to the commissioner of education.
- (3) For the purposes of local and state funding, a public charter school shall serve as a school of the district of location.
- (4) For the purposes of federal funding, a public charter school shall serve as a local education agency.
- (5) All students enrolled in a public charter school shall be included in the average daily attendance calculation under KRS 157.360 and the aggregate and average daily attendance of transported pupils calculation under KRS 157.370 of the district of location in the same manner as any other public schools in the district and shall be reported by the public charter schools to the school district and state Department of Education for purposes of calculating the state and local share of funding for each public charter school.
- (6) Notwithstanding the formula for allocating district funds under KRS 160.345(8) and any other statute governing a district's funding of schools, unless an authorizing district agrees to provide a larger sum of funding in the charter contract, after local capital outlay funds that are restricted in use pursuant to KRS 157.420(4) and funds under KRS 157.440(1)(b) and 157.621 necessary to meet debt service obligations on bonds or other financing mechanisms for new construction and renovation projects for school facilities are excluded, and before any other funds are budgeted for district use, a district shall transfer to each of the public charter schools located within the district:
  - (a) The amount that is proportional to the public charter school's enrollment or average daily attendance in comparison with the overall district qualifying numbers for:
    - 1. Funds that are related to students' attendance and enrollment and allocated to the district of location pursuant to KRS 157.360;
    - 2. Any add-on or funding factors provided for in the state budget;
    - 3. Any add-on or funding factors provided for by the Kentucky Department of Education; and
    - 4. Funds pursuant to KRS 157.360(2)(a) and (b) and (13)(a).For each funding source identified in this paragraph, the transfer amount shall be based on the public charter school's qualifying student enrollment or average daily attendance, depending on the method used in the funding source's calculation;
  - (b) On a proportionate per pupil basis:

1. Education funds allocated to the school district pursuant to KRS 157.440(1)(a) and (2)(a), or pursuant to any applicable federal statute; and
  2. All taxes and payments in lieu of taxes transferred to the district of location or levied and collected by the district of location; and
- (c) On a proportionate per pupil transported basis, transportation funds calculated pursuant to KRS 157.360(2)(c) and 157.370 and distributed to the district of location, unless the school district provides transportation to students attending the public charter school under written terms agreed upon by the district and the public charter school in either the charter contract or, if the district is not the public charter school's authorizer, a separate agreement.
- (7) (a) If transportation funds are transferred under this section to a public charter school, then the public charter school receiving those funds shall provide transportation services to the enrolled students residing within the district of location.
- (b) If funds designated for providing additional services to specific students are transferred under this section, then the public charter school receiving those funds shall provide those services in the same manner as the district of location.
- (c) If transportation services are not provided by the public charter school and no written agreement to provide transportation services with the district of location exists, then no transportation funds shall be transferred and the district of location shall not be responsible for providing transportation to the public charter school's students.
- (8) Notwithstanding the identification of funds to be transferred in this section, a collaborative among local school boards authorizing a public charter school may negotiate among the local boards and a charter applicant to identify the amount of funds to be transferred to the public charter school. The agreement shall be detailed in the charter contract.
- (9) (a) For the calculation of amounts under subsections (6) and (7) of this section during the first school year of operation of a public charter school in a school district, beginning with the start of instruction:
1. The public charter school's average daily attendance shall be calculated based on a projection of the public charter school's enrollment and the district's overall average daily attendance;
  2. The public charter school's aggregate daily attendance of students transported shall be calculated based on a projection of the public charter school's enrollment and transportation plan and the district's overall aggregate daily attendance of students transported; and
  3. The amounts attributable to each individual student's attendance at the public charter school shall be calculated based on a projection of the public charter school's enrollment and demographics and the district's overall enrollment and demographics.

- (b) The calculations shall be adjusted in January of the first school year of operation to reflect the first semester's actual data. Subsequent years of operation shall be calculated using actual data from the prior school year.
- (10) (a) Funds identified for transfer under this section shall be transferred by a district of location to each of the public charter schools located within the district. However, up to three percent (3%) of the funds identified under this section for transfer to a public charter school may be retained by an authorizer as an authorizer fee.
- (b) If the authorizer of a public charter school does not include the local board of education of the district of location, then the district of location shall transfer the authorizer fee to the public charter school's authorizer.
  - (c) If the Kentucky Board of Education requires the authorization of a public charter school on appeal from an authorizer, the board shall receive twenty-five percent (25%) of the authorizing fee for the duration of joint oversight required by KRS 160.1595.
- (11) Funds identified for transfer by a district of location to a public charter school under this section shall be transferred throughout the school year according to a schedule determined by the state board. The scheduled dates shall be within thirty (30) days of the dates of state disbursement of funds to school districts. Failure to transfer required funds shall, for every five (5) days late, result in a fine to the violator of not less than five percent (5%) of the total funds per funding period to be transferred. Fines imposed shall be transferred to the public charter school affected by the delay.
- (12) A public charter school shall be eligible for federal and state competitive grants and shall not be excluded from an opportunity to apply or participate so long as the public charter school meets the criteria established for the respective grants. Each public charter school that receives grant aid shall comply with all requirements to receive such aid.
- (13) A public charter school shall receive a proportionate per pupil share of any state moneys not otherwise identified in this section that is received by the school district of location. The public charter school shall also receive, according to federal law, moneys generated under federal categorical aid programs for students that are eligible for the aid and attending the public charter school. Each public charter school that receives such aid shall comply with all requirements to receive such aid.
- (14) The commissioner of education shall apply for all federal funding that supports charter school initiatives for which a state must be the applicant and shall cooperate with any public charter school in its efforts to seek federal funding.
- (15) If a public charter school closes for any reason, the assets of the school shall be distributed first to satisfy outstanding payroll obligations for employees of the school, then to the creditors of the school, then to the district of location or authorizing districts if authorized by a collaborative of local boards of education. If the assets are insufficient to satisfy outstanding obligations, the authorizer shall petition to Circuit Court of the county in which the public charter school is located to prioritize the distribution of assets.

- (16) The state board shall promulgate administrative regulations to:
- (a) Establish the process to be used to evaluate the performance of a charter school authorizer, based upon the requirements of KRS 160.1590 to 160.1599 and 161.141, and the actions to be taken in response to failures in performance; and
  - (b) Govern the calculation and distribution of funds due to public charter schools from school districts, the schedule of distribution of funds, and the imposition of fines for late distribution of funds.
- (17) By August 31, 2023, and annually thereafter, each public charter school authorizer shall submit to the commissioner of education, the secretary of the Education and Labor Cabinet, and the Interim Joint Committee on Education a report to include:
- (a) The names of each public charter school operating under contract with the authorizer during the previous academic year that:
    - 1. Closed during or after the academic year; or
    - 2. Had the contract nonrenewed or revoked;
  - (b) The names of each public charter school operating under contract with the authorizer during the previous academic year that have not yet begun to operate;
  - (c) The number of applications received, the number reviewed, and the number approved;
  - (d) A summary of the academic and financial performance of each public charter school operated under contract with the authorizer during the previous academic year; and
  - (e) The authorizing duties and functions performed by the authorizer during the previous academic year.

**Effective:** July 14, 2022

**History:** Amended 2022 Ky. Acts ch. 213, sec. 7, effective July 14, 2022; and ch. 236, sec 76, effective July 1, 2022. -- Amended 2020 Ky. Acts ch. 112, sec. 11, effective July 15, 2020. -- Created 2017 Ky. Acts ch. 102, sec. 7, effective June 29, 2017.

**Legislative Research Commission Note (7/14/2022).** This statute was amended by 2022 Ky. Acts chs. 213 and 236, which do not appear to be in conflict and have been codified together.