



FLOYD COUNTY BOARD OF EDUCATION  
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Linda C. Gearheart, Board Chair - District 1  
William Newsome, Jr., Vice-Chair - District 3  
Dr. Chandra Varia, Member- District 2  
Keith Smallwood, Member - District 4  
Steve Slone, Member - District 5

**Consent Agenda Item (Action Item):** Resolution for the Floyd County Board of Education to support the Council for Better Education.

**IT IS HEREBY RESOLVED** that Floyd County Board of Education authorizes Superintendent Anna Shepherd to take all necessary steps to support the Council for Better Education, Inc. ("CBE"), in its legal challenge to the unconstitutionality of House Bill 9, and the payment of any appropriate dues or assessments related to this school district's membership in CBE or its support of the referenced legal challenge.

**Applicable State or Regulations:** BOE Policy 01.11

**Fiscal/Budgetary Impact:** Cost of \$5097.80 to the general fund.

**History/Background:** The Council for Better Education, Inc., challenges the unconstitutionality of House Bill 9, a charter school funding law that was passed by the General Assembly in the 2022 session last year. The CBE lawsuit was officially filed in Franklin Circuit Court January 6, 2023. HB 9 is problematic on a number of fronts, both now, and also what this portends into the future. This means that arbitrary language today can and likely will be amended and changed tomorrow. At the least, we are all immediately impacted by state and local SEEK funds being taken from our public schools. Once funds leave public education under this purpose, it is highly unlikely they will ever return.

**Recommended Action:** Approve as presented.

**Contact Person(s):** Anna Shepherd

  
SUPERINTENDENT

# Kentucky Council for Better Education

Est. 1984

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## Charter Schools (HB 9) Litigation Talking Points (Violates Sections 2, 3, 29, 59, 171, 180, 181, 183, 184, and 186 of the KY Constitution)

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1. Charter Schools are not a part of the uniform system of common schools as defined by the Kentucky Supreme Court's Rose decision and the recent HB 563 private school funding decision. Charters are therefore unconstitutional in Kentucky.

2. Charter schools divert state funding from school districts (State SEEK Funding) that have fixed capital and operational expenses that are not recoverable as a result of lost revenue.

3. Under HB 9, local school boards can be forced to fund charter schools from Local Tax Receipts, even when the local board of education does not consent or approve to authorize a charter school in their local community (districts > 7,500 students and HB 9 pilot areas). This results in a duplication effort that is both inefficient and wastes valuable public tax dollars.

4. HB 9 permits non-school board authority to create charter schools in "pilot" areas established by a university or a mayor with no local school district oversight. HB 9 would further require the school district to provide their state SEEK and local tax receipts to the charter school for funding purposes without the consent of the respective, elected public school board.

5. The 7,500-district size cited in HB 9 is completely arbitrary and likely subject to be easily altered in the future.

6. Charter school boards of directors are unelected individuals, with the authority under HB 9 to make appropriation decisions regarding local public tax revenue and the educational decisions of K-12 children entrusted to their care. This lacks the necessary and appropriate public oversight and accountability as is now the case universally with Kentucky public schools ("the common schools").

7. Unelected Charter board members may choose to delegate their educational responsibility by contracting with a national or regional for-profit corporation to operate the school on their behalf.

8. Charter schools represent an inequitable and inefficient system of educating ALL the children in Kentucky based on pilots and size requirements outlined in HB9.

9. There is a lack of constitutional control over the unelected charter board of directors by the local board of education. The KY State Board has a limited role in selected charter school operations, creating a lack of uniformity.

10. Local taxes levied and collected for one purpose by a local Board of Education, under HB 9, may be used for a different purpose in a charter school where the governance, oversight, and accountability completely rests with unelected board of trustees.

IT IS HEREBY RESOLVED that the \_\_\_\_\_ Board of Education authorizes Superintendent \_\_\_\_\_ to take all necessary steps to support the Council for Better Education, Inc. ("CBE"), in its legal challenge to the unconstitutionality of House Bill 9, and the payment of any appropriate dues or assessments related to this school district's membership in CBE or its support of the referenced legal challenge.