

200-RICR-20-05-2

## **TITLE 200 – BOARD OF EDUCATION**

### **CHAPTER 20 – COUNCIL ON ELEMENTARY AND SECONDARY EDUCATION**

#### **SUBCHAPTER 05 – GENERAL AND SCHOOL OPERATIONS**

##### **PART 2 – Charter School Regulations**

### **2.1 Preamble**

- A. Purpose: The purpose of these regulations is to provide uniform rules for the establishment, operation, and oversight of charter schools in Rhode Island so that these schools will provide high-performing educational opportunities to public school students and develop innovative educational practices that can be shared with other public schools.
- B. Authority: These regulations are promulgated under the authority of R.I. Gen. Laws §§ 16-77-3.1(e); 16-77.2-3(a); 16-77.2-3(f); 16-77.2-5(c); 16-77.3-3(a); 16-77.3-3(d); 16-77.3-5(c); 16-77.4-3(a); 16-77.4-3(d); and 16-77.4-5(c).

### **2.2 Establishment of Charter Schools**

#### **2.2.1 Charter Application Process**

- A. Proposed charters shall be submitted to the Commissioner of Elementary and Secondary Education (“the Commissioner”) no later than December 1st of the school year before the school year in which the charter school is to be established.
- B. District charter school applicants must also submit a copy of the proposed charter to the school committee of the district where the district charter school is to be established no later than December 1st of the school year before the school year in which the charter school is to be established.

#### **2.2.2 Content of Proposed Charter**

- A. In the case of a proposed district charter school, the proposed charter submitted to the Commissioner shall include all the material required by R.I. Gen. Laws § 16-77.2-2.

- B. In the case of a proposed independent charter school, the proposed charter submitted to the Commissioner shall include all the material required by R.I. Gen. Laws § 16-77.3-2.
- C. In the case of a proposed mayoral academy, the proposed charter submitted to the Commissioner shall include all the material required by R.I. Gen. Laws § 16-77.4-2.
- D. All proposed charters shall also include:
  - 1. Evidence of need and community support for the proposed public charter school;
  - 2. The school's plans for identifying and successfully serving students with disabilities, students who are English language learners, students who are academically behind, and gifted students, including but not limited to compliance with applicable laws and regulations;
  - 3. A detailed school start-up plan, identifying tasks, timelines and responsible individuals; and
  - 4. Explanations of any partnerships or contractual relationships central to the school's operations or mission.
- E. In the case of a proposed public charter school that intends to contract with an education service provider for substantial educational services, management services, or both types of services, the proposed charter shall also include:
  - 1. Evidence of the education service provider's success in serving student populations similar to the targeted population, including demonstrated academic achievement as well as successful management of non-academic school functions if applicable;
  - 2. A term sheet setting forth the proposed duration of the service contract; roles and responsibilities of the governing board, the school staff, and the service provider; scope of services and resources to be provided by the service provider; performance evaluation measures and timelines; compensation structure, including clear identification of all fees to be paid to the service provider; methods of contract oversight and enforcement; investment disclosure; and conditions for renewal and termination of the contract; and
  - 3. A description of any existing or potential conflicts of interest between the school governing board and proposed service provider or any affiliated business entities.

### **2.2.3 Review Process**

- A. In the case of a proposed district charter school, the proposed charter shall be considered through the process required by R.I. Gen. Laws § 16-77.2-3.
- B. In the case of a proposed independent charter school, the proposed charter shall be considered through the process required by R.I. Gen. Laws § 16-77.3-3.
- C. In the case of a mayoral academy, the proposed charter shall be considered through the process required by R.I. Gen. Laws § 16-77.4-3.
- D. Throughout this process, the Commissioner may be assisted in his or her duties by review panels composed of individuals appointed by the Commissioner. Members of these panels may review applications, but the reviewers' role shall be solely advisory.
- E. Throughout the review process, the Commissioner or the school committee of the district where a district charter school is to be located may, at any time, determine a proposed charter to have unsatisfactorily met guidelines and thus be unsuitable for further review. The rationale for this determination shall be submitted in writing to the applicant and made publicly available.

### **2.2.4 Approval by the Council on Elementary and Secondary Education**

- A. After completion of all statutory and regulatory requirements, the Commissioner will submit the proposed charter to the Council on Elementary and Secondary Education (“the Council”) for consideration. The Commissioner may recommend the Council to grant or deny the charter, or to remand the charter for further consideration. The Council will, in accordance with its regulations, allow comment from interested parties on the approval of the charter.
- B. Approved applicants shall be granted a preliminary charter. Receipt of this preliminary charter does not imply that the school is prepared to operate or that the Council will grant a final charter to the applicant. Authorization to operate requires final approval by the Council based on the recommendation of the Commissioner. To obtain final approval, applicants shall satisfactorily complete the following tasks:
  - 1. The entity operating a charter school shall have articles of incorporation filed and approved by the Rhode Island Office of the Secretary of State.
  - 2. All applicants must have their project’s business plan, financial management procedures, and other relevant financial information reviewed by the Rhode Island Office of the Auditor General.

3. The school shall have an established governance structure (i.e. board of trustees, board of directors, etc.) to provide proper governance and oversight of school operations.
4. The school must have in place a qualified chief administrator (i.e. Head of School, Executive Director, Chief Executive Officer) to oversee day-to-day operations.
5. The school must have a staffing plan designed to put in place a faculty that clearly meets student need and is consistent with the school's program design.
6. The school must present sufficient evidence that fifty percent (50%) of its first-year enrollment is willing to enroll if the school opens the following school year.
7. The school must have identified an appropriate building (permanent or temporary) for operating the school.
8. The school must develop a final charter. If the school is an independent or mayoral academy, this document shall confer the authority to operate as a local education agency. If the school is an in-district charter, this document shall confer the authority to operate as a public school. These documents shall include:
  - a. In the case of a proposed district charter school, all material required by R.I. Gen. Laws § 16-77.2-2. In the case of a proposed independent charter school, all material required by R.I. Gen. Laws § 16-77.3-2. In the case of a proposed mayoral academy, all material required by R.I. Gen. Laws § 16-77.4-2;
  - b. An accountability plan, which shall include:
    - (1) Student academic performance goals developed by the Commissioner that together shall set valid, reliable, and rigorous minimum expectations for the quality of a charter school's educational program;
    - (2) Student academic performance goals developed by the charter school as necessary to measure the school's progress in achieving its mission, provided that such goals are valid, reliable, rigorous, reproducible, and do not provide similar information as the goals developed in accordance with § 2.2.4(B)(8)(b)((1)) of this Part;

- (3) If the charter school is a charter high school, then the school shall provide an academic performance goal that sets a rigorous, minimum expectation for the post-secondary readiness of its students, provided that this goal is valid, reliable, rigorous, reproducible, and does not provide similar information as the goals developed in accordance with § 2.2.4(B)(8)(b)((1)) of this Part;
  - (4) Organizational performance goals developed by the Commissioner that set reasonable, minimum expectations for charter schools' financial performance and sustainability, student and teacher attrition, and parent and student satisfaction; and
  - (5) Organizational performance goals developed by the charter school as necessary to measure the school's progress in achieving its mission, provided that such goals are valid, reliable, rigorous, reproducible, and do not provide similar information as the goals developed in accordance with § 2.2.4(B)(8)(b)((4)) of this Part;
- c. The Council's obligations to the school as its public chartering agency;
  - d. An assurance that the school shall comply with all state and federally mandated academic performance requirements;
  - e. An assurance that the school shall create and sustain high quality learning environments that meet the standards set forth in the Board of Regent's Basic Education Program Regulations ([Subchapter 10, Part 1](#) of this Chapter); and
  - f. An assurance that the school shall improve academic achievement as defined by the academic goals established in § 2.2.4(B)(8)(b) of this Part for increasing academic achievement for all groups of students in which the number of students in a category is sufficient to yield statistically valid information, including:
    - (1) Economically disadvantaged students,
    - (2) Students from major racial and ethnic groups,
    - (3) Students with disabilities, and
    - (4) Students with limited English proficiency.

- g. If the school elects to contract with a comprehensive service or management provider, the school shall execute a Commissioner-approved agreement that has been developed in accordance with the requirements in § 2.8 of this Part.
- C. Upon successful completion of the tasks or with adequate written assurance that all tasks will be met prior to the opening of the school, the Commissioner may recommend the final Charter for approval by the Council no later than July 31st of the school year before the school year in which the charter school is to be established.

## **2.3 Charter Amendment Process**

### **2.3.1 Charter Amendment Process**

- A. If a charter school plans to make a major change in its operations, the school's governing board shall submit in writing to the Council a request to amend the school's charter. The Council shall act in public session whenever a major change is made to a charter. Major changes are defined as those changes that fundamentally affect a school's mission, organizational structure, or educational program.
- B. If the charter school plans to make a minor change in its operations, the school's Board shall submit in writing to the Commissioner a request to make a minor amendment to the school's charter. A minor amendment shall become effective fourteen (14) business days following the receipt of the request by the Commissioner unless the Commissioner notifies the charter operator in writing that the proposed amendment has been denied. The Commissioner shall state the reason for the denial. The Commissioner shall only deny amendments that are contrary to state or federal law or regulations that contravene the written policies of the Council, or that entail any financial or other conflicts of interest. Minor changes are defined as changes that do not fundamentally alter a charter school's organizational structure or educational program, and which comport with applicable statutes and which otherwise are in substantial compliance with Council regulations.

## **2.4 Ongoing Oversight**

### **2.4.1 Process for Commissioner Evaluation of a Charter**

Once a charter has been granted and the charter School begins operations, the Commissioner, in the exercise of the Commissioner's visitorial authority, shall conduct such reasonable evaluations of the operation of a Charter as may be needed to ensure that the charter school is operating effectively. The

Commissioner or designated staff may visit the charter school at all reasonable times and require such reports from the charter school as may be needed to evaluate the school's operation. School management and staff shall meet with the Commissioner or the Commissioner's designees at reasonable times to present information about the operation of the charter school.

#### **2.4.2 Annual Reporting**

Annually, on a schedule to be established by the Commissioner, the governing board of a charter school shall prepare an annual report that details its progress in meeting the academic and organizational performance goals identified in its charter.

### **2.5 Charter Revocation and Expiration**

#### **2.5.1 Good Cause**

With the advice and consent of the Council, the Commissioner shall have authority to institute charter revocation proceedings. Before requesting authority to institute revocation procedures, the Commissioner, when student and the public welfare permits, shall notify the charter school in writing specifying the facts and issues which may justify charter revocation and shall discuss with the charter school the deficiencies at issue and allow the charter school to attain compliance within a reasonable length of time. Charters may be revoked at any time for good cause as specified in R.I. Gen. Laws §§ 16-77.2-4, 16-77.3-4, and 16-7.4-4.

#### **2.5.2 Procedure for Revocation**

The notice and hearing procedures required in contested cases under the Rhode Island Administrative Procedures Act (R.I. Gen. Laws Chapter 42-35) shall be used in charter revocation proceedings. At a revocation hearing a charter may be sustained, revoked, or placed on probation. If a charter school is placed on probation, a specific period of time shall be established for the charter school to meet standards and requirements that the Commissioner deems necessary for the school to demonstrate improvement. Failure to meet these standards and requirements, as determined by the Commissioner, shall result in termination of the charter.

#### **2.5.3 Charter Expiration**

- A. Charters shall be granted for a fixed term not to exceed five (5) years.

- B. Before the conclusion of this five (5) year period, the Council may conduct a review of the school's charter. The decision by the Council to renew a charter shall be based upon the following:
1. The presentation of affirmative evidence regarding the success of the school's academic program as defined by the academic goals established in the charter for increasing academic achievement for all groups of students in which the number of students in a category is sufficient to yield statistically reliable information, including:
    - a. Economically disadvantaged students;
    - b. Students from major racial and ethnic groups;
    - c. Students with disabilities; and,
    - d. Students with limited English proficiency.
  2. The presentation of affirmative evidence regarding the viability of the school as an organization as defined by the organizational performance goals established in the charter; and,
  3. The faithfulness of the school to the terms of its charter;
  4. § 2.5.3(B)(1) of this Part shall be weighted most heavily in the Board's decision to renew a charter.
- C. The Commissioner will gather evidence regarding these issues from a renewal application and from other information, including but not limited to, a school's annual reports, financial audits, test results, and site visit reports. Renewed charters shall be written according to the provisions outlined in § 2.2.4(B)(8) of this Part. If the Council does not conduct renewal hearings for an existing charter, the charter shall renew for another five (5) year period. If the Council recommends that a charter not be renewed, the charter school may request an administrative hearing, and, shall have the burden of proof to demonstrate that the school has met the terms of its charter and other applicable legal requirements.

#### **2.5.4 Students Affected by the Revocation or Expiration of a Charter**

If necessary, the Commissioner of Education may use the Commissioner's authority to coordinate the education agencies of the state, including local school districts, so as to facilitate the enrollment of students from a closed charter school into other educational placements in order to ensure the continued provision of education services to those students. R.I. Gen. Laws § 16-60-6. The



Commissioner shall ensure the preservation of the charter school records. The Commissioner may require the public school system in which the charter was located to maintain the student records of a closed charter school.

## **2.6 Charter School Outreach and Enrollment**

### **2.6.1 Outreach**

The charter school shall proactively engage and inform the community about the school for the purpose of generating interest in enrollment in the school. Such activities should include public notices, meeting, open houses, and other activities that attempt to reach and provide a forum to a broad audience. In order to diversify the pool of applicants so as to include underrepresented populations and otherwise achieve ends designed to serve at-risk youth, supplemental specially-directed outreach and recruitment to these groups is permissible.

### **2.6.2 Enrollment Lotteries**

- A. When fewer students apply than there are seats available, all applicants shall be offered enrollment into the school. When more students apply than are seats available, the school shall conduct a random lottery to determine enrollment. For charter schools that do not have defined enrollment percentages from their sending districts in their charter, lotteries shall be held no later than a date set by the Commissioner in the school year before the year in which students are to enroll. Charter schools shall use a lottery application developed by the Commissioner. Weighted lotteries are permissible if the Commissioner deems it necessary to fulfill statutory requirements.
- B. All students in the lottery pool at the time of the lottery shall be drawn from the lottery. Once all available seats have been filled, the remaining applicants in the pool shall be drawn and placed on a waiting list ranked in the order that they were drawn. The school shall notify the Rhode Island Department of Education ("RIDE") at least two (2) weeks before the lottery so that a RIDE representative may be present during the lottery.
- C. Schools are permitted to adopt a siblings policy to exempt siblings of currently enrolled students from participation in the lottery. Schools further permitted to adopt a policy to exempt the students of teachers or school founders from participation in the lottery so long as these students constitute no more than ten percent (10%) of the school's total enrollment.

### **2.6.3 Notification**

- A. Families shall be notified in writing whether or not the student was selected from the lottery for enrollment into the school. Upon notification, the family shall

confirm their intent to accept the enrollment by submitting a standard confirmation form to the school. Schools are permitted to establish a reasonable deadline of not less than fifteen (15) days for the family to confirm their child's enrollment. Schools shall also make a reasonable effort within this period to make contact with the family. If the family fails to confirm enrollment by the established deadline, schools are permitted to offer enrollment to another family in first position on the waiting list.

- B. Only after a family has confirmed enrollment shall the school ask the family to provide specific information and documentation about the student, including school academic records and special education records (IEP/504 plans).
- C. Once all families have confirmed their student enrollment, schools shall notify the district of residence regarding the total number of students from each district that will be attending the charter school for the upcoming school year.

#### **2.6.4 Waiting Lists**

- A. Any student who has applied to the school but was not selected through the lottery shall be placed on a waiting list in the order that they were drawn within the design of the lottery. This shall constitute the school's official waiting list.
- B. Families that have expressed an interest in the school, either by contacting the school directly, attended an open house, or other contact but has not submitted an enrollment form and selected through the lottery shall not be considered for the waiting list.
- C. Enrollment forms received after the lottery shall not be considered on the official waiting list. Such applications shall only be considered for enrollment once the waiting list established through the lottery has been exhausted.
- D. When filling vacancies that occur during the school year, schools shall offer enrollment to the student ranked in the first position on the waiting list as determined by the lottery. Should the family decline the enrollment offer, the school shall offer enrollment to the next ranked student until the enrollment seat is accepted.
- E. Waiting lists shall not be carried over from year to year. Each year the school shall conduct a new lottery of all applicants in the lottery pool, including any applicants from the previous waiting list in addition to any and all new applicants. Applicants on the waiting list at the end of the previous school year must reapply to the school to be considered eligible for the lottery for the following school year.

## **2.7 Charter School Staff**

### **2.7.1 Educator Certification Required**

All teachers and administrators in charter schools shall hold appropriate certification for their respective positions.

## **2.8 Charter School Contracts**

### **2.8.1 Charter School Comprehensive Service and Management Contracts**

- A. No charter school or charter school board shall enter into any contract for comprehensive service and management which is contrary to State or Federal law or regulations, which contravenes the written policies of the Rhode Island Council, which does entail any financial or other conflicts of interest, or which amends, alters, or modifies any provision of the school's charter. To the extent that there is a conflict between the terms of the charter and such a contract, the terms of the charter shall govern. All charter school contracts shall be made available to the Commissioner and the Auditor General upon request. Charter schools shall maintain financial records in a format that allows the ready tracking of all expenditures of public funds.
- B. No charter school board shall enter into a contract that would have the effect of reducing the charter school board's ultimate responsibility for operation of its charter school, or which would hinder the charter school board in exercising effective supervision of the charter school it controls.
- C. All charter school boards entering into such contracts shall directly select, retain, and compensate the school attorney, accountant, and audit firm.
- D. All instructional materials, furnishings, and equipment purchased or developed with public funds shall be the property of the charter school, not the service provider.
- E. The content of such contracts shall include, but not be limited to:
  - 1. The roles and responsibilities of the school governing board and the service provider, including all services to be provided under the contract;
  - 2. The performance measures, consequences, and mechanisms by which the school governing board will hold the provider accountable for performance;
  - 3. All compensation to be paid to the provider, including all fees, bonuses, and what such compensation includes or requires;

4. Terms of any facility agreement that may be part of the relationship;
5. Financial reporting requirements and provisions for the school governing board's financial oversight;
6. All other financial terms of the contract, including disclosure and documentation of all loans or investments by the provider to the school, and provision for the disposition of assets in accordance with Rhode Island General Law;
7. Assurances that the school governing board, at all times, shall comply with §§ 2.7(A) through (D) of this Part;
8. Respective responsibilities of the governing board and service provider in the event of school closure; and
9. Such information as required by the Commissioner to ensure compliance with the provisions identified in this chapter.

## **2.9 Appeals**

The appeals and adjudication process defined by R.I. Gen. Laws Chapter 16-39 shall be applicable to charter schools, and additionally, any alleged violation of the provisions of a school's charter shall be subject to this appeal and adjudication process.

## **2.10 Variances and Waivers**

The Council, based on the application of a charter school governing board may grant those statutory waivers and variances permitted by law. The Council, based on the application of a charter school governing board, may grant waivers and variances to Council regulations, except that waivers or variances which would diminish health or safety standards, or which would violate or diminish the civil rights of any protected class of student, shall not be granted. All requests for waivers or variances shall be accompanied by a written explanation showing why the waiver or variance should be granted.

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