

OLDHAM COUNTY BOARD OF EDUCATION POLICY

BOARD RESPONSIBILITIES WITH RESPECT TO CHARTER SCHOOLS

1027

REFERENCE: KRS 160.1590; KRS 160.1591; 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 008:010; 701 KAR 008:020; 701 KAR 008:030; 701 KAR 008:040

DUTIES AS CHARTER SCHOOL AUTHORIZOR:

Under KRS 160.1594, a public charter school authorizer shall:

1. Solicit, invite, and evaluate applications;
2. Approve new and renewal applications that meet statutory requirements;
3. Decline applications that:
 - a. Fail to meet statutory requirements; or
 - b. Are for a school that would be under the direction of any religious denomination; and
4. Negotiate and execute in good faith contracts with each authorized charter school;
5. Monitor the performance and compliance of charter schools in accordance with contract terms;
6. Determine whether each charter merits renewal or revocation;
7. Establish and maintain practices consistent with professional standards for authorizers, including:
 - a. Organizational capacity and infrastructure;
 - b. Soliciting and evaluating applications;
 - c. Performance contracting;
 - d. Ongoing public charter school oversight and evaluation; and
 - e. Charter approval, renewal, and revocation decision making.

Pursuant to KRS 160.1592, the Board will semiannually consider for approval a charter school's proposed amendments to the contract.

1. Authorizers may consider requests more frequently upon mutual agreement with the charter.
2. Denials of amendment requests are appealable under KRS 160.1595.

KRS 160.1596 requires authorizers to collect, analyze, and report to the KBE all state required assessment and achievement data for each charter it oversees. By August 31, 2019, and annually thereafter, each authorizer must submit to the (1) Commissioner, (2) Education and Workforce Development Secretary, and (3) Interim Joint Committee on Education a report that includes:

1. Number of applications received, reviewed, and approved;
2. Authorizing duties performed by the authorizer;
3. Summary of the academic and financial performance of each charter school;
4. Names of each charter school that have not yet begun to operate; and
5. Names of each charter school during the prior academic year that:
 - a. Closed during or after the year; and
 - b. Had their contract nonrenewed or revoked.

701 KAR 008:020 requires authorizers to publicly report on oversight and services provided to charter schools under its authority and authorizing functions provided by the authorizer, including operating costs and expenses as detailed in an annual audited financial statement.

CHARTER SCHOOL APPLICATION PROCESS

Eligibility:

An application to establish a charter school may be submitted to the Board by teachers, parents, school administrators, community residents, public organizations, nonprofit organizations, or a combination thereof. The Board shall accept and document the date and time of receipt of all charter school applications.

A charter school approved by the Board shall be nonsectarian in its organizational structure and operations. A charter school approved by the Board shall not discriminate against any student, employee, or any other person on the basis of ethnicity, religion, national origin, sex, disability, special needs, athletic ability, academic ability or any other ground that would be unlawful if done by a public school. A charter school approved by the Board may serve any grade or combination of grades from kindergarten through grade twelve (12).

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Application:

For a charter school application to be considered complete, the application (i) shall be submitted on the form of Kentucky Charter School Application as incorporated by reference in 701 KAR 008:020, (ii) shall satisfy the requirements of KRS 160.1593 and 701 KAR 008:020, and (iii) shall satisfy the requirements of the District. Incomplete applications shall be denied. An applicant shall be provided a detailed account of any deficiency in the application and shall be permitted ten (10) calendar days after receipt of such account to remedy the deficiency. If supplemental information is not provided to remedy the deficiency, or the supplemental information provided is not sufficient, the application shall be denied by the Board.

The Board shall request and secure a certificate of existence from the Secretary of State for any business entity or its designee included as an applicant or in the proposed board of directors and, if the applicant or board of directors includes a foreign entity, request and secure a certificate of authorization for the entity from the Secretary of State.

The Board shall publish on the District website the names of all persons, and their roles, who are involved in the review of charter applications. Review of charter applications shall be conducted pursuant to requirements of the Open Meetings Act.

Request for Charter School Applications:

The request shall contain all information that will enable an applicant to submit a complete application to the Board, including but not limited to the form of Kentucky Charter School Application, a description of specific evidences to be provided by the applicant, a Scoring Rubric, and any additional information required by the Board.

An applicant shall complete and file the application on or before October 30.

Capacity:

In order for an application to be approved, the applicant must demonstrate the capacity of the applicant's board of directors to operate a high-quality charter school as set forth in the performance contracting requirements. If an applicant intends to contract with an education management organization to operate all or parts of the proposed charter school, the applicant must demonstrate the ability of the applicant's board of directors to operate at arms' length from the education management organization as required in the Kentucky Charter School Application and Addendum.

Charter Authorization:

The Board shall approve only a charter school application that has been properly and timely submitted and that demonstrates a strong capacity to establish and sustainably operate a charter school that will provide high quality learning opportunities for all of its students and which satisfies the criteria for approval. The Board shall review the Superintendent's recommendation and related materials and shall by majority vote approve or deny an application within sixty (60) days after the applicant's timely submission. The Board shall not approve a charter application unless the application meets all legal requirements. The Board shall only approve initial charter contracts with a term of five (5) years in length. Within five (5) days of an approval, the Board shall submit the approved charter application to the Commissioner of Education for review and approval.

Appeal:

Following any decision to deny an application, the applicant may submit a notice of appeal to the Board and the Kentucky Board of Education. The notice of appeal shall be filed within thirty (30) days after the Board's decision to deny the application. The notice of appeal must comply with the requirements of KRS 160.1595 and 701 KAR 008:030. The requirements for the notice of appeal shall be posted on the District website

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Conversion Charter Schools:

The Board may by a majority vote designate an existing school within the District not scheduled for closure to be converted to a charter school. The processes for submission of a conversion application, community input, the Board's review and vote, the transfer of management and operations of a conversion charter school, and the transition of employees shall adhere to the requirements of KRS 160.1599 and 701 KAR 008:040. The requirements for petitioners advocating for conversion of an existing school within the District shall be posted on the District website.

CHARTER SCHOOL CONTRACT

Subject to completion of the charter school application process and prior to negotiating a charter contract with a charter school board of directors, the Board shall verify the charter school board of directors has registered as a non-profit business entity with the Kentucky Secretary of State pursuant to KRS 14A.

Negotiation and entry into a charter contract shall comply with state laws and regulations. The contract, to be executed within seventy-five (75) days of final approval of an application, shall:

1. Become the final authorization for the public charter school;
2. Establish the academic and operational performance expectations and measures by which the charter school shall be evaluated; and
3. Cover terms required by applicable statutes and regulations (e.g. KRS 160.1596 and 701 KAR 008:020).

The contract may include any other terms and conditions agreed to between the Board and the charter board of directors but shall not include enrollment caps or operational requirements that place undue constraints on the charter school or which contradict charter school statutes.

Contract Requirements for School Pre-Opening.

The Board shall include mutually agreed upon pre-opening requirements or conditions to:

1. Monitor the start-up progress of the newly approved public charter school;
2. Ensure that the charter school is prepared to open timely and smoothly on an agreed upon date; and
3. Ensure that the charter school meets all benchmarks related to facilities, health, safety, insurance, school personnel, enrollment, curriculum and instruction, operations and fiscal management, governance, and other legal requirements for the charter school opening.

Failure by the charter school to comply with these requirements or conditions may result in the immediate revocation of the charter contract. Such failure may result in the delay in the charter school opening by up to one (1) year if the Board does not determine that the charter school is more likely than not to close during the school year. Such failure shall result in the delay in the opening of the charter school by up to one (1) year if the Board does determine that the charter school is more likely than not to close during the school year.

Contract Financial Requirements.

The Board shall include the following provisions for charter school financial solvency and sustainability:

1. Requirement that no member of the charter school board of directors, no education service provider, and no charter school employee shall knowingly recommend and no member of the charter school board shall knowingly vote for an expenditure in excess of the charter school's income and revenue of any fiscal year, as shown by the budget adopted the charter school board of directors and approved by the Board;
2. Requirement that a member of the charter school board of directors, an education service provider, or a charter school employee who knowingly expends or authorizes such an expenditure of charter school funds or who knowingly authorizes or executes any employment, purchase, or contract in violation of these requirements, shall be jointly and severally liable in person and upon any official fidelity bond given to the Board to the extent of any payments on the void claim;

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3. Requirement that, if at any time during any fiscal year of the charter school's existence, a member of the charter school board of directors, an education service provider, or a charter school employee, knows or reasonably should know that the charter school has or will become unable to pay in full its projected expenses as they fall due, the charter school shall immediately advise the Kentucky Department of Education and the Board, and provide the Department and the Board with all financial information relating to revenues and expenses of the charter school necessary to determine the extent and cause of any potential operating deficit.
4. Failure to provide the notice to or cooperate with the Department and the Board as required in this section in the production of financial information pursuant to this section shall result in:
 - a. The Board shall determine whether grounds exist to revoke the charter contract;
 - b. The knowingly acting member of the charter school board of directors, the education service provider, or the charter school employee may be subject to liability;
5. Requirement that the charter school board of directors maintain separate accountings of all funds received and disbursed by each charter school under the charter school board of directors;
6. Requirement that the charter school board of directors maintain separate accountings of all funds received and disbursed by each charter school under that charter school board of directors.

Contract Requirements for School Closure

The Board shall include specific, exclusive reasons and timelines for closure initiated by the charter school board of directors, closure protocol including policies and procedures applicable to the school closure, as well as requirements pursuant to state statutes or regulations.

Contract Enrollment Requirements

The Board shall require that the charter school shall not prohibit a student from attending, and shall not un-enroll or withdraw a student unless the charter school has complied with KRS 158.150.

Contract Requirements for Education Service Providers

The Board shall require in the charter contract that any contract between a charter school board of directors and an education service provider (ESP) shall be approved by the Board prior to execution of the contract between the charter board and the ESP. The contract between the charter board and the ESP shall comply with the following:

1. Clear establishment of the primacy of the charter contract with the local Board over the contract between the charter board and the ESP;
2. Clearly identifies the charter school board of directors as the party ultimately responsible for success or failure of the charter school and defines the ESP as a vendor of services;
3. Prohibits the ESP from selecting, approving, employing, compensating, or serving as members of the charter school board of directors;
4. Requirement that the charter school board of directors directly select, retain, and compensate the charter school's legal counsel, finance staff, audit firm, and school leader;
5. Provision for payments to the charter school to be made to an account controlled by the charter school board of directors, not the ESP;
6. All instruction materials, furnishings, and equipment purchased or developed with charter school funds be the property of the charter school, not the ESP;
7. Identification and description of roles and responsibilities of the charter school board of directors and the ESP, including all services to be provided under the contract between the charter school board of directors and the ESP;
8. Identification and description of performance measures and consequences by which the charter school board of directors shall hold the ESP accountable for performance, aligned with the performance measures in the contract between the local Board and the charter school board of directors;
9. Identification and specific description of all compensation to be paid to the ESP, including all fees, bonuses, and conditions, consideration, and restrictions on such compensation;

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10. Identification and description of terms of any facility agreement that may be part of any relationship between the charter school board and the ESP;
11. Identification and description of financial reporting requirements and provisions for the charter school board of directors' financial oversight of the ESP and the charter school;
12. Identification and description of all other financial terms of the contract, including disclosure and documentation of all loans or investments by the ESP to the charter school board, and provision for the disposition of assets upon closure;
13. Assurances that the charter school board shall maintain independent fiduciary oversight and authority over the charter school budget and ultimate responsibility for the charter school's performance including that:
 - a. The charter school board of directors shall be structurally independent from the ESP and shall set and approve charter school policies;
 - b. The terms of the contract between the charter school board and the ESP are reached through arm's-length negotiations in which the charter school board is represented by legal counsel that does not also represent the ESP;
14. Provisions for contract termination without penalties for the charter school without costs beyond the pro-rated value of the services provided by the education service provider; and
15. Respective responsibilities of the charter school board and the ESP in the event of school closure.

The contract between the Board and the charter school board shall prohibit delegation of the charter school board of directors' responsibilities in this section to the ESP.

Contract Approval by the Commissioner of Education

The Board shall not enter a charter contract for start-up, conversion, renewal of a charter school, or agree to any charter contract or contract amendment unless submitted to the Commissioner of Education who shall approve or deny but include reasons and any suggestions for remedy of those reasons. Failure to meet the Commissioner's requirements for approval shall render the contract or amendment void.

PERFORMANCE MONITORING

The Board may use the charter contact performance framework developed by the Kentucky Department of Education. The framework shall include academic, financial, and organizational frameworks and the following targets:

1. Student assessment and accountability;
2. Student graduation rates;
3. Student attendance rates;
4. Student admission and enrollment in postsecondary institutions; and
5. Other outcomes.

Where a charter school board of directors has governance over more than one (1) charter school and has failed to meet statutory requirements, the Board shall begin an investigation to determine if the charter school board is in compliance with any charter contract(s) for other school(s) under the Board's jurisdiction.

The Board shall also monitor the performance of contracts between the charter board and any Educational Service Provider (ESP). If the Board believes there is an issue with any aspect of performance of the charter contract or compliance with statutory or regulatory requirements, then the Board shall begin an investigation.

Verification of an issue with any aspect of performance of the charter contract or compliance with statutory or regulatory requirements shall result in notification to the Commissioner by the Board who may request assistance in addressing and remedying the issue. The Board shall also notify the charter school of the issue and take necessary action, which may include unilateral imposition of conditions on the charter school, revocation, or nonrenewal of the charter contract. The Board shall provide notice of

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such an issue and resolution to all charter school students, parents, persons with custody or charge, and the Kentucky Department of Education.

FINANCIAL MONITORING

The Board shall at least monthly review the financial budget reports of the charter school.

If budget projections indicate the charter school's annual operating expenses may at any time during the school year cause annual operating revenues to fall below two percent (2%) of the total projected annual operating revenues in the school's approved budget, the charter school shall provide specific notice to the Board and the Board shall take the following action:

1. Require the school to implement a cash management plan approved by the Board;
2. Begin a more in-depth review, and audit if necessary, of the school's financial budget reports, expenditures, and revenues;
3. Request financial management assistance for the charter school from the Department; and
4. Restrict the school's expenditures and obtain the Board's approval prior to expenditure of school funds for the remainder of the year.

If the school defaults on a financial obligation or if the Board suspects the school may close prior to the end of the school year or the charter contract term, the Board shall take the following action:

1. Consult with the Commissioner of Education;
2. Communicate with the charter school board to determine the need for charter contract revocation;
3. Commence the same action as required as if annual operating revenues fall below the two percent (2%) of total projected operating revenue;
4. Review closure protocol and charter contract termination provisions and communicate such with the charter board; and
5. Notify students and resident local school districts as soon as necessary to ensure they are provided adequate preparation time for student transition and to provide free and appropriate public education to any returning students.

CONTRACT RENEWAL, NON-RENEWAL, AND REVOCATION

The Board shall not approve an application, contract with, or renew a contract with a charter school board of directors for a charter school that does not:

1. Operate a breakfast program under the 42 U.S.C. 1773, as amended (CNA), and a lunch program under 42 U.S.C. 1751 et seq. (NSLA); or
2. Operate a breakfast and lunch program with provision of meals at no cost to students who qualify for free meals under the CAN and NSLA and with the provision of meals at a reduced cost to students who qualify for reduced price meals under the CAN and NSLA; or
3. Provide initial and continuing evidence and assurances of the charter school's financial solvency and financial sustainability, as demonstrated initially by the financial plan in the charter application, to cover the expenses of start-up or conversion, operation, and any foreseen or unforeseen closure of the charter school during the fiscal year or during the contract term.

The Board shall also require:

1. Inclusion of at least two (2) school District resident parents or persons with custody or charge of school District resident students who will attend the charter school on the charter school board of directors;
2. That any exercise of the charter school board of directors' authority to incur debt in anticipation of receipt of funds or encumber assets for loans and extensions of credit is permitted only as allowed for the Board per KRS 160.540; and
3. Participation of all members of the charter board in annual training requirements, approved by the Commissioner of the Education on topics required by state law and regulations.

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The charter board or any education service provider shall provide to the Board information and copies of all records of:

1. Use of the Individual with Disabilities Education Act dispute resolution procedures, 707 KAR 001:340;
2. Use of physical restraint or seclusion of charter school students;
3. Allegations received or substantiated of violation of any health, safety, civil rights, and disability rights of students, staff, or parents or persons with custody or charge.
4. Attendance records and data at least monthly during the school year.

The charter board shall adhere to any prohibitions and/or restrictions on expenditure of school resources and funds as required in state laws and statutes. The charter board shall obtain written consent of the Board and amendment of the charter contract prior to any addition to or moving of any location of the charter school.

The charter school shall provide reports to the Board on student enrollment and attendance at least twice a month. The Board shall require continuous enrollment at the charter school of at least eighty percent (80%) of the charter contract minimum student enrollment requirements. The Board shall monitor the reports. Failure of the charter school to maintain the minimum enrollment requirements shall result in immediate review by the Board of:

1. The charter school's operations;
2. The charter school's financial solvency and financial sustainability through the end of the school year and the end of the charter contract term;
3. Potential for closure;
4. Violation of the charter contract; and
5. The need for imposition of unilateral conditions, amendment, non-renewal, or revocation of the charter contract, or immediate revocation of the charter contract pursuant to KRS 160.1598.

The Board shall revoke or non-renew a charter school contract if the Commissioner of Education has determined a member of the charter board, or an education service provider at the direction of a charter board member, or an employee at the direction of a board member, has knowingly violated 703 KAR 005:080 or KRS 160.1592 related to performance framework of the charter contract or the state accountability system.

The Board shall remove a member of a charter school board of directors who has been convicted of a crime described in KRS 61.040. The Board shall remove any or all of the members of the charter school board in connection with ensuring a smooth and orderly closure when the member(s) threaten the health, safety, civil rights, or disability rights of the students or the community pursuant to KRS 160.1598. This removal authority may be confirmed in charter school corporate governance documents or the charter contract.

Prior to renewing a charter school contract, the Board shall hold a public hearing in the resident local school District and allow oral or written comments at the hearing as well as written comments to be submitted prior the hearing. The Board shall allow comment by the resident Superintendent who has filed an objection to the charter application.

CLOSURE

The charter school shall provide contact information and resident local school district information for all parents, persons with custody or charge, adult students, and emancipated youth students to the Board. Notification to these parties by the charter school shall include:

1. The closure decision and closure process;
2. Information on student instruction and reassignment;
3. Information on courses, levels, and credits completed by the student;
4. Information on the process for obtaining a copy of the student's education records; and

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5. Contact information for additional information.

The charter school notification to the resident school district(s) and the department shall include:

1. The closure decision and closure process;
2. The closure timeline and dates;
3. Information on student instruction and reassignment;
4. Employment, payroll, and benefits information;
5. Transfer of federal and state funds and assets according to the federal and state requirements; and
6. Contact information for additional information.

Additional and final charter school notification to parents and resident local school district(s) shall include:

1. Information on the existence and role of any appeal of the closure;
2. Identifying the last student day;
3. Detailing end of the year activities and transition activities for students; and
4. Providing information and assistance for reassignment of students.

The Board's charter school closure protocol shall also include notification and reporting requirements regarding financial records and accounting and other requirements for the charter school as applicable in state laws and regulations.

CONVERSION TO CHARTER SCHOOLS

Petition for conversion.

Public schools that are eligible for conversion to public charter schools through the petition process as indicated in statute, shall be published annually on the Kentucky Department of Education (KDE) website by school level.

Prior to circulation of a conversion petition, the petitioner shall file a notice of intent with the Board.

A valid application and petition for a conversion charter school shall be submitted to the Board on or before October 30 preceding the academic year in which students will be enrolled and no later than ninety (90) days after the date of the first signature on the petition.

Timelines and standards covering the submission, processing and action on notices of intent, petitions, and applications relating to the conversion of a public school to a public charter school are as set forth in KRS 160.1599 and 701 KAR 008:040.

Conversion.

No conversion public charter school shall begin operation after the beginning of a school year. Upon Board approval of the conversion of an existing public school to a public charter school or the completion of the petition process and meeting statutory and regulatory requirements including Board approval, the Superintendent shall:

1. Cause notice to be provided to resident students of the existing public school of the conversion including provide information regarding student application to the conversion charter school during the time that information on other school programs within the District is provided;
2. Create, with the conversion charter school board of directors, a conversion plan including, but not limited to, timelines, roles, responsibilities, and notification requirements for the following:
 - a. Coordination of student application, lottery, enrollment, and transfer to and from the conversion charter school; and
 - b. Transfer of management and operation of the conversion charter school in the same public-school facility for the school years included in the conversion charter school's operation under the charter school's contract.
3. Meet during the first year of the charter contract with the charter school board of directors to coordinate student application, lottery, enrollment, and transfer of students; and

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4. Meet throughout the charter contract with the charter school board of directors regarding the usage and maintenance of the facility by the charter school board of directors.

Execution of a lease for the public-school facility between the Board and the charter school entity through its board of directors is required prior to operation of a conversion public school.

RESIDENT STUDENTS NOT ATTENDING THE CONVERSION CHARTER SCHOOL

The District shall provide to the students and parents or guardians of students attending the existing public school, but who choose not to attend the conversion charter school, any information and plan the District uses to address their educational needs and placement.

OPERATION OF CONVERSION CHARTER SCHOOLS

The Board may renew, non-renew, revoke, or take other action regarding a conversion charter school as provided in KRS 160.1590 to KRS 160.1599, KRS 161.141, and 701 KAR 008:010 to 701 KAR 008:040. With any closed conversion charter school reverting to its former status as a non-charter school, the Board shall solicit feedback on the future of the school from parents, guardians, adult students, and emancipated youth students