

Charter School Legislation

HB 1390 and SB 737

Background Information

- Charter schools were first authorized in Virginia in 1998.
- In 2002, legislation required all school divisions to accept and review all charter school applications submitted to them.
- In 2004, legislation provided that charter applicants could submit the application to the Board of Education for review.
- The 2004 legislation also deleted the cap on the maximum number of charter schools in a division, and deleted the requirement that half the charter schools must serve at-risk populations.

Charter Schools in Virginia

- The first eight charter schools in Virginia were established between 1999 and 2002 and were converted from traditional public schools.
- Two of these charter schools are still in operation. The third charter school currently in operation was the first to be approved that was submitted from outside a school division.
- The fourth charter school is expected to begin operation in the 2010-2011 school year.

Overview of 2010 Legislation

- **HB 1390 and SB 737 require public charter school applicants to submit the application to the Board of Education for a determination as to whether the application meets the Board's approval criteria prior to submitting the application to the local school board.**
- **The legislation permits the applicant to petition the local school board for reconsideration of a decision to deny an application.**
- **Prior to such reconsideration, the applicant may seek technical assistance from the Superintendent of Public Instruction.**

Current Law

- An application shall be received and reviewed by the local school board.
- An applicant may submit its proposed charter application to the Board for review and comment and the Board is required to examine the application for feasibility, financial soundness, curriculum, and other criteria established by the Board.
- The Board review does not include consideration as to whether the application should be approved by the local school board.
- Any decision regarding a charter school application, revocation, or renewal by a local school board is final and not subject to appeal.

Details of the 2010 Legislation

- A public charter school applicant must submit its application to the Board of Education and the Board must make a determination as to whether the application meets its approval criteria.
- The Board must establish procedures for the review of applications.
- The Board and local school boards are required to post review procedures on their Web sites.
- Local school boards are required to establish a procedure for public notice.

Details of the 2010 Legislation

- **A local school board must give at least 14 days' notice of its intent to receive public comment on an application.**
- **If a local school board denies an application, it must provide the applicant with the reasons for the decision and post such reasons on its Web site.**
- **An applicant receiving a denial may petition the local school board for reconsideration.**

Details of the 2010 Legislation

- **Local school boards must establish a process for reconsideration, including an opportunity for public comment.**
- **Prior to reconsideration, the applicant may seek technical assistance from the Superintendent of Public Instruction.**
- **Upon reconsideration, the decision of the local school board shall be final and not subject to appeal.**
- **An applicant who has been denied is not prohibited from submitting a new application.**

Issues for Consideration

The Board must develop or revise:

- **Procedures for receiving and reviewing charter school applications.**
- **A listing of regulations that may be waived for charter schools.**

Issues for Consideration

Should the Board revise and review:

- **Existing criteria used in reviewing applications?**
- **Existing criteria for making distributions from the charter school fund?**
- **The composition of the current Board review committee?**

Issues for Consideration

Should the Board develop:

- **Technical assistance procedures?**
- **Guidance to local school boards related to procedures for receiving, reviewing, and ruling on charter school applications?**
- **Guidance to local school boards addressing a process of reviewing petitions for reconsideration?**

Background Information on Charter Schools in Virginia

Charter school law in Virginia

- In 1998, HB 543 (Hamilton) and SB 318 (Barry) authorized the establishment of charter schools in Virginia.
- In 2001, HB 2439 (Harris) and SB 1393 (Newman) required local school boards to provide notice of their intent to accept or not accept charter school applications.
- In 2002, SB 625 (Barry) required all school divisions to accept and review charter school applications, and required the inclusion of charter school students in fall membership for ADM.
- In 2004, HB 380 (Lingamfelter):
 - ✓ Provided that charter applicants could submit the application to the Board of Education for review for feasibility, curriculum, financial soundness, and other objective criteria;
 - ✓ Deleted the authority of school boards to limit the number of charter schools within the division and the statutory cap on the maximum number of charter schools (which had been ten percent of the total number of schools, or two schools, whichever was greater);
 - ✓ Delete the requirement that half the charter schools in the division must be designed to benefit at-risk pupils, and instead direct school boards to give priority to applications designed to benefit at-risk students currently served by schools that have not achieved full accreditation;
 - ✓ Required the Board to report annually to the General Assembly the number of public charter school applications granted and denied, and the reasons for any such denials; and
 - ✓ Increased the maximum charter term from three to five years.
- In 2007, HB 2311 (Lingamfelter) established a public charter school fund.
- In 2010, HB 1390 (Lingamfelter) and SB 737 (Newman) will:
 - ✓ Require the charter school application to be reviewed by the Board of Education;
 - ✓ Permit the applicant to petition a local school board for reconsideration of denial of an application or revocation of a charter; and
 - ✓ Prior to the petition for reconsideration, provide an opportunity for the application to seek technical assistance from the Superintendent of Public Instruction.

Charter schools in Virginia

- Since the 1998 legislation that authorized charter schools in Virginia, there have been a total of nine charter schools in Virginia:
 - ✓ Victory Academy, Gloucester County (1999-2004)
 - ✓ Murray High School Albemarle County (2001-)
 - ✓ New Opportunities for Winning, Franklin County (2001-2003)
 - ✓ New Directions Academy, Greene County (2001-2004)
 - ✓ Hampton Harbour Academy, Hampton City (2001-2009)
 - ✓ Blue Ridge Technical Academy, Roanoke City (2001-2005)
 - ✓ Chesterfield Community High School, Chesterfield County (2002-2005)
 - ✓ York River Academy, York County (2002-)
 - ✓ Community Public Charter School, Albemarle County (2008 -)
- The eight original charter schools were converted from schools within the division to public charter schools. They received funding from a grant that the U. S. Department of Education awarded to the Virginia Department of Education. The grants were awarded to serve as the incentive to create a charter school.
- The ninth charter school, Community Public Charter School, is the first charter school to be approved from an application submitted from applicants outside a school division.
- The tenth charter school, Patrick Henry School of Science and Arts, is expected to begin operation in Richmond City in the 2010-2011 school year.

Board of Education's review of charter applications

- The 2004 legislation provided that "*The public charter school applicant may submit its proposed charter application to the Board of Education for review and comment. The Board's review shall examine such applications for feasibility, curriculum, financial soundness, and other objective criteria as the Board may establish, consistent with existing state law...*"
- The Board of Education has reviewed five charter school applications in accordance with the 2004 legislation:
 - ✓ January 19, 2005, review of a charter school application for Danville. It's our understanding that no application was ever submitted to the Danville School Board.
 - ✓ May 24, 2005, review of charter school applications for Loudoun County and Charlottesville. The application for Loudoun County was subsequently denied by the Loudoun County School Board. The application for Charlottesville was subsequently granted by the

Albemarle County School Board as the Community Public Charter School, which opened in 2008.

- ✓ July 18, 2005, second review of the charter school application from the Community Public Charter School.
- ✓ December 10, 2007, review of a charter school application for Richmond. The application was subsequently approved by the Richmond City School Board as the Patrick Henry School of Science and Arts. It is expected to open in 2010.
- ✓ October 13, 2009, review of a charter school application from Petersburg. The application has not yet been submitted to the Petersburg School Board

Academic achievement in charter schools

- In 2008-2009, two of the four charter schools in operation, Murray High School and York River Academy, were Fully Accredited and made Adequate Yearly Progress. Both have been Fully Accredited and have made Adequate Yearly Progress for the past five years.
- Two charter schools, Hampton Harbour Academy and Community Public Charter School, were not Fully Accredited and did not make Adequate Yearly Progress. Hampton Harbour Academy did not make Full Accreditation or Adequate Yearly Progress at any time in the past five years. 2008-2009 was the first year that Community Public Charter School earned accreditation or AYP ratings.

U. S. Department of Education grants

- The U. S. Department of Education awarded grants for three charter schools in July, 2005 in support of charter schools in Richmond, Norfolk, and Charlottesville.
- The proposed charter school in Charlottesville became the Community Public Charter School in Albemarle County. The proposed charter schools in Richmond and Norfolk were not approved by the local school boards.

Charter school applications that have been denied

- School divisions have reported that ten charter school applications have been denied:
 - ✓ Four were denied in 2002-2003,
 - ✓ Three were denied in 2003-2004,
 - ✓ Two were denied in 2006-2007, and
 - ✓ One was denied in 2008-2009.

- When school divisions have provided reasons for denying charter school applications, the reasons include insufficient funding, unresolved legal issues, lack of specificity in the plan of instruction, and lack of evidence that the curriculum was aligned with state standards.

Charter schools that have closed

- Of the six charter schools that have closed, four listed insufficient funding as the reason for closing.
- One relinquished its charter but continues to operate as a public school. It reported the need for greater flexibility in selecting students than is possible within the current charter school structure.
- The tenth charter school, Patrick Henry School of Science and Arts, is expected to begin operation in Richmond City in the 2010-2011 school year.
- One charter school did not achieve its academic goals.

Legislation Passed by the 2010 General Assembly

§ [22.1-212.9](#). Review of public charter school applications.

A. Public charter school applications shall be received and reviewed by *the Board of Education* and local school boards or, in the case of a regional public charter school, by all of the relevant school boards, *as provided in subsection C*.

~~Each~~ *The Board of Education and each local school board shall establish procedures for receiving, reviewing, and, in the case of local school boards, ruling upon applications and shall make a copy of any such procedures available to all interested parties upon request. The Board of Education and local school boards shall post their procedures on their websites and make a copy of the procedures available to all interested parties upon request.* If any such board finds the public charter school application is incomplete, the board shall request the necessary information from the charter applicant.

B. To provide appropriate opportunity for input from parents, teachers, *citizens*, and other interested parties and to obtain information to assist local school boards in their decisions to grant *or deny* a public charter school application, local school boards ~~may shall~~ establish a procedure for public notice; ~~and to receive comment, or hearings~~ on public charter school applications. *A local school board shall give at least 14 days' notice of its intent to receive public comment on an application.*

C. ~~The~~ *Prior to submission of an application to a local school board for review, the public charter school applicant may shall* submit its proposed charter application to the Board of Education for *its* review, ~~and~~ comment, *and a determination as to whether the application meets the approval criteria developed by the Board.* The Board's review shall examine such applications for feasibility, curriculum, financial soundness, and other objective criteria as the Board may establish, consistent with existing state law. The Board's review and comment shall be for the purpose of ensuring that the application conforms with such criteria, ~~but shall not include consideration as to whether the application shall be approved by the local school board and the Board shall make a determination as to whether the application meets the approval criteria developed by the Board.~~ *Nothing in this section shall prevent a local school division from working with a charter school applicant before the application is submitted to the Board of Education for review and recommendation.*

§ [22.1-212.10](#). Reconsideration and technical assistance; decision of local board final.

A. *If a local school board denies a public charter school application, or revokes or fails to renew a charter agreement, it shall provide to the applicant or grantee its reasons, in writing, for such decision, and it shall post such reasons on its website. A public charter school applicant whose application was denied, or a grantee whose charter was revoked or not renewed, shall be entitled to petition the local school board for reconsideration. The petition for reconsideration shall be filed no later than 60 days from the date the*

public charter school application is denied, revoked, or not renewed. Such reconsideration shall be decided within 60 days of the filing of the petition.

B. Each local school board shall establish a process for reviewing petitions of reconsideration, which shall include an opportunity for public comment. The petition of reconsideration may include an amended application based on the reasons given by the local school board for such decision.

C. Prior to seeking reconsideration, an applicant or grantee may seek technical assistance from the Superintendent of Public Instruction to address the reasons for denial, revocation, or non-renewal.

D. Upon reconsideration, the ~~The~~ decision of a local school board to grant or deny a public charter school application or to revoke or fail to renew a charter agreement shall be final and not subject to appeal.

E. Nothing in this section shall prohibit an applicant whose application has been denied or a grantee whose charter has been revoked or not renewed from submitting a new application, pursuant to § [22.1-212.9](#).