

**EDUCATION AND LABOR CABINET**  
**Kentucky Board of Education**  
**Department of Education**  
**(Amendment)**

**701 KAR 8:040. Conversion charter school petition, conversion, and operation.**

RELATES TO: KRS 160.1590, 160.1591, 160.1592, 160.1593, 160.1594, 160.1595, 160.1596, 160.1597, 160.1598, 160.1599, 161.011, 161.141, 161.800

STATUTORY AUTHORITY: KRS 160.1599

NECESSITY, FUNCTION, AND CONFORMITY: KRS 160.1599 requires the Kentucky Board of Education to promulgate an administrative regulation to govern the processes and procedures for the petition, the conversion, and the operation of a conversion public charter school. This administrative regulation establishes requirements for conversion public charter schools.

Section 1. Definitions.

- (1) "Adult student" means a student who is eighteen (18) years or older who is still eligible for enrollment and attendance at a school program pursuant to KRS 158.030 and 158.100.
- (2) "Applicant" is defined by KRS 160.1590~~[(3)]~~(2).
- (3) "Charter application" is defined by KRS 160.1590~~[(4)]~~(3).
- (4) "Charter contract" or "contract" is defined by KRS 160.1590~~[(5)]~~(4).
- (5) "Charter school" means a public charter school.
- (6) "Charter school board of directors" is defined by KRS 160.1590~~[(6)]~~(5).
- (7) "Conversion public charter school" or "conversion charter school" is defined by KRS 160.1590~~[(7)]~~(6).
- (8) "Days" means calendar days calculated pursuant to KRS 446.030.
- (9) "Emancipated youth" means a student under the age of eighteen (18) who is or has been married or has by court order or otherwise been freed from the care, custody, and control of the student's parents.
- (10) "Enrollment" means the process for the charter school to register a student for attendance at the charter school.
- (11) "Grade" or "grade level" means a single elementary, middle, or high school grade of school.
- (12) "Local board of education" means local school board as defined by KRS 160.1590(9).
- (13) "Local school district" is defined by KRS 160.1590(10).
- (14) "Lottery" means the transparent, open, equitable, and impartial process that is competently conducted with randomization in accordance with the targeted student population and service community as established in KRS 160.1593(3) for the charter school to choose students for enrollment and attendance at the charter school if the student applications received by the charter school exceed the charter school's capacity.
- (15) "Notice" means written notice.
- (16) "Notify" means provide written notice.
- (17) "Parent" is defined by KRS 160.1590(11).
- (18) "Person with custody or charge" means any adult, pursuant to KRS 159.010, who falls within the definition for "interested person or entity" as defined by KRS 387.010(2) for an interested person or entity and with whom the student resides.
- (19) "Petitioner" means the persons or organizations initiating and circulating a petition to convert an existing public school to a charter school.
- (20) "Public charter school" is defined by KRS 160.1590~~[(12)]~~(14).

(21) "School level", "level", or "educational level" means the configuration of grade levels that form elementary, middle, and high schools.

(22) "Student" is defined by KRS 160.1590~~(19)~~(18) and includes any person who is entitled to enrollment and attendance at a school program as provided in KRS 158.030 and 158.100.

(23) "Student application" means an application submitted to a charter school for student enrollment in the charter school.

(24) "Superintendent" means the local school district employee tasked with the duties established in KRS 160.370.

(25) "Year", "academic year", or "school year" means school year as defined by KRS 158.050.

## Section 2. Conversion Petition and Charter Application.

(1) The department shall annually publish on its website a list of noncharter public schools, by school level, level, or educational level, that are eligible for charter school conversion through the petition process pursuant to KRS 160.1599(2)(a).

(2) Prior to circulation of a petition to convert an existing public school to a charter school, a petitioner shall file a notice of intent with the resident board of education.

(3) If a charter application proposes that a newly converted charter school is to be established and prepared to enroll students for the next school year, both the charter application and the petition, determined to be valid pursuant to subsection (9) of this section, proposing the conversion of an existing public school to a charter school shall be submitted to the authorizer on or before October 30.

(4) A petitioner shall utilize the Public Charter School Conversion Petition and shall include the following information in a petition to convert an existing public school to a charter school:

(a) A written statement that the petition seeks to convert the existing public school to a charter school;

(b) A written statement of the reasons the petitioner believes the existing public school should be converted to a charter school, including descriptions of how the conversion public charter school shall accomplish the purposes of KRS 160.1591(2); and

(c) Information for filing a written complaint to the commissioner of education regarding the petition or the petitioner.

(5) For the signatures on the petition to count toward the requirements of KRS 160.1599(2)(a) or (b), a petitioner shall ensure inclusion of the following from each of the existing public school's resident parents, persons with custody or charge, adult students, or emancipated youth students signing the petition:

(a) Their printed names;

(b) Their mailing and street address, phone number, and email address, as available; and

(c) Their signature in ink or indelible pencil;

(6) The inclusion of signatures, from adult students, emancipated youth students, or parents or persons with custody or charge, on behalf of students who do not attend the existing public school as residents of the local school district and under the attendance zone boundary policies and procedures of the local board of education for the local school district, shall not count toward the requirements of KRS 160.1599(2)(a) or (b).

(7) Signatures from parents, persons with custody or charge, adult students, and emancipated youth students shall count toward the requirements of KRS 160.1599(2)(a) or (b) up to but not in excess of the number of students attending the existing public school for whom those individuals are parents or persons with custody or charge or the students themselves.

(8) The inclusion of an invalid signature on the petition shall not invalidate the entire petition, but shall instead result in the invalid signature being stricken and not counted.

(9) Within thirty (30) days of receipt of a petition for conversion of an existing public school, a local school district designee of the local board of education shall conduct and complete an examination of the signatures on the petition and any necessary investigation to make a determination of whether the petition contains enough signatures of qualified resident adult students, emancipated youth students, and parents and persons with custody or charge of students attending the existing public school to meet the requirements of KRS 160.1599(2)(a) or (b).

(10) Within three (3) days of making the determination in subsection (9) of this section, the local school district designee of each local board of education that has authority over the existing public school shall provide notice as to whether the petition met the requirements of this administrative regulation and KRS 160.1599(2)(a) or (b):

(a) On the local school district website; and

(b) To the following:

1. The petitioner;
2. The existing public school's principal;
3. Any school-based decision making council of the existing public school established under KRS 160.345; and
4. Each local board of education with authority over the existing public school.

(11) For a petition under KRS 160.1599(2)(b), each local board of education's majority vote to convert the existing public school to a charter school shall be conducted at its next regular meeting or an earlier special meeting.

(12) Any person who has reason to believe that the petition process was not conducted pursuant to the requirements of this administrative regulation or that the signatures on the petition were procured through fraud, intimidation, bribery, or harassment, may file a written complaint with the commissioner of education and the commissioner of education shall:

(a) Cause an investigation to determine the validity of the petition;

(b) Ensure the investigation is completed within thirty (30) days of receipt of the complaint; and

(c) Render a determination as to the validity of the petition.

(13) If the petition fails to meet the requirements of this administrative regulation and KRS 160.1599(2)(a) or (b) or if the commissioner of education determines the petition to be invalid, the existing public school shall not be eligible for conversion to a charter school unless:

(a) Each local board of education with authority over the existing public school acts pursuant to KRS 160.1599(2)(c); or

(b) Another petition is circulated and determined to be valid pursuant to KRS 160.1599(a) or (b) and this administrative regulation.

(14) After any vote by each local board of education required pursuant to KRS 160.1599(2)(a), (b) or (c), an applicant shall submit to the authorizer a charter application to convert an existing public school to a charter school during the same school year as:

(a) Each local board of education's vote to convert an existing public school to a charter school pursuant to KRS 160.1599(2)(c); or

(b)

1. The circulation of a petition pursuant to KRS 160.1599(2)(a) or (b);
2. The issuance of the determination in subsection (9) of this section that the petition is valid; and
3. A majority vote of each local board of education with authority over the existing public school, if required by KRS 160.1599(2)(b).

(15) After any vote by each local board of education required pursuant to KRS 160.1599(2)(b) or (c), the authorizer shall allow submission of a charter application to convert the existing public school to a charter school during the same school year as:

(a) Each local board of education's vote to convert the existing public school to a charter school, pursuant to KRS 160.1599(2)(c); or

(b)

1. The circulation of a petition pursuant to KRS 160.1599(2)(a) or (b);

2. The issuance of the determination in subsection (9) of this section that the petition is valid; and

3. A majority vote of each local board of education with authority over the existing public school, if required by KRS 160.1599(2)(b).

(16) The authorizer shall commence the charter application review and approval process pursuant to KRS 160.1594 and 701 KAR Chapter 8 upon receipt of a charter application to convert an existing public school to a charter school within the same school year as either:

(a) Each local board of education's vote to convert an existing public school to a charter school pursuant to KRS 160.1599(2)(c); or

(b)

1. The circulation of a petition pursuant to KRS 160.1599(2)(a) or (b);

2. The issuance of the determination in subsection (9) of this section that the petition is valid; and

3. A majority vote of each local board of education, if required by KRS 160.1599(2)(b).

(17) The authorizer shall review the petition and a submitted charter application and only approve the conversion of an existing public school if the charter application meets the requirements of KRS 160.1590 to 160.1599, 161.141, and 701 KAR Chapter 8 and if:

(a) The petition meets the requirements of KRS 160.1599 and this administrative regulation during the same school year as the filing of the charter application, and if the commissioner of education has not determined the petition to be invalid; or

(b) Each local board of education with authority over the existing public school has voted within the same school year to convert an existing public school to a charter school.

(18) The department shall create a charter school conversion petition and application guidance document that petitioners, applicants, authorizers, and local boards of education may utilize.

### Section 3. Conversion.

(1) No conversion public charter school shall begin operation after the beginning of a school year.

(2) After each local board of education's vote to convert an existing public school to a charter school or completion of the petition process requirements of KRS 160.1599(2)(a) or (b) and this administrative regulation, and after the authorizer's approval of a charter application to establish a conversion public charter school, each superintendent of a district with authority over the existing public school shall:

(a) Notify resident students of the conversion of the existing public school and provide information for student application to the conversion charter school during the time that information on other school programs in the local school district is provided;

(b) Create with the conversion charter school board of directors a plan for conversion of the existing public school that shall include, at a minimum, timelines, roles, responsibilities, and notification requirements for the following:

1. Coordination of student application, lottery, enrollment, and transfer to and from the conversion charter school; and

2. 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 contract;
  - (c) 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
  - (d) 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.
- (3) Each local board of education with authority over the existing public school and the conversion charter school board of directors shall execute a lease for the public school facility prior to the operation of a conversion public school.
  - (4) The department shall create a charter school conversion process guidance document that an authorizer, local board of education, and a charter school board of directors may utilize.

#### Section 4. Employees.

- (1) Local school district employees placed in the existing public school prior to conversion, who are not hired by the conversion charter school board of directors to work in the converted charter school, shall retain their employment rights with the local school district, pursuant to KRS Chapter 161 and under the provisions of any collective bargaining agreement with the local school district. Conversion of an existing public school of the local school district may result in the circumstances described in KRS 161.800 and 161.011 necessitating the local school district superintendent's review of the necessity for a reasonable reduction in the number of teachers and classified employees employed by the local school district under KRS 161.800 and 161.011.
- (2) A teacher, with continuing status pursuant to KRS Chapter 161, who is employed by a Kentucky local school district, who is hired by the conversion charter school board of directors to work in the converted charter school, and who is granted leave by the employing local board of education pursuant to ~~KRS 160.1593(22)~~ KRS 160.1592(22), shall notify the local school district of the teacher's intent to work in the converted charter school or to return to employment with the local school district the next school year by April 15 of each year of the granted leave.
- (3) The department shall create a charter school conversion employee transition guidance document that an authorizer, local board of education, and a conversion charter school may utilize.

#### Section 5. Students.

- (1) Each local school district with authority over the existing public school shall provide, to the students and parents and persons with custody or charge of students who attend an existing public school that has been approved for conversion to a charter school, information and any plan the local school district shall use to address the educational needs and placements of students who choose not to attend or who otherwise shall not be attending the conversion charter school.
- (2) The department shall create a charter school conversion student transition guidance document that an authorizer, local board of education, and a conversion charter school may utilize.

#### Section 6. Operation and Reversion of a Conversion Charter School.

- (1) An authorizer may otherwise renew, non-renew, revoke, or take other action regarding a conversion public charter school as provided in KRS 160.1590 to 160.1599, 161.141, and 701 KAR Chapter 8.

(2) If a closed conversion charter school is reverting back to its noncharter status, each local board of education with authority over the existing public school shall solicit feedback on the future of the school from parents, persons with custody or charge, adult students, and emancipated youth students of the school prior to the reversion.

Section 7. Incorporation by Reference.

(1) "Public Charter School Conversion Petition", October 2022~~[February 2018]~~, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Education, Office of Legal~~[, Legislative and Communication]~~ Services, 5th floor, 300 Building, 300 Sower Boulevard, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

*This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).*

*JASON E. GLASS, E.D. Commissioner*

*LU S. YOUNG, Ed.D., Board Chairperson*

APPROVED BY AGENCY: October 13, 2022

FILED WITH LRC: October 13, 2022 at 3:42 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on December 21, 2022, at 11 am in the State Board Room, 5th Floor, Kentucky Department of Education, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until December 31, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Todd G. Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321, email [regcomments@education.ky.gov](mailto:regcomments@education.ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

**Contact Person: Todd G. Allen**

**(1) Provide a brief summary of:**

**(a) What this administrative regulation does:**

This regulation outlines the procedures to be used to convert an existing public school to a public charter school. It outlines the requirements and processes for petitioning a local board of education and managing a conversion.

**(b) The necessity of this administrative regulation:**

This administrative regulation is required under KRS 160.1598.

**(c) How this administrative regulation conforms to the content of the authorizing statutes:**

This regulation outlines the procedures to be used to convert an existing public school to a public charter school. It outlines the requirements and processes for petitioning a local board of education and managing a conversion.

**(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:**

This regulation is required by KRS 160.1598. It outlines the procedures to be used to convert an existing public school to a public charter school. It outlines the requirements and processes for petitioning a local board of education and managing a conversion.

**(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:**

**(a) How the amendment will change this existing administrative regulation:**

The regulation amendments include those changes required by House Bill 9 (2022). It outlines the procedures to be used to convert an existing public school to a public charter school. It outlines the requirements and processes for petitioning a local board of education and managing a conversion.

**(b) The necessity of the amendment to this administrative regulation:**

This amendment is required to conform to statutory amendments made by House Bill 9 (2022).

**(c) How the amendment conforms to the content of the authorizing statutes:**

This amendment includes updates prompted by House Bill 9 (2022) including updated definitions, updated enrollment preferences, and technical amendments as required to conform to the statute.

**(d) How the amendment will assist in the effective administration of the statutes:**

This amendment is required to ensure that public charter school authorizers remain in compliance with KRS 160.1590 through 160.1599 as amended by House Bill 9 (2022).

**(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:**

Local school districts, public charter school authorizers, parents, students.

**(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:**

**(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:**

This regulation outlines the procedures to be used to convert an existing public school to a public charter school. It outlines the requirements and processes for petitioning a local board of education and managing a conversion.

**(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):**

The changes to this administrative regulation will not result in any additional cost to any of the identified entities. In the event of a conversion pursuant to the regulation, substantial cost to school districts are possible in the form of administrative expenses managing a conversion, legal expenses related to a conversion, and loss of use of school buildings utilized for a conversion.

**(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):**

The regulation ensures compliance with KRS 160.1590 to 160.1599.

**(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:**

**(a) Initially:**

This regulation amendment will not increase costs to the administrative body.

**(b) On a continuing basis:**

This regulation amendment will not create continuing costs to the administrative body.

**(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:**

This regulation amendment does not create new costs or continuing costs to the administrative body. In the event of a conversion pursuant to the regulation, substantial cost to school districts are possible in the form of administrative expenses managing a conversion, legal expenses related to a conversion, and loss of use of school buildings utilized for a conversion. State and local funds will be utilized to cover these costs.

**(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:**

This administrative regulation will not result in the collection of fees.

**(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:**

This administrative regulation does not establish fees.

**(9) TIERING: Is tiering applied?**

Tiering is not applied to this regulation as it applies equally to all public charter school authorizers.

## FISCAL NOTE

**(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?**

This administrative regulation impacts public charter school authorizers, which may include public school districts or state universities.

**(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.**

KRS 160.1590, 160.1591, 160.1592, 160.1593, 160.1594, 160.1595, 160.1596, 160.1597, 160.1598, 160.1599, 161.011, 161.141, 161.800

**(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.**

**(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?**

This administrative regulation will not generate revenue for state or local governments.

**(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?**

This administrative regulation will not generate revenue for state or local governments.

**(c) How much will it cost to administer this program for the first year?**

There is no additional cost to administer this program for the administrative body. Costs to local school districts will depend on whether they receive a petition for conversion. In the event of a conversion pursuant to the regulation, substantial costs to school districts are possible in the form of administrative expenses managing a conversion, legal expenses related to a conversion, and loss of use of school buildings utilized for a conversion. State and local funds will be utilized to cover these costs.

**(d) How much will it cost to administer this program for subsequent years?**

There is no additional cost to administer this program for the administrative body. Costs to local school districts will depend on whether they receive a petition for conversion. In the event of a conversion pursuant to the regulation, substantial costs to school districts are possible in the form of administrative expenses managing a conversion, legal expenses related to a conversion, and loss of use of school buildings utilized for a conversion. State and local funds will be utilized to cover these costs.

**Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.**

**Revenues (+/-):\$0.00**

**Expenditures (+/-):In the event of a conversion pursuant to the regulation, substantial costs to school districts are possible in the form of administrative expenses managing a conversion, legal expenses related to a conversion, and loss of**

use of school buildings utilized for a conversion. State and local funds will be utilized to cover these costs.

**Other Explanation:**

**(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.**

**(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?**

This administrative regulation will not result in cost savings.

**(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?**

This administrative regulation will not result in cost savings.

**(c) How much will it cost the regulated entities for the first year?**

Costs to local school districts will depend on whether they receive a petition for conversion. In the event of a conversion pursuant to the regulation, substantial costs to school districts are possible in the form of administrative expenses managing a conversion, legal expenses related to a conversion, and loss of use of school buildings utilized for a conversion. State and local funds will be utilized to cover these costs.

**(d) How much will it cost the regulated entities for subsequent years?**

Costs to local school districts will depend on whether they receive a petition for conversion. In the event of a conversion pursuant to the regulation, substantial costs to school districts are possible in the form of administrative expenses managing a conversion, legal expenses related to a conversion, and loss of use of school buildings utilized for a conversion. State and local funds will be utilized to cover these costs.

**Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.**

**Cost Savings (+/-):\$0.00**

**Expenditures (+/-):Costs to local school districts will depend on whether they receive a petition for conversion. In the event of a conversion pursuant to the regulation, substantial costs to school districts are possible in the form of administrative expenses managing a conversion, legal expenses related to a conversion, and loss of use of school buildings utilized for a conversion. State and local funds will be utilized to cover these costs.**

**Other Explanation:**

**(5) Explain whether this administrative regulation will have a major economic impact, as defined below.**

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] Whether this administrative regulation will result in a major economic impact as defined by KRS 13A.010(13) is dependent on whether conversion petitions are received. In the event of a conversion pursuant to the regulation, substantial costs to school districts are possible in the form of administrative expenses managing a conversion, legal expenses related to a

conversion, and loss of use of school buildings utilized for a conversion, which may result in a major economic impact as defined by KRS 13A.010(13).