

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2022 REGULAR SESSION
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Amend printed copy of **HB 9/HCS 1**

On page 3, line 23, strikethrough "and";

On page 4, line 2, after "authorizer;" insert:

"and

(e) The Kentucky Public Charter School Commission, which shall have a statewide jurisdiction;";

On page 15, line 20 to 23, delete all language and insert in lieu thereof:

"(2) An applicant shall submit an application for approval of a public charter school to an authorizer and, **if the authorizer is not the Kentucky Public Charter School Commission, then the applicant shall also submit a written notification of the application** simultaneously to the **commission and** state board **as a record of the filing**. Charter authorizers shall accept and document the date and time of receipt of all charter applications.";

On page 24, line 4, through page 27, line 8, delete all language and insert in lieu thereof:

" ➔ Section 6. KRS 160.1595 is amended to read as follows:

(1) **[The] A charter applicant or the board of directors of an approved public charter school may select to appeal to either the Kentucky Public Charter School Commission or the Kentucky Board of Education which shall serve as separate appellate boards.**

(2) An applicant or board of directors of a public charter school may request technical

Amendment No. HFA 30

Rep. Rep. Felicia Rabourn

Committee Amendment _____

Signed: _____

Floor Amendment _____

LRC Drafter: _____

Adopted: _____

Date: _____

Rejected: _____

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assistance from either appellate board to address deficiencies identified by an authorizer.

The selected appellate board shall respond within thirty (30) days of the request.

(3) A selected appellate board~~[state board]~~, upon receipt of a notice of appeal~~[or upon its own motion]~~, shall review decisions of the~~[any]~~ authorizer concerning the approval or denial of a public charter school application, the nonrenewal or revocation of a public charter school's contract, the denial of a public charter school's request to consider a charter amendment, or the unilateral imposition of conditions in the charter contract, in accordance with the provisions of this section. However, neither appellate board shall review the appellate decisions of the other appellate board.

(a)~~(2)~~ A charter applicant or approved public charter school who wishes to appeal a decision of an authorizer concerning a charter application, a charter amendment, or the nonrenewal or revocation of a charter, or the unilateral imposition of conditions, shall provide the selected appellate board~~[state board]~~ and the authorizer with a notice of appeal within thirty (30) days after the authorizer's decision. The appellant~~[person bringing the appeal]~~ shall limit the grounds of the appeal to the grounds for the denial of or the nonrenewal or revocation of a charter, or the unilateral imposition of conditions, whichever is being appealed, specified by the authorizer. The notice shall include a brief statement of the reasons the public charter school applicant or public charter school contends the authorizer's denial of or nonrenewal or revocation of a charter, or imposition of conditions was in error.

(b)~~(3)~~ If the notice of appeal~~[or the motion to review by the state board]~~ relates to an authorizer's decision to deny, refuse to renew, or revoke a charter or to an authorizer's unilateral imposition of conditions that are unacceptable to the charter applicant or public charter school, the appeal and review process shall be as follows:

1.~~(a)~~ Within forty-five (45) days after receipt of the notice of appeal~~[or the~~

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~~making of a motion to review by the state board}~~ and after reasonable public notice, the *selected appellate board*~~{state board}~~, at a public hearing which may be held in the school district in which the proposed public charter school has applied for a charter *or where the public charter school exists*, shall review the decision of the authorizer and make its findings;~~{.}~~

2. The selected appellate board shall determine:

a. If the final decision of the authorizer was contrary to the best interest of the students or community; and

b. If the application failed to satisfy the requirements of subsections (3) and (4) of Section 4 of this Act;

3. If the *selected appellate board*~~{state board}~~ finds that the authorizer's decision was contrary to the best interest of the students or community *and the application satisfies the statutory requirements*, the *selected appellate board*~~{state board}~~ shall ~~{remand such decision to the authorizer with written instructions for reconsideration thereof. The instructions shall include specific recommendations concerning the matters requiring reconsideration;~~

~~(b) Within thirty (30) days following the remand of a decision to the authorizer and after reasonable public notice, the authorizer, at a public hearing, shall reconsider its decision and make a final decision;~~

~~(c) If the authorizer's final decision is still to deny, refuse to renew, or revoke a charter or to unilaterally impose conditions unacceptable to the charter applicant, a second notice of appeal may be filed with the State Board of Education within thirty (30) days following such final decision;~~

~~(d) Within thirty (30) days following receipt of the second notice of appeal or the making of a motion for a second review by the State Board of Education and~~

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~~after reasonable public notice, the state board, at a public hearing shall determine if the final decision of the authorizer was contrary to the best interest of the students or community. If such a finding is made, the state board shall remand such final decision to the authorizer with instructions to approve the charter application or amendment, or to renew or reinstate the charter, or to approve or disapprove conditions imposed. The decision of the selected appellate board~~[state board]~~ shall be a final action subject to judicial review in the Circuit Court encompassing the school district in which the public charter school is located; and~~

~~4.[(e)]~~ Charters granted to applicants by authorizers after a successful appeal to the selected appellate board~~[state board]~~, as outlined in subparagraph~~[paragraph]~~ ~~1.[(d)]~~ of this paragraph~~[subsection]~~, shall be provided joint oversight by the authorizer and the selected appellate board~~[state board]~~ for, at a minimum, the first five (5) years of the school's operation, and until the authorizer, the selected appellate board~~[state board]~~, and public charter school agree that charter oversight may be provided solely by the authorizer. The selected appellate board~~[state board]~~ shall be a formal participant in all authorizing decision making concerning the public charter school during that period, and shall be included in all communication between the public charter school and the authorizer.

~~[(4) (a) Within ten (10) days of taking action to approve or deny a charter application that has been remanded back to the authorizer for reconsideration, the authorizer shall notify the state board of the action taken.~~

~~(b) The authorizer shall provide a report to the charter applicant, the state board, and the Education and Workforce Development Cabinet simultaneously and~~

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~~shall include a copy of the resolution adopted by the authorizer's board of directors identifying any action taken, the reason for the decision, and an assurance as to compliance with all of the procedural requirements and application elements found in this section and KRS 160.1591 and 160.1593.];~~

On page 33, line 23, after "*If the*", insert "*Kentucky Public Charter School Commission or the*";

On page 33, line 24, after "*the*", insert "*commission or*";

On page 40, line 13, bracket and strike through "state board";

On page 40, line 13, after "to the" insert "*Kentucky Public Charter School Commission and the Kentucky Board of Education*";

On page 40, line 14, after "to the", insert "*commission and*"; and

On page 42, after line 20, insert the following and renumber subsequent sections accordingly:

" ➔SECTION 11. A NEW SECTION OF KRS 160.1590 TO 160.1599 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Public Charter School Commission is hereby created as an independent agency of the Commonwealth and shall be attached to the Kentucky Department of Education for administrative purposes and be subject to the reorganization by the Governor under KRS 12.028. The commission shall:

(a) Have jurisdiction to authorize high-quality public charter schools that provide more options for students to attain a thorough and efficient education, including through schools designed to expand the opportunities for at-risk students, for students with individualized education programs, and for students seeking career readiness opportunities;

(b) Consider applications for public charter schools throughout the state;

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- (c) Approve charter applications and renew charter contracts that meet the requirements of this section and Section 5 of this Act; and
- (d) Review appeals of decisions of other authorizers as established in Section 6 of this Act.
- (2) The commission shall be composed of the following seven (7) voting members:
- (a) Six (6) members appointed by the Governor and subject to Senate confirmation with each member residing in a different congressional district. Upon a vacancy, the Speaker of the House and the President of the Senate may submit recommended appointments to the Governor; and
- (b) The commissioner of education or the commissioner's designee;
- (3) (a) Each appointed member of the commission shall satisfy the following requirements:
1. Be a citizen of Kentucky;
 2. Possess experience and expertise in:
 - a. Public or nonprofit governance;
 - b. Management and finance;
 - c. Public school leadership;
 - d. Assessment, curriculum, or instruction; or
 - e. Public education law; and
 3. Have stated a commitment to charter schooling as an effective strategy for strengthening public education.
- (b) No more than three (3) of the appointed members of the commission shall be of the same political party.
- (c) The appointed members shall reside in geographically diverse areas of the state.
- (d) No person shall be appointed who holds any other public office or public

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employment under the government of the Commonwealth or any of its political subdivisions, or who is an appointee or employee of any charter school board of directors or an immediate family member of an employee under the jurisdiction of the commission or any public charter school board of directors.

(e) No person shall be appointed who is engaged in, or employed by, a person or company with a primary function that involves the sale of services and activities to public charter schools or charter school boards of directors.

(4) Three (3) of the initial appointments shall be for two (2) year terms and three (3) of the initial appointments shall be for one (1) year terms. Thereafter, all appointments shall be for two (2) year terms. The initial appointments shall be made before August 1, 2022, and the commission shall meet within one (1) month at the call of the Governor to organize and select a chair. A vacancy on the commission shall be filled for the remainder of the unexpired term in the same manner as the original appointment. An appointed member shall not serve more than two (2) consecutive full terms, except that a member may be reappointed after a break in service of one (1) full term.

(5) The commission shall annually elect a chairperson.

(6) An appointed member of the commission may be removed from office by the Governor for official misconduct, incompetence, neglect of duty, or gross immorality. An appointed member may also be removed if the member's personal incapacity renders the member incapable or unfit to discharge the duties of the office or if the member is absent from a number of commission meetings as established in commission bylaws.

(7) Except in the case of gross negligence or reckless disregard of the safety and well-being of another person, the commission and members of the commission in their official capacity are immune from civil liability with respect to all activities related to a public charter schools authorized by the commission.

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- (8) The commission shall employ and fix the compensation of an executive director, who shall be its secretary and principal executive officer. The executive director shall demonstrate an understanding of public charter schools as a strategy for strengthening public education and shall possess an understanding of state and federal education law. The executive director shall be responsible for:
- (a) Organizing and staffing meetings of the commission;
 - (b) Establishing policies to ensure retention of charter appeals documentation;
 - (c) Ensuring that minutes and other financial, procedural, appeal, and operational records are securely maintained and archived;
 - (d) Producing internal and external correspondence and communication;
 - (e) Submitting reports and agenda items for review and approval;
 - (f) Assisting the commission in conducting the business of the commission;
 - (g) Carrying out policy and directives of the commission;
 - (h) Preparing budget submissions;
 - (i) Ensuring that charter appeals are provided to the commission and arranging for independent reviews of appeals as needed;
 - (j) Ensuring that an independent audit of commission finances is conducted biennially;
 - (k) Ensuring that formal written agreements are executed for the procurement of administrative and legal services;
 - (l) Formalizing office policies and procedures relating to charter authorizer and financial operations;
 - (m) Developing and implementing a process for monitoring expenditures and reconciling on a monthly basis commission fund receipts; and
 - (n) Other activities necessary to ensure that the commission meets its designated duties

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and responsibilities.

- (9) The commission shall have full authority to employ and fix the compensation for any personnel, including counsel, as it may deem necessary to effectively administer and conduct its duties. The commission shall obtain office space, furniture, stationery, and any other proper supplies and conveniences reasonably necessary to carry out its duties.
- (10) The commission shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish:
1. Commission operating and accountability procedures;
 2. Appeals procedures in compliance with Section 6 of this Act;
 3. Oversight standards and procedures for public charter schools which the commission has authorized or shares joint oversight with an authorizer pursuant to Section 5 of this Act; and
 4. Procedures for the collection and accounting of authorizer fees collected by the commission.
- (11) The commission shall hold meetings at least four (4) times a year and as frequently as it deems necessary at the times and places within this state as the commission may designate. The majority of the voting members shall constitute a quorum and all meetings shall be conducted in accordance with the Open Meetings Act, KRS 61.805 to 61.850.
- (12) The commission may sue and be sued in its own name.
- (13) Commission members shall receive a per diem of one hundred dollars (\$100) for attendance at each commission meeting and may be reimbursed for ordinary travel and other expenses while engaged in the business of the commission."