

## KENTUCKY DEPARTMENT OF EDUCATION STAFF NOTE

**Topic:** Charter School Regulation Update

**Date:** October 2022

**Action Requested:**  Review  Action/Consent  Action/Discussion

**Held In:**  Full Board  Curriculum, Instruction and Assessment  Operations

### SUMMARY OF ISSUE BEFORE THE BOARD:

To take action on necessary updates to the Kentucky Board of Education’s charter school regulations to conform to statutory amendments made by House Bill 9 (2022) (701 KAR 8:010, 701 KAR 8:010E, 701 KAR 8:020, 701 KAR 8:020E, 701 KAR 8:030, 701 KAR 8:030E, 701 KAR 8:040, 701 KAR 8:040E)

### COMMISSIONER’S RECOMMENDATION:

The Commissioner recommends the Kentucky Board of Education approve the necessary changes to 701 KAR 8:010, 701 KAR 8:010E, 701 KAR 8:020, 701 KAR 8:020E, 701 KAR 8:030, 701 KAR 8:030E, 701 KAR 8:040, and 701 KAR 8:040E to conform to the statutory amendments made by House Bill 9 (2022).

### APPLICABLE STATUTE OR REGULATION:

KRS 160.1590, KRS 160.15911, KRS 160.1592, KRS 160.1593, KRS 160.1594, KRS 160.1595, KRS 160.1596, KRS 160.1597, KRS 160.1598, KRS 160.1599, 701 KAR 8:010, 701 KAR 8:010E, 701 KAR 8:020, 701 KAR 8:020E, 701 KAR 8:030, 701 KAR 8:030E, 701 KAR 8:040, and 701 KAR 8:040E

### BACKGROUND:

#### *Existing Policy:*

During the 2022 Session of the Kentucky General Assembly (GA), legislators passed House Bill 9 (HB9), An Act Relating to Educational Opportunities and Making an Appropriation Therefor. This piece of legislation changed many elements of Kentucky’s nascent charter school program. The Kentucky Board of Education (KBE) currently has four regulations which regulate charter schools; 701 KAR 8:010, 701 KAR 8:020, 701 KAR 8:030, and 701 KAR 8:040. Each regulation was impacted by the statutory changes made by HB9. As the four regulations each speak to a different component of the charter school application, approval, and monitoring process, they are presented here as a group. Specific changes to each regulation are outlined as follows:

#### 701 KAR 8:010

This regulation governs the charter school student application, lottery, and enrollment protocols. In addition to necessary technical changes, this regulation has removed the definition of a start-up charter school and the definition of “traditionally underperforming”. References to enrollment preferences for students in start-up charter schools were also removed to conform to the statute. A new enrollment preference was added to conform to HB9’s creation of “urban academies” and new language was added to specify that public charter schools may accept both resident and non-resident students. Finally, technical edits were made to the Kentucky Charter School Student Application which is incorporated by reference in the regulation.

#### 701 KAR 8:020

This regulation governs the evaluation of public charter school authorizers and includes detailed information related to the process of creating a new public charter school. In addition to necessary technical edits, the term and definition of a “district of location” and “urban academy” have been added and references to “regional achievement academy” and “regional achievement zone” have been removed. A new definition of a “start-up” charter school was created to allow the regulation to more clearly state requirements for newly established public charter schools. Additionally, the authorizer is now required to ensure that a public charter school has established a food program and that required memorandums of understanding are included in the application materials. The Commissioner’s ability to review and approve charter school applications was eliminated by HB9 and has similarly been removed from the regulation. Finally, both the Kentucky Charter School Application and Addendum and Notice of Intent forms, which are incorporated by reference into the regulation, have been updated to conform with HB9.

#### 701 KAR 8:030

This regulation governs the charter school appeal process. In addition to necessary technical edits to conform to HB9, the timeline for the KBE to issue a written decision following appeal proceedings has been updated to forty-five days. This timeline change conforms to HB9. Additionally, the Notice of Appeal form, which is incorporated by reference into the regulation, has received technical revisions.

#### 701 KAR 8:040

This regulation governs the process for conversion charter school petition, conversion, and operation. This application and the Public Charter School Conversion Petition form, which is incorporated by reference into this regulation, have received only technical edits necessary to conform to HB9.

#### *Summary of Issue:*

The KBE is being asked to approve both emergency and ordinary versions of these four regulations at its October 2022 meeting. In addition to the changes reflected above, HB9 created a new program called the Kentucky Public Charter School Pilot Program (KRS 160.15911). Under this program, a school board of a county school district located in a county with a consolidated local government and the Board of Regents of Northern Kentucky University must “solicit, review, and approve at least one (1) charter application for a public charter school within the authorizer’s jurisdiction that serves as an urban academy” prior to July 1, 2023. In order for authorizers to meet this statutory deadline, it is appropriate for the KBE to approve both emergency and ordinary versions of the regulation pursuant to KRS 13A.190. The emergency regulations and ordinary regulations are identical, and the emergency regulation will be replaced by the ordinary regulation once it has finished the full regulatory approval process.

The KBE is asked to approve the following regulations:

701 KAR 8:010

701 KAR 8:010E

701 KAR 8:020

701 KAR 8:020E

701 KAR 8:030

701 KAR 8:030E

701 KAR 8:040

*Budget Impact:*

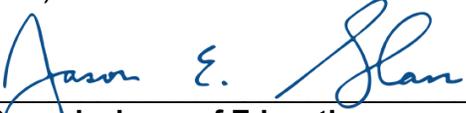
There are no budgetary implications for the KDE or LEAs.

**GROUPS CONSULTED AND BRIEF SUMMARY OF RESPONSES:**

The Local Superintendents Advisory Council (LSAC) will review the revised regulations at its September 27 meeting. Comments from this group should be received prior to the October KBE meeting.

**CONTACT PERSON(S):**

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Commissioner of Education

Category: <input type="checkbox"/> Educator Workforce Diversity <input type="checkbox"/> Portrait of a Graduate Partnerships <input type="checkbox"/> Racial Equity Commitment <input type="checkbox"/> Student-Centered Accountability System <input type="checkbox"/> Early Childhood <input checked="" type="checkbox"/> District Support
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