

PROPOSED REGULATION OF THE STATE PUBLIC CHARTER SCHOOL AUTHORITY

LCB File No. R089-16

AUTHORITY FOR REGULATION: 2015 Session, SB 509, Section 32, subsection (3)

Procedures and criteria for soliciting and evaluating applications to form a charter school, application procedures and timelines for evaluating applications to form a charter school, including but not limited to possible differentiated tracks, multiple application cycles per year, invitational or rolling application periods for applicants and operators which meet the strategic goals of the State Public Charter School Authority, expedited review and approval, and the adoption of a prospectus or other pre-screening process prior to inviting applicants to submit full applications; Procedures and criteria for evaluating applications for the renewal of written charters, including differentiated tracks and expedited renewal; Procedures and criteria for evaluating applications for the renewal of charter contracts, including differentiated tracks and expedited renewal; Procedure and timeline for amending a written charter or charter contract and criteria for approval and the inclusion of contractual provisions and conditions deemed necessary by the Authority; The procedure for investigation and review of charter applications, amendment applications, and renewal applications and review criteria

Eligible applicants:

Eligible applicants are Committees to Form and Charter Management Organizations, as defined in SB509.

Any committee to form a charter school that submits an application to form a charter school may be either:

- (a) a non-profit organization; or*
- (b) an organization that is in the process of applying for non-profit status.*
- (c) a group which will apply for non-profit status following charter award*

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Charter Application and Procedures for Granting Charters

(1) Charter Application Process: Applicants shall submit to the SPCA application materials in accordance with the schedule, application form, and guidelines established by the Executive Director.

- a. The Executive Director shall designate at least one application cycle, including a submission schedule, form, and guidelines per fiscal year.*

- i. *Prior to each cycle, the ED shall approve an application form for submission by applicants seeking to operate a high quality open-enrollment charter school. The application form must contain the following:*
- ii. *the timeline for selection;*
- iii. *required applicant conferences and training prerequisites;*
- iv. *scoring criteria and procedures for use by the review panel;*
- v. *selection criteria, including the minimum score necessary for an application to be eligible for selection; and*
- vi. *the earliest date an open-enrollment charter school selected in the cycle may open.*
- vii. *The SPCSA shall review applications submitted under this section. If the SPCSA determines that an application is not complete and/or does not meet the standards set forth by the board, the SPCSA shall remove the application without further processing during the cycle. Failure of the SPCSA to identify any deficiency, or notify an applicant thereof, does not constitute a waiver of the requirement and does not bind the Board.*
- viii. *Upon written notice to the SPCSA, an applicant may withdraw an application or waive the timelines specified above.*
- ix. *Applications that are determined to be complete and meet the standards set forth by the Board shall be reviewed and scored by an application review panel made up of internal staff and external experts selected by the ED from a pool of qualified candidates identified through a request for qualification (RFQ) process. The panel shall review and score applications in accordance with the procedures and criteria established in the application form. Review panel members shall not discuss applications with anyone except SPCSA staff. Review panel members shall not accept meals, entertainment, gifts, or gratuities in any form from any person or organization with an interest in the results of the selection process for - charters. Members of the review panel shall disclose to the SPCSA immediately the discovery of any past or present relationship with an open-enrollment charter applicant, including any current or prospective employee, agent, officer, or director of the sponsoring entity, an affiliated entity, or other party with an interest in the selection of the application.*
- x. *All parts of the application are releasable to the public and will be posted to the SPCSA website; therefore, the following must be excluded or redacted by the applicant in any material to be shared with the public or with the Board: proprietary material; copyrighted material; documents that could violate the Family Educational Rights and Privacy Act (FERPA) by identifying potential students of the charter school, including, but not limited to, sign-in lists at public meetings about the school, photographs of existing students if the school is currently operating or photographs of prospective*

students, and/or letters of support from potential charter school parents and/or students; and any other information or documentation that cannot be released in accordance with NRS.

- b. The Executive Director may establish one or more application tracks for particular applicant types or school models based on the priorities of the Authority*
- c. The Executive Director may adopt an application process providing for applicants to submit a prospectus or other pre-screening process developed by the Executive Director. Applicants which submit such a prospectus and are determined to merit further consideration, at the discretion of the Executive Director, will be invited to submit a full application for consideration by the Board.*
- d. The Executive Director may establish a rolling application track for applicants which seek proven provider status. Such a track may provide for expedited approval with conditions to ensure that the charter school meets all requirements in law or regulation, including but not limited to a reciprocal authorizing model by which a charter contract may be granted with conditions by the board based on submission and review of a notice or letter of intent and the submission of a copy of a recently approved charter application from a high performing authorizer, as determined by the Executive Director.*
- e. The Executive Director may establish an invitational application track for applicants which are determined to be eligible for proven provider status. Such a track may provide for a rolling application expedited approval with conditions to ensure that the charter school meets all requirements in law or regulation, including but not limited to a reciprocal authorizing model by which a charter contract may be granted with conditions by the board based on submission and review of a notice or letter of intent and the submission of a copy of a recently approved charter application from a high performing authorizer, as determined by the Executive Director.*

(2) Review Process: The State Public Charter School Authority shall review application materials submitted in accordance with deadlines established by the Authority. The role of any reviewer is solely advisory. Application materials will be reviewed and evaluated in accordance with criteria established by the Board, at its discretion. In addition, the Authority will conduct interviews with all final applicants in order to better assess their qualifications and capacity to start and operate a charter school.

(3) Evaluation and Approval of Charter Applications. The Authority reviews applications to ensure that the applicant has, at a minimum, demonstrated the capacity:

- (a) to further the purposes for establishment of charter schools specified in NRS*
- (b) to conform with all applicable laws and regulations, including any guidelines the Board may issue, and including those related to English language learners and students with disabilities;*

- (c) to meet its enrollment projections through demonstration of support for the proposed charter school in the communities from which students would be likely to enroll;*
- (d) to implement its recruitment and retention plan;*
- (e) to involve parents and guardians as partners in the education of their children;*
- (f) to develop a proposed program that enhances options for students in the district(s) served;*
- (g) to develop a management structure and plan which enables the charter school to function at as a high performing organization which will achieve the goals and mission set forth in its charter, including information about proposed staff and governing body members and the selection, roles, and responsibilities of the governing body*
- (i) to develop bylaws that govern the governing body consistent with NRS, NAC, and guidelines issued by the Authority;*
- (j) to develop a management structure and plan that enables the governing body to oversee multiple campuses or a network of charter schools, including the roles and responsibilities of school leaders and administrators, if applicable;*
- (k) to assure that students will meet the same performance standards and assessment requirements for students in other public schools;*
- (l) to develop mission-specific goals, if applicable, that meets criteria established by the Board, at the end of the first year of the school's charter contract establishing five-year performance objectives to help measure the school's progress and success in fulfilling the terms of its charter contract in a manner which supplements, but does not supplant the indicators, metrics, and measurements identified in the SPCSA Performance Framework, as amended*
- (m) to administer its educational programs, school operations, and finances effectively;*
- (n) to establish a process to provide to students, parents/guardians, the Authority, other interested parties, and the public all information required by law and regulation, as well as to provide all other information the Authority, the Department of Education, State Board of Education, the Governor's Office, or the Legislative Counsel Bureau may request;*
- (o) to develop an enrollment policy consistent with NRS and NAC and Authority guidelines*
- (p) to develop a recruitment and retention plan consistent with NRS and NAC and authority guidelines*
- (q) to ensure the thoroughness and accuracy of the charter school application;*
- (r) to provide school facilities that comply with municipal building codes and other applicable laws and that are adequate to meet the school's program requirements;*
- (s) to develop a governing body with the capacity to effectively govern the school and to effectively govern more than one campus or school, if applicable; and*
- (t) to build a network of charter schools, if applicable.*

The decision of the State Public Charter School Authority with respect to whether to approve a charter application shall be final. If a charter contract is granted, the drafts of documents submitted during the application process are subject to Authority review and approval during the opening procedures process, and any additional requirements in Authority guidelines.

Qualifications to Achieve Proven Provider Status: Requests for expedited applications either during the regular application window prescribed by the board or on a rolling basis will be considered only from Proven Providers.

For an applicant or a member of the applicant group with a current or previous relationship to a Nevada charter school, the Executive Director or the Board may consider all information related to such school's performance, including his evaluation in connection with each renewal of its charter.

Amendments of Written charter or charter contracts

Requests to amend the material terms of a school's written charter or charter contract must be voted on by the governing body and approved by the Executive Director or the Board before change is implemented. The Executive Director, may, at his discretion, establish annual, semi-annual, or quarterly filing windows and deadlines for the filing of specific categories of amendment requests. Such windows and deadlines may be waived by the Executive Director, at his discretion.

(1) Amendments Requiring Board Approval: If a charter school plans to change the terms of its written charter or charter contract, the school's governing body shall vote on and submit to the Board a request in writing to amend its written charter or charter contract. Changes requiring approval by the Board before they can be implemented include:

- (a) Districts specified in the school's written charter or charter contract;*
- (b) Maximum enrollment;*
- (c) Grades served; and*
- (d) Contractual relationships with an education management organization providing or planning to provide substantially all the school's educational services.*
- (e) Occupancy of a new or additional facility which has the effect of increasing enrollment, as determined by the Authority*
- (f) Relocation to a new facility which does not have the effect of increasing enrollment, as determined by the Authority*
- (g) The expansion of a single facility to a network of campuses, as determined by the Authority*
- (h) Consolidation of the charters of one or more schools.*
- (k) changes to the mission statement which change the school from serving a general student population to serving an at-risk student population as identified in SB460 or current statute—such changes must be accompanied by a parallel amendment to the admissions policy to restrict admission to the particular categories of at-risk pupils specified in the mission statement*
- (l) changes to the mission statement which change the school from serving an at-risk student population as identified in SB460 or current statute to serving a general student population—such changes must be accompanied by a parallel amendment to the admissions policy removing any restrictions on admission*

(2) Amendments Requiring Executive Director Approval: If a charter school plans to change the terms of its written charter or charter contract, the school's governing body shall vote on and submit to the Executive Director a request in writing to amend its written charter or charter contract. Changes requiring approval by the Executive Director before they can be implemented include:

- (a) School name;*
- (b) Mission statement changes other than those identified in k or l above;*
- (c) Governance or leadership structure;*
- (d) Educational programs, curriculum models, instructional delivery methods (including but not limited to distance education, blended, or other programs), or whole-school designs that are inconsistent with those specified in the school's written charter or charter contract, including but not limited to:*
 - i changes from a virtual or cyber school model to a blended model, or a classroom based-instructional model*
 - ii changes from a blended model to a virtual or cyber school model, or a classroom based-instructional model*
 - iii changes from a classroom based-instructional model to a blended model or a virtual or cyber school model*
- (j) Other Material changes in the academic program*
 - (e) Bylaws;*
 - (f) Membership of the governing body;*
 - (h) Schedule (length of school year, school week, or school day);*
 - (i) Accountability Plan;*
 - (j) Enrollment policy and application for admission;*
 - (k) Expulsion policy; and*

Notwithstanding the foregoing, the Executive Director may refer any amendment request to the Board for consideration at his sole discretion.

- (2) Consideration of Amendment Requests: The Executive Director and the Board may consider a charter school's compliance with applicable state, federal, and local law and evidence regarding academics, finance, and organization in reaching a determination regarding a school's request to amend its written charter or charter contract. The Executive Director may establish such timelines for review and consideration as it deems appropriate and may waive such timelines at his discretion.*
- (3) All parts of the amendment are releasable to the public and will be posted to the SPCSA website; therefore, the following must be excluded or redacted by the applicant upon request of the SPCSA and will not be included in the materials furnished to the Board or the public: proprietary material; copyrighted material; documents that could violate the Family Educational Rights and Privacy Act (FERPA) by identifying current or potential students of the charter school, including, but not limited to, sign-in lists at public meetings about the school, photographs of existing students or photographs of prospective students, and/or*

letters of support from charter school parents and/or students; and any other information or documentation that cannot be released in accordance with NRS.

(4) The Executive Director shall propose business rules for the consideration of charter amendment requests for adoption. As such guidelines are related to changes to a contract, they are not considered rules of general applicability.

(8) Review: Should the Executive Director deny an amendment request or fail to respond to an amendment request within 60 days of receipt, the charter school's governing body may seek review of the Executive Director's decision by the Board.

A charter school which submits an amendment request pursuant to Section 2 which will come into effect within 18 months of the expiration of the written charter or charter contract explicitly waives any right to submit anecdotal evidence or testimony related to data not reflected in the NSPF or the SPCSA PF in its appeal of a non-renewal, revocation, or reconstitution recommendation to the SPCSA Board.

The decision of the Board with respect to whether to approve an amendment shall be final. If an amendment is granted, the drafts of documents submitted during the amendment process are subject to Authority review and approval during the opening procedures process, and any additional requirements in Authority guidelines.

Renewal

(a) Applicability. The provisions of this section shall apply to applications for the renewal of a written charter pursuant to NRS that are submitted by charter schools for which the State Public Charter School Authority is the charter entity. As the renewal of charter contracts is subject to the provisions of contract law, the provisions of the contract and any internal policies developed by the Authority which are applicable to charter contracts govern and these regulations shall be considered advisory guidelines instead of rules of general applicability in such situations.

(b) Charter school obligations.

(1) The governing body of the charter school which is seeking renewal of a written charter shall submit an application for charter renewal to the State Public Charter School Authority in a format prescribed by the Executive Director, including:

(i) a summary of the school's academic performance as reported by the Nevada School Performance Framework and any predecessor or successor accountability system and the State Public Charter School Authority Academic Framework, as may be amended by the Board from time to time, or a programmatic audit conducted pursuant to NRS which is aligned to the current State Public Charter School Authority Academic Framework.

(ii) a summary of the school's organizational performance, as evidenced by Notices of Concern or Notices of Breach issued for organizational performance pursuant to either the State Public Charter School Authority Organizational Framework, as may be amended by the Board from time to time, or a programmatic audit conducted pursuant to NRS which is aligned to the current State Public Charter School Authority Financial Framework.

(iii) a summary of the school's financial performance, as evidenced by Notices of Concern or Notices of Breach issued for financial performance pursuant to either the State Public Charter School Authority Financial Framework, as may be amended by the Board from time to time, or a programmatic audit conducted pursuant to NRS which is aligned to the current State Public Charter School Authority Financial Framework.

(iv) a summary of the school's contemplated enrollment for the term of the next charter contract.

Notwithstanding the preceding section, the Authority may, at its discretion, develop guidelines for identifying charter schools with performance the areas of academics, finance, and organization which merit expedited renewal. Invitations to enter expedited renewal may be issued by the ED or the Board. A school which is invited to enter expedited renewal and submits an expedited renewal application in accordance with guidelines adopted by the SPCSA may be approved for renewal via the Board consent agenda.

(2) In considering whether a charter school merits renewal, the board will consider past performance in the areas of academics, finance, and organization. Future plans are not relevant to the renewal decision. The application for renewal submitted by the governing body of the charter school which is seeking renewal of a written charter or charter contract shall not contain any material changes which are considered amendments pursuant to the amendment section. Any such proposed material changes shall be evaluated separately following charter renewal through the amendment process.

(3) Schools may submit external evaluations of academic data at the invitation of the Executive Director. All data included in such evaluations must be independently audited and verified by the outside evaluator to ensure accuracy and integrity. Both the underlying data and all analysis and calculations must be provided directly to the Authority. In the event that the Authority determines it is unable to validate the underlying data or replicate the calculations, the Authority shall direct the school to contract for a separate independent evaluation of the data and calculations by a vendor selected by the Executive Director.

(4) The governing body shall also submit such additional material or information as may be requested by the Executive Director.

(5) Where applicable, the charter school shall comply with the notification and submission requirements in subparagraph (d)(3) of this section.

(c) Executive Director obligations.

(1) Notification of renewal application: the Executive Director shall provide notification of receipt of an application for charter renewal

(2) Renewal Site Visit and Report. The Executive Director may, in his discretion, conduct or cause to be conducted a renewal site visit to the charter school for purposes of obtaining information relevant to the renewal of such school's charter and prepare a renewal site visit report, consistent with a Site Visit Protocol established by the Executive Director.

(3) Renewal Recommendation.

(i) The Executive Director shall prepare and submit to the State Public Charter School Authority a renewal recommendation which shall be based upon application of the performance benchmarks pursuant to subdivision (e) of this section. In making this renewal recommendation, the Executive Director shall consider evidence and data gathered about the charter school, including, but not limited to, the following:

(a) information in the renewal application;

(b) any information relating to the site visit and the site visit report, if any, pursuant to paragraph (c)(2) of this section;

(c) the charter school's annual reporting results including, but not limited to, student academic achievement; and

(d) any other information that the Executive Director, in his discretion, determines is relevant to whether the charter should be renewed, including, but not limited to, information related to whether renewal should be denied to protect the interests of students, families and the public including, but not limited to, instances involving criminal violations, fraud, unsafe environment, organizational stability or other serious or egregious violations of law or of the school's written charter or charter contract.

(1) (ii) Notification of recommendation. In the event that the recommendation is to not renew the charter school's charter, the charter school shall be given an opportunity to request postponement of the Authority board meeting agenda item prior to the board meeting. Within seven calendar days of the issuance of the recommendation to the Board, the school may furnish a written response to such recommendation. Any such written response may include supporting affidavits, exhibits and other documentary evidence and may also include a written legal argument. All parts of the response are releasable to the public and will be posted

to the SPCSA website; therefore, the following must be excluded or redacted by the applicant and will not be included in the materials furnished to the Board or the public: proprietary material; copyrighted material; documents that could violate the Family Educational Rights and Privacy Act (FERPA) by identifying students of the charter school, including, but not limited to, sign-in lists at public meetings about the school, photographs of existing students or photographs of prospective students, and/or letters of support from charter school parents and/or students; and any other information or documentation that cannot be released in accordance with NRS.

(d) State Public Charter School Authority procedures.

(1) State Public Charter School Authority determination.

(i) The decision concerning whether to approve a charter renewal application shall be wholly within the discretion of the State Public Charter School Authority unless a school meets the criteria for autoclosure.

(ii) The State Public Charter School Authority shall consider the following when making a decision concerning whether to approve a charter renewal application:

(a) the information in the renewal application submitted pursuant to paragraph (b)(1) of this section;

(b) any information relating to the site visit and the site visit report, if any, pursuant to paragraph (c)(2) of this section;

(c) the Executive Director's renewal recommendation pursuant to paragraph (c)(3) of this section

(d) any information the charter school's written response, if any, pursuant to subparagraph (c)(3)(ii) of this section which the Board, in its discretion, deems relevant, and

(g) any other information that the Board, in its discretion, may deem relevant to its determination whether the charter should be renewed, including, but not limited to, information related to whether renewal should be denied to protect the interests of students, families and the public including, but not limited to, instances involving criminal violations, fraud, unsafe environment, organizational stability or other serious or egregious violations of law or of the school's charter.

(iii) In making its decision concerning whether to approve a charter renewal application, the State Public Charter School Authority shall consider the totality of the evidence presented in

each case, and may accept or reject, in whole or in part, the Executive Director's renewal recommendation, provided however that nothing in this subparagraph shall be construed as permitting the State Public Charter School Authority from weighing any one factor more heavily than the academic performance of students in relation to the statewide system of accountability and the State Public Charter School Authority Academic Framework, as amended.

(iv) The decision of the State Public Charter School Authority with respect to whether to approve a renewal application shall be final.

(2) Renewal outcomes.

(i) The State Public Charter School Authority in its sole discretion may:

(a) renew a charter for a term of six years;

(b) renew the charter for a term of six year with provision for a high stakes review under the charter contract—the criteria and format for which shall be solely at the discretion of the authority;

(c) renew the charter for a term of six years with any additional provisions, requirements, or restrictions which the Board, in its discretion, may deem appropriate, including but not limited to the termination of a management agreement or the renegotiation of management agreement terms to the satisfaction of the Board or the Executive Director, pursuant to delegated authority.

(d) deny renewal of the charter for the purposes of reconstituting the governing body and assigning the charter contract to a charter management organization or a new governing body, including but not limited to the governing body of another charter school or a governing body assembled by the Executive Director

(e) deny renewal of the charter for the purposes of restarting the school and issuing a new charter contract to a charter management organization or a new governing body, including but not limited to the governing body of another charter school which will inherit any assets of the charter school which remain following dissolution

(f) deny renewal of the charter for the purpose of closing the school

The State Public Charter School Authority may, at the request of the Executive Director, reclassify a denial decision pursuant to d, e, or f as a reconstitution, restart, or closure the

event it determines, at its discretion, that a different denial outcome is more practical or is more beneficial to the interests of the State and the public, including but not limited to students enrolled at the school.

(ii) When deciding whether to grant a renewal application and/or for how long to renew a school's charter, the charter school's student academic achievement shall be considered of paramount importance by the State Public Charter School Authority. Furthermore, for all renewals subsequent to a first renewal, a charter school's student academic achievement shall be given greater weight than for a first renewal.

(3) In the event that the Executive Director's renewal recommendation recommends that the Board grant a renewal application, but the State Public Charter School Authority decides to reject such recommendation and deny renewal of a charter, the charter school shall be provided with written notification of such decision and the reasons for the decision, and shall be given an opportunity to submit a written response to such decision and request that the State Public Charter School Authority reconsider its action. If the charter school chooses to submit a written response, the charter school shall, within five days of receipt of the Executive Director's notification, notify the Executive Director in writing of its intent to submit a written response, and shall submit such written response within thirty days of receipt of the Executive Director's notification. Any such written response may include supporting affidavits, exhibits and other documentary evidence and may also include a written legal argument. The Executive Director shall submit any such submission to the State Public Charter School Authority for reconsideration. Following receipt of such submission, the State Public Charter School Authority shall reconsider the charter school's renewal application, provided that nothing in this paragraph shall be construed to require more than one reconsideration.

(e) Performance benchmarks. Each renewal charter for a charter school authorized by the State Public Charter School Authority shall include the performance benchmarks set forth in the Charter School Performance Framework, as amended, as part of the oversight plan in the charter school's charter agreement. For each such renewal charter, the analysis of qualitative and quantitative data and evidence concerning a charter school's performance, for purposes of the Executive Director's renewal recommendation pursuant to paragraph (c)(3) of this section, shall be based on the charter school's achievement in each of the performance benchmarks set forth in the Charter School Performance Framework; provided that the charter school's performance under student academic achievement, as set forth in the framework, shall be paramount when determining to renew a school's charter.

Conditions for Approving and Opening New Charter Schools and New Campuses: Charter Contracts and amendments to occupy additional facilities shall be awarded subject to such conditions that the Board may specify, including but not limited to the adoption of Board-

approved strategies and policies designed to improve the diversity of charter schools. The Board may establish criteria for approval of charter applications and expansion amendments to charter contracts based on its strategic priorities, including the expansion of schools which meet specific targets under the statewide system of accountability and the performance framework, and those with a demonstrated track record of success in serving a student population which is either representative of the surrounding community or a demonstrated track record of success in serving an at-risk student population based on the statewide system of accountability and the SPCSA academic framework, as amended. The Board may temporarily waive such conditions and award a charter or an amendment, provided that the applicant submits adequate written assurance that all such conditions will be met prior to the opening of the charter school. If a new charter school fails to comply with any such specified condition, the ED may prohibit the school from opening.

Upon receiving a charter or an amendment, the charter school must successfully complete the campus opening procedures process specified by the ED. This process begins with the awarding of a new charter or amendment by the Board and ends in the following June when the school submits all pre-opening documents to the Authority. Opening procedures requirements include, but are not limited to, provision of the following:

- (a) the terms of the proposed management contract, for review and approval, in such cases where the governing body intends to procure substantially all educational services from another person or organization;*
- (b) policies and procedures including, but not be limited to, approved bylaws, an enrollment policy, and a recruitment and retention plan;*
- (c) criteria and procedures for suspension and expulsion of students;*
- (d) written documentation that criminal background checks have been performed as required by state law;*
- (e) written documentation that the facilities to be used by the charter school are approved for use as a school by the building inspector in the municipality in which the building is located;*
- (f) written documentation that the facilities occupied by the charter school have been inspected by the Fire Department of the municipality in which the facilities are located;*
- (g) written documentation that approval has been secured from the licensing authority of the municipality in which the building is located if explosives or flammable compounds or liquids are used in connection with courses taught at the school; and*
- (h) written documentation that the school is in compliance with all other applicable federal and state health and safety laws and regulations, including evidence of compliance with any required insurance coverage.*

The decision of the State Public Charter School Authority with respect to whether to approve an expansion amendment shall be final.