



USOE POLICY BRIEF

Options for Charter School Statutory Changes

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The State Board of Education's ("Board") Advisory Committee Review Task Force has been asked to provide recommendations to the Board for the Legislature regarding changes to statute regarding the governance and oversight of charter schools. The following recommendations were adopted by the Board as recommendations during the Board's November 6, 2015 meeting:

Recommendation #1: That the Legislature amend Section 53A-1a-501.5 to grant the Board authority to appoint and remove members of the State Charter School Board (SCSB) and the authority to select the chair of the SCSB.

Subsection 53A-1a-501.5(2) currently grants the Governor the authority to appoint members of the SCSB. Subsection 53A-1a-501.5(4) also allows the Governor to remove a member of the SCSB "at any time for official misconduct, habitual or willful neglect of duty, or for other good and sufficient cause." Subsection 53A-1a-501.5(5) allows the SCSB to appoint a chair of the SCSB from among its members.

Recommendation #2: That the Legislature amend Subsection 53A-1a-509.5(10): 1) to give the Board a longer time period (up to 60 days) to consider approving or denying a charter school's request to voluntarily terminate the school's charter and transfer operation of the charter school to another charter school or school district; and 2) to require the Board to take an action to approve or deny the request before an authorizer could proceed to transfer operation of the charter school to another charter school or school district.

Subsection 53A-1a-509.5(10) currently requires the Board to consider an authorizer's request to voluntarily terminate a school's charter and transfer operation within 30 days of receiving the request. If the Board fails to take action on an authorizer's request within 30 days of receiving the request, the authorizer may proceed to transfer operation and control of the charter school without further action.



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In addition to the two recommendations above, the Advisory Committee Review Task Force recommends that the Board consider the following additional options:

Option #1: Amend Subsection 53A-1a-511(4)(e) that exempts charter schools from fiscal requirements in Title 53A, Chapter 19, Fiscal Procedures to exempt charter schools from Sections 53A-19-103 and 105 only. Currently school districts must comply with the fiscal procedure requirements of Title 53A, Chapter 19 but charter schools are not subject to those requirements. The reason given for this difference in treatment is because charter schools do not levy property taxes. However, both school districts and charter schools are LEAs that receive state and federal funds. Therefore the same budgetary setting and reporting standards should apply. For the Board to fulfill the oversight responsibilities regarding public funds, having the charter schools exempt from Chapter 19, Fiscal Procedures makes it difficult for the Board to fulfill the Board's public duty to oversee LEA management of public funds.

The question is whether the budget setting and general budgetary procedures established in Chapter 19 should apply to all LEAs, not just school districts. If the Board believes that charter schools should be required to comply with general budgetary principles, charter schools should be subject to Sections 53A-19-101, 102, 104, 106, 107, and 108. Because charter schools do not levy property taxes, charter schools should continue to be exempt from Sections 53A-19-103 and 105.

Option #2: Amend Section 53A-1a-510.5 to provide more specificity pertaining to the closure of a charter school. Since the first two charter schools closed this fall, we have learned a lot from those closures. Many questions were raised. USOE staff found that the procedures in statute and Board rule are lacking guidance.

USOE recommends that Section 53A-1a-510.5 be amended to:

- Replace the references to "as soon as possible" to hard timelines;
- Increase the number of entities that a closing school is required to notify when the school is going to close;
- Change some of the responsibilities currently delegated to a closing school and reassign them to the authorizer; and
- Require the authorizer to oversee and supervise the audit, inventory, and liquidation of assets.



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Option #3: Amend provisions in Section 53A-1a-508 to limit a new charter school’s charter agreement with a charter school authorizer to a three- to five-year initial contract that may be renewed upon successful execution of the charter agreement. Currently, most, if not all charter agreements are entered into without an end date or with contract terms and the agreements do not require the contract to be periodically reviewed or amended. The reason this could be problematic is because in accordance with Subsection 53A-1a-508(3) a charter agreement "may not be modified except by mutual agreement between the charter school authorizer and the governing board of the charter school."

Limiting the charter agreement authorizing the opening of a charter school to an initial three- to five-year term would allow and establish an expectation that a charter school authorizer review the student performance of the students within the charter school and confirm the financial stability of the school before finalizing a charter agreement that would remain in effect in perpetuity. The initial term would also incentivize a new charter school to demonstrate success according to the performance measures in the charter agreement within the three- to five-year initial term.