

**160-4-9-.04 CHARTER SCHOOLS.**

**(1) DEFINITIONS.**

(a) **Charter** – a performance-based contract between the charter authorizer(s) and a charter petitioner. By entering into a charter, a charter petitioner and the charter authorizer(s) shall be deemed to have agreed to be bound to all the provisions of the Charter Schools Act and this Rule as if such terms were set forth in the charter.

(b) **Charter advisory committee** – a committee established by the State Board of Education (SBOE) to make recommendations to the SBOE regarding approval or denial of charter petitions, charter policy, and the disbursement of planning grants for charter systems.

(c) **Charter attendance zone** – all or any portion of the local school system in which the charter school is located and may include all or any portion of other local school systems if the charter school is jointly authorized pursuant to O.C.G.A. § 20-2-2063(c).

(d) **Charter authorizer** – a local school board, the SBOE, or the Georgia Charter School Commission (Commission).

(e) **Charter petitioner** – a local school, local board of education, private individual, private organization, or state or local public entity that submits a petition for a charter. The term “charter petitioner” does not include home study programs or schools, sectarian schools, religious schools, private for profit schools, private educational institutions not established, operated, or governed by the State of Georgia, or existing private schools.

(f) **Charter school** – a public school that is operating under the terms of a charter.

(g) **Charter system** – a local school system that is operating under the terms of a charter.

(h) **Commission** – the Georgia Charter Schools Commission as established by O.C.G.A. § 20-2-2082.

(i) **Commission charter school** – a start-up charter school authorized by the Commission and that is operating under the terms of a charter between a charter petitioner and the Commission.

(j) **Conversion charter school** – a charter school that existed as a local school prior to becoming a charter school.

(k) **Faculty and instructional staff members** – all certificated personnel assigned to the school on a full-time basis and all paraprofessionals assigned to the school on a full-time basis. The term “paraprofessional” shall have the same meaning as set out in O.C.G.A. § 20-2-204.

(l) **Fiscal agent** – the entity responsible for the financial control and management of the

charter school or schools. For state chartered special schools and commission charter schools, the school will act as its own fiscal agent.

(m) **Full-Time Equivalent Program Count (FTE)** – a student count consisting of six state funded segments per student authorized under O.C.G.A. § 20-2-161.

(n) **Governing council** – a school-level council of parents, teachers, administrators, and others who are involved in school-level governance within a charter system.

(o) **High school cluster** – a public high school and all of the public middle and public elementary schools which contain students who matriculate to such high school. The schools in a high school cluster may include charter schools, local schools, or a combination of both.

(p) **Jointly authorized charter school** – a charter school or high school cluster charter authorized by more than one local board and operating under the financial oversight of a designated fiscal agent.

(q) **LEA start-up charter school** – a charter school that did not exist as a local school prior to becoming a charter school and which was created by a local board as part of the existing local school system. The charter petitioner is the local board.

(r) **Local board** – a county or independent board of education exercising control and management of a local school system pursuant to Article VIII, Section V, Paragraph II of the Georgia Constitution.

(s) **Local charter school** – a start-up charter school, an LEA start-up charter school, a high school cluster, a jointly authorized charter school, or a conversion charter school that is operating under the terms of a charter between the charter petitioner, the local board, and the SBOE.

(t) **Local revenue** – local taxes budgeted for school purposes in excess of the local five mill share, combined with any applicable equalization grant and budgeted revenues from any of the following: investment earnings, unrestricted donations, and the sale of surplus property; but exclusive of revenue from bonds issued for capital projects, revenue to pay debt service on such bonds, and local option sales tax for capital projects. Nothing in this paragraph shall be construed to prevent a local board from including a local charter school in projects specified in the ballot language of a local option sales tax or bond referendum.

(u) **Local school** – a public school in Georgia that is under the management and control of a local board.

(v) **Local school system** – the system of public schools established and maintained by a local board within its limits pursuant to Article VIII, Section V, Paragraph I of the Georgia Constitution.

(w) **Petition** – a proposal to establish a charter school or a charter system.

(x) **QBE formula earnings** – funds earned for the Quality Basic Education Formula pursuant

to O.C.G.A. § 20-2-161, including the portion of such funds that are calculated as the local five mill share in accordance with O.C.G.A. § 20-2-164.

(y) **Qualified charter school contributions** – the donation of funds by a taxpayer to a qualified charter school organization for the purchase of real property and for capital outlay for a charter school.

(z) **Qualified charter school organization** – a charitable organization in this state that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code which is approved by the SBOE to provide funds for the purchase of real property for capital outlay for charter schools in this state.

(aa) **School-level governance** – decision-making authority in personnel decisions, financial decisions, curriculum and instruction, resource allocation, establishing and monitoring the achievement of school improvement goals, and school operations.

(bb) **Special school** – a school whose creation is authorized pursuant to Article VIII, Section V, Paragraph VII of the Georgia Constitution.

(cc) **Start-up charter school** – a charter school that did not exist as a local school prior to becoming a charter school. The petitioner is not the local board.

(dd) **State chartered special school** – a charter school created as a special school that is operating under the terms of a charter between the charter petitioner and the SBOE and which acts as its own public Local Education Agency for accountability purposes.

(ee) **System charter school** – a school within a charter system.

(ff) **Virtual charter school** – a charter school that offers full-time enrollment and elementary or secondary education through Internet-based methods, with time and/or distance separating the teacher and the learner.

## (2) RESPONSIBILITIES OF CHARTER AUTHORIZERS.

(a) Local boards shall control and manage local charter schools, pursuant to O.C.G.A. § 20-2-2065(b)(2). At a minimum, this control and management shall include the following responsibilities:

1. Review and act on local charter school petitions;
2. Enforce clear expectations for, and ensure achievement of, performance goals set forth in the charters;
3. Review annual budgets for local charter schools;
4. Ensure that local charter schools comply with the accountability provisions of O.C.G.A. § 20-14-30 *et seq.* and federal accountability requirements;

5. Evaluate a local charter school's performance in relation to the expectations and goals set forth in the charter and take appropriate action based on this evaluation;

6. Distribute applicable federal, state, and local funding to local charter schools in a timely manner and in accordance with law and ensure that funds are spent according to applicable laws, rules, policies, and guidelines, including requirements for the monitoring of the use of federal funds; and

7. Ensure that the requirements of the Individuals with Disabilities Education Act (IDEA) are met. The local board must have a plan to ensure that the local system shall:

(i) Serve students with disabilities attending the local charter school in the same manner as it serves all other students with disabilities in its other local schools;

(ii) Provide funds to local charter schools on the same basis as it provides funds to its other local schools, including proportional distribution based on relative enrollment of children with disabilities; and

(iii) Nothing in this section shall prevent a local board from providing services to students with disabilities at a central location, if that is standard practice for students with disabilities from other local schools in the local school system.

(b) The SBOE shall have the following supervisory duties pursuant to O.C.G.A. § 20-2-2063:

1. Review and act on local charter school petitions and state chartered special school petitions;

2. Ensure the provision of technical assistance to local school systems in successfully administering their responsibilities as described in (2)(a) above;

3. Ensure the provision of technical assistance to petitioners submitting planning grants, implementation grants, facilities grants, charter petitions, petition renewal applications, and any other programs authorized by applicable law;

4. Create and maintain a strategic plan and policy for the state's charter schools program;

5. Manage any applicable federal grant awarded to the state for use by the state's charter schools;

6. Provide an annual report on the status of the state's charter schools program to the General Assembly by December 31, pursuant to O.C.G.A. § 20-2-2070; and

7. Exercise control and management for state chartered special schools in the same manner as described in (2)(a) above.

(c) The Commission shall have the following responsibilities:

1. Approve or deny petitions for commission charter schools, including any amendments

thereto, and renew, nonrenew, or terminate commission charter school petitions in accordance with SBOE rules and regulations;

2. Actively seek supplemental revenue from federal grant funds, institutional grant funds, and philanthropic organizations to support commission charter schools; and

3. Pursuant to O.C.G.A. § 20-2-2088, the chairperson of the Commission shall report annually to the SBOE on the academic performance and fiscal responsibility of all commission charter schools at the January meetings of the SBOE, beginning with the January meeting following the first school year completed by a commission charter school.

4. Pursuant to O.C.G.A. § 20-2-2090(3)(A), if the Commission determines that the proportional share of local revenue provided to a commission charter school should be reduced based on factors that affect the cost of providing instruction, the Commission shall forward that recommendation to the Georgia Department of Education (“the Department”) for consideration and application in accordance with SBOE rules and regulations.

5. In calculating the proportional share of local revenue required to be paid to commission charter schools under O.C.G.A. § 20-2-2090(3)(A), the Department shall use the calculation method provided for determining local revenue for start-up charter schools pursuant to O.C.G.A. § 20-2-2068.1(c).

6. In making a recommendation, if any, as described in 2(c)(4) above, the Commission shall have no authority to recommend that the proportional share of local revenue provided to a commission charter school should exceed the amount determined by the Department based on the calculation called for in 2(c)(5) above.

### **(3) CHARTER PETITION PROCESS.**

(a) **LETTERS OF INTENT.** Letters of intent to submit a charter petition shall be submitted to the Department in accordance with Guidance accompanying this rule and to the appropriate local board(s) at least six months prior to the date on which the petition must be submitted to the Department. A letter of intent is not required for renewal petitions. The letter of intent is for notice purposes only and the Department shall clarify the application of this requirement in specific circumstances.

(b) **PLANNING GRANTS.** Applications for state funded planning grants shall be submitted to the Department in accordance with timelines established by the Department and provided in Guidance accompanying this Rule.

(c) **CHARTER PETITIONS TO LOCAL BOARDS.** Local boards may adopt policies regarding submission of charter petitions which are consistent with the timeline and requirements for charter petitions set forth in this Rule and Guidance accompanying this Rule; provided, however, that the Department may review local board rules to ensure uniform application of this Rule.

1. Pursuant to O.C.G.A. § 20-2-2064(a) and (b), a local board must by a majority vote approve or deny a petition no later than sixty (60) days after its submission unless the petitioner requests an extension.

2. If a local board denies a petition, the local board must within sixty (60) days thereafter specifically state the reasons for the denial, list the deficiencies in the petition relevant to O.C.G.A. § 20-2-2063, and provide a written statement of the denial to the petitioner and the SBOE.

3. If a local board denies a petition, the petitioner shall not be precluded from submitting a revised petition to the local board that addresses the deficiencies cited in the denial.

4. If a local board approves a petition, the local board must within thirty (30) days deliver the approved petition along with the required state application to the Department for review by the SBOE.

(d) CHARTER PETITIONS TO THE DEPARTMENT OF EDUCATION. Under O.C.G.A. § 20-2-2064.1, the Department shall establish annual timelines, page limitations and formatting requirements. Charter petitions must be submitted in accordance with timelines established by the Department and provided in Guidance accompanying this Rule.

(e) CHARTER PETITIONS TO THE COMMISSION. Prior to accepting petitions, the Commission shall be appointed and consist of seven (7) appointed members as set forth in O.C.G.A. § 20-2-2082 and one (1) ex officio member who shall be appointed by the Department. The ex officio member shall be a non-voting member, but shall otherwise participate in Commission meetings and business. After the Commission has been appointed, the Commission shall determine the manner in which it will begin accepting and reviewing commission charter school petitions. The Commission may adopt policies regarding submission of charter petitions which are consistent with the timelines and requirements for charter petitions set forth in this Rule and Guidance accompanying this Rule.1. Proposed commission charter schools that plan to enroll students from five (5) or more counties are not required to submit a petition to the local boards in which the school will be located or from which the school intends to enroll students, but may apply directly to the Commission.

2. Pursuant to O.C.G.A. § 20-2-2086, existing local charter schools and state chartered special schools may submit a petition to the Commission if the current charter will expire prior to entering into a new charter with the Commission or if the local board or SBOE has rescinded or waived the obligations in an existing charter. Existing charter schools shall notify the Department of the intent to seek commission charter school status by submitting a letter to the Department in accordance with Guidance accompanying this Rule.

(f) IMPLEMENTATION GRANTS. Applications for federally-funded implementation grants shall be submitted to the Department in accordance with timelines established by the Department and provided in Guidance accompanying this Rule.

**(4) CHARTER PETITION REVIEW PROCEDURES.**

(a) Department staff shall process all charter petitions and coordinate with the Charter Advisory Committee and the Commission, as applicable, to facilitate their review and recommendations.

(b) Department staff shall make recommendations to the SBOE or the Commission, as appropriate, of approval or denial on each charter petition and shall specify the reasons for such recommendations.

**(5) CHARTER PETITION REQUIREMENTS.**

(a) **START-UP CHARTER PETITIONS.** All start-up charter school petitions, including commission charter school petitions, shall meet the following minimum requirements pursuant to O.C.G.A. § 20-2-2063. Nothing in this Rule shall be construed to prevent the establishment of a charter school as a separate entity within an existing local school, provided that the charter school meets all other requirements of Rule and law.

1. **STATEMENT OF INTENT.** A description of how the proposed charter school promotes the legislative intent of the charter schools program to “increase student achievement through academic and organizational innovation,” in accordance with O.C.G.A. § 20-2-2061.

2. **STATEMENT REGARDING WAIVERS.** A statement that the school either shall or shall not utilize the broad flexibility from law, rule, and regulation permitted by O.C.G.A. § 20-2-2065(a).

(i) Petitioners who will utilize the broad flexibility shall state that the school agrees to comply with all requirements of the Single Statewide Accountability System and shall meet or exceed the performance-based goals included in the charter, including but not limited to raising student achievement. The petition shall include illustrative examples of how the charter school will implement the flexibility to meet or exceed the performance-based goals and to increase student achievement.

(ii) Petitioners who will not utilize the broad flexibility shall enumerate specifically requested waivers in the petition. The petition shall state the rationale for each waiver, including how each waiver shall help the school meet or exceed the performance-based goals and increase student achievement.

(iii) Subject to any waivers requested and subsequently granted by any authorizer, state chartered special schools and commission charter schools shall be considered a separate LEA and shall, to the extent required by law and the charter, state that the school shall comply with all reporting and other requirements applicable to LEAs under statute and SBOE rules and regulations.

3. **STATEMENT OF GOALS AND OBJECTIVES.** The petition must list and describe in detail the specific performance-based goals and measureable objectives, which at a minimum

shall include goals and objectives that are related to the state and federal assessment standards, measurable on at least on annual basis, attainable, and reflect the mission set forth in the petition. The petition shall demonstrate that the performance-based goals and measurable objectives will result in continuous improvement in student achievement and will comply with the Single Statewide Accountability System. Failure to meet the specific performance-based goals and measurable objectives may result in charter termination.

4. PARENTAL AND COMMUNITY INVOLVEMENT. A description of how parents, members of the community, and other interested parties contributed to the development of the petition and how they will be involved in the school.

5. DESCRIPTION OF THE EDUCATIONAL PROGRAM. A description of the following components of the school's educational program, including an explanation of how these components shall contribute to the achievement of the performance-based goals and measurable objectives:

- (i) The school's mission;
- (ii) The ages and grades to be included;
- (iii) The focus of the curriculum;
- (iv) Instructional methods to be used, including any distinctive or unique instructional techniques or educational programs to be employed;
- (v) For students with disabilities, a description of how the school shall provide state and federally-mandated services and comply with all special education laws, including Section 504 of the Rehabilitation Act of 1973, Title II of the Americans With Disabilities Act, and the IDEA;
- (vi) For English Language Learners, a description of how the school shall provide state and federally-mandated services;
- (vii) Anticipated teacher-to-student ratio and the rationale for maintaining this ratio;
- (viii) The extracurricular or other auxiliary educational activities that may be offered at the school, including any partnerships with the local board or other community agencies regarding charter school students utilizing extracurricular activities at the local school that the student would otherwise attend;
- (ix) How the school will meet the needs of students identified as gifted and talented;
- (x) How the school shall provide for supplemental educational services as required by federal law and pursuant to SBOE Rule 160-4-5-.03, and for remediation in required cases pursuant to SBOE Rule 160-4-5-.01; and
- (xi) The school's proposed annual calendar and a draft daily school schedule.

6. DESCRIPTION OF ASSESSMENT METHODS. A description of the school's student assessment plan, including the following components:

(i) A statement detailing how the school shall comply with the accountability provisions of O.C.G.A. § 20-14-30 through § 20-14-41 and federal accountability requirements, including the manner in which the school shall work with the authorizer(s) to participate in statewide assessments.

(ii) A plan to obtain student performance data for each student, which shall include how the current baseline standard of achievement shall be determined in order to meet the petition's performance-based goals and measurable objectives. For the charter school's first year, baseline student achievement data shall be collected within three months of the first day of school. This data may include, but is not limited to, standardized assessment results from previous school years.

(iii) How assessment shall measure improvement and over what period of time.

(iv) The school's plan for using assessment data to monitor and improve achievement for all students.

(v) For charter high schools, a description of the method for determining that a student has satisfied the requirements for high school graduation as defined in SBOE Rule 160-4-2-.47.

7. DESCRIPTION OF SCHOOL OPERATIONS. A description of the school's operations and management plan, including the following components:

(i) The proposed duration of the charter, pursuant to O.C.G.A. § 20-2-2067.1(b).

(ii) The proposed attendance zone for the school, pursuant to O.C.G.A. § 20-2-2062(1.1).

(iii) A description of all rules and procedures that shall govern the admission of students to the charter school, including:

(I) The steps that shall be taken to reach students representative of the racial and socioeconomic diversity in the school system;

(II) A statement as to whether the charter school shall utilize any enrollment priorities pursuant to O.C.G.A. § 20-2-2066(a) and (b); and

(III) If the school will use an application, a copy of the proposed application or a description of the application that demonstrates that the application conforms to the requirements set forth in the Guidance accompanying this Rule, including the requirement that charter schools shall have open enrollment.

(iv) Rules and procedures concerning student discipline and dismissal, including the code of conduct and student due process procedures.

(v) Rules and procedures concerning how the school will handle grievances and complaints from students, parents, and teachers.

(vi) The manner in which the school shall be insured, the terms and conditions thereof, and the amounts of coverage.

(vii) State whether transportation will be provided, and if so, include a statement that the transportation program will comply with applicable law. If transportation will not be provided, explain how this will not discourage eligible students from attending the school.

(viii) State whether food service will be provided including participation in federal school meals programs and, if so, briefly describe the charter school's proposed food service program.

(ix) Describe the employment procedures and policies of the school. The description of employment procedures and policies shall include, at a minimum, the following:

(I) Whether certification by the Georgia Professional Standards Commission will be required. If certification is not required, describe the training and experience that will be required, including how the school will determine whether a teacher has demonstrated competency in the subject area(s) in which he/she will teach as required under No Child Left Behind;

(II) Whether the charter school will use the state salary schedule, and if another schedule will be used, provide that schedule;

(III) The charter school's procedures to ensure compliance with the requirement that all staff members are subject to fingerprinting and background checks; and

(IV) State whether the charter school will elect to participate in the State Health Benefit Plan as provided pursuant to O.C.G.A. § 20-2-880 and § 20-2-910.

(x) Describe the facilities to be used, their location(s), and any pending modifications necessary for utilization for educational purposes. The description must include the following components:

(I) Documentation of ownership or a copy of the lease of the facility. If the facility has not been obtained or the documentation is not available at the time the petition is submitted, the petitioner shall provide a timeline for obtaining such facilities or providing such documentation and shall provide such documentation to the Department as soon as it is available.

(II) A statement as to whether the building is new or existing. Building plans must be approved by the facilities department of the local board in the case of a local charter school or by the facilities department of the SBOE in the case of a state chartered special school or a commission charter school.

(III) A Certificate of Occupancy must be obtained prior to student occupancy of the proposed facility. The latest possible date by which the Certificate of Occupancy shall be obtained must be included in the charter petition.

(IV) The school's emergency safety plan, which may constitute a statement that the petitioner will prepare a safety plan in accordance with O.C.G.A. § 20-2-1185 and submit and obtain approval from the Georgia Emergency Management Agency by a specified date.

(xi) The manner in which the school's enrollment count will be determined for purposes of calculating charter school funding, pursuant to O.C.G.A. § 20-2-2068.1(c) or § 20-2-2090(d), as appropriate.

#### 8. DEMONSTRATION OF FISCAL FEASIBILITY AND CONTROLS.

(i) A description of the school's financial structure, including the following components:

(I) If a local charter school, indicate whether the school shall utilize the local school board for fiscal management; and, if so, specify what autonomy the school shall have over budgets and expenditures.

(II) A statement that the school shall be subject to an annual financial audit conducted by an independent Georgia licensed Certified Public Accountant, in accordance with O.C.G.A. § 20-2-2065(b)(7). The financial reporting format shall be in conformity with generally accepted accounting principles.

(III) Designation of a chief financial officer possessing credentials in accordance with the Guidance accompanying this Rule for the purpose of developing and adhering to generally accepted accounting principles.

(IV) Spreadsheets that have been developed in accordance with Guidance accompanying this Rule, which list detailed budget information projecting revenues and expenditures for the first five years of the proposed charter term. For the first two years of the charter term, the detailed budget information must include spreadsheets projecting revenues and expenditures on a month by month basis and alternative spreadsheets projecting revenues and expenditures that assume one-half of the projected student enrollment for the first two years. If any sources of revenue appearing in the spreadsheets are anticipated to come from private sources, documentation of such revenues must be included along with the petition.

(V) A description of the method used to recruit the number of anticipated students at the school and a statement setting forth the school's plan for maintaining and/or increasing attendance.

(VI) A timeline as to when the school expects to receive state and local funding, as applicable, in order to begin operations.

(VII) A statement that the school shall comply with federal monitoring required for schools that receive federal funds.

(VIII) Commission charter and state chartered special schools shall be required to follow the financial requirements of the Charter Schools Section of the Department's Financial Management for Georgia Local Units of Administration manual. These schools shall be required

to submit all necessary information required by the State Accounting Office for inclusion in the State of Georgia Comprehensive Annual Financial Report.

9. STATEMENT ON ANNUAL REPORT. A statement that the charter school shall provide an annual report to the Department, the local board (if a local charter school), and parents and guardians of students enrolled in the school by October 1 of each year, in accordance with O.C.G.A. § 20-2-2067.1(c) and that such report shall conform with the template provided by the Department.

10. DESCRIPTION OF GOVERNANCE STRUCTURE.

(i) A description of the school's governance structure, including the following components:

(I) A description of how the charter school shall be governed.

(II) A statement that the governing board shall be subject to the provisions of O.C.G.A. § 50-14-1 *et seq.* and O.C.G.A. § 50-18-70 *et seq.*

(III) If a local charter school, a statement that the governing board shall be subject to the control and management of the local board.

(IV) A statement regarding the governing board's function, duties, composition, how and when members shall be selected, trained, how long they shall serve, how members may be removed from office, and how members shall avoid conflicts of interests, as outlined in Guidance accompanying this Rule. Members of the local board and the superintendent of the local school system are prohibited from serving on the charter school's governing board, unless otherwise stipulated by the Department.

(V) A description of how parents, members of the community, and other interested parties will be involved in the governing board of the school.

(VI) A list of proposed business arrangements or partnerships with existing schools, educational programs, businesses, or nonprofit organizations and a disclosure of any potential conflicts of interest. This includes a copy of any intended contracts for the provision of educational management services or the provision of supplemental educational services and remediation, and any agreements with other local schools for the charter school students' participation in extracurricular activities such as interscholastic sports and clubs.

(VII) If a local charter school, a description of the method that the local board and the charter school plan to utilize for resolving conflict.

(ii) Evidence that the charter school, except as noted herein, has been incorporated as a Georgia nonprofit corporation pursuant to the Georgia Nonprofit Corporation Code, O.C.G.A. § 14-3-101 *et seq.*, as required by O.C.G.A. § 20-2-2065(b)(4). This evidence shall include an official copy of the certificate of incorporation from the Georgia Secretary of State and a copy of the by-laws for the Georgia nonprofit corporation. By-laws must specify the duties of governing board members as outlined in Guidance accompanying this Rule. LEA start-up charter schools,

conversion schools, and charter systems are not subject to this requirement pursuant to O.C.G.A. § 20-2-2065(b)(4).

(b) **CONVERSION CHARTER PETITIONS.** All conversion charter petitions shall meet all petition requirements as listed in paragraph (5)(a) above with the exception of (5)(a)(7)(vi) concerning insurance, (5)(a)(7)(x)(I) and (II) concerning facilities, (5)(a)(8)(i) (II), (III), (IV), (V), (VI) and (VIII) concerning fiscal matters, and (5)(a)(10)(ii) concerning formation as a Georgia nonprofit corporation.

1. A conversion charter petition shall include a statement that the petitioner has held the appropriate votes, by secret ballot, required pursuant to O.C.G.A. § 20-2-2064(a)(1) and (2), and shall describe the procedures and outcome of those votes.

(i) For purposes of the vote required pursuant to O.C.G.A. § 20-2-2064(a)(1), each faculty or instructional staff member shall have a single vote.

(ii) For purposes of the vote required pursuant to O.C.G.A. § 20-2-2064(a)(2), a student's parent(s) or guardian(s) shall collectively have one vote for each student enrolled in the school.

2. If the conversion school intends to use the same policies or procedures currently used in the local school district where the conversion charter school is to be located, the petition shall include copies or website references to such policies or procedures.

3. A conversion charter petition shall include a statement detailing the autonomy that the conversion school shall have from the local school system. This statement shall include, among other things, a description of how financial resources will be managed; how human resources will be managed and personnel evaluated; the extent to which parents, community members, and other stakeholders will participate in the governance of the school; and any other innovative practices the school intends to implement. The petition shall describe all policies, procedures, and practices that will materially distinguish the conversion school from the school's pre-conversion model.

4. A statement that the school shall be subject to an annual financial audit conducted either by an independent Georgia-licensed certified public accountant or by the state auditor, in accordance with O.C.G.A. § 20-2-2065(b)(7).

(c) **STATE CHARTERED SPECIAL SCHOOL PETITIONS.** A start-up charter petitioner whose petition has been denied by a local board or boards may submit the charter petition to the SBOE for approval as a state chartered special school, as described in (3)(d) above. If the local board or boards does not vote to approve or deny a petition within sixty (60) days after the date of its submission and the petitioner has not requested an extension, the petition may, upon request of the petitioner, be deemed denied by the local board for purposes of submitting a petition for a state chartered special school. All state chartered special school petitions shall meet all petition requirements as listed in (5)(a) above, as applicable.

1. The content of a state chartered special school petition may not be altered from the content that was submitted to the local board or boards that denied the petition. Once approved, a state

chartered special school may request that a referendum be ordered by the SBOE pursuant to O.C.G.A. § 20-2-2068.1(e).

2. In addition to the charter petition, state chartered special school petitioners shall submit to the SBOE:

(i) A statement regarding whether the school intends to request from the SBOE a local referendum pursuant to O.C.G.A. § 20-2-2068.1(e) and, if so, the timeline for pursuing such a request.

(ii) A copy of the local board's written, specific reasons for denial of the charter petition and a written response to the local board's reasons for denial.

(d) **JOINTLY AUTHORIZED CHARTER PETITIONS.** Two or more local boards may jointly authorize a local charter school pursuant to O.C.G.A. § 20-2-2063(c).

1. Petitions involving two or more local boards shall follow the same requirements as other charter petitions, as outlined above in section (5)(a), with the addition of the following requirements:

(i) A statement specifying which entity shall be the fiscal agent for the jointly authorized charter school;

(ii) A statement specifying how each local board shall contribute local revenue, in a manner consistent with law, to support the charter school; and

(iii) An agreement detailing the involvement and responsibilities of each local board regarding the jointly authorized charter school.

2. The Department shall determine how Adequate Yearly Progress (AYP) is calculated both for the jointly authorized charter school and for the authorizing districts, in accordance with the Single Statewide Accountability System.

3. The local boards may authorize the charter school by one of the following methods:

(i) Each local board shall approve the charter petition before it is submitted to the SBOE; or

(ii) One local board shall submit the petition and enter into an interagency agreement with the other local boards. Such interagency agreement must specify how local revenues shall be allocated to the charter school, and shall become an attachment to the jointly authorized charter petition.

(e) **HIGH SCHOOL CLUSTER PETITIONS.** A high school and all the middle and elementary schools whose students matriculate to that high school may act as a single charter petitioner to convert to charter school status pursuant to O.C.G.A. § 20-2-2063(b). The high school cluster petition may include new and existing start-up charter schools, conversion charter schools, and renewals thereof.

1. The high school charter cluster shall submit a single charter petition, which must describe the rationale for petitioning as a high school cluster, such as consistency of academic calendar or educational approach.

2. The high school cluster petition must address petition requirements for each school as described in (5)(a) and (5)(b) above. In addition, the petition must address the following requirements:

(i) How each school shall be held accountable for performance goals stated in the charter including Adequate Yearly Progress (AYP);

(ii) How the high school cluster as a whole shall be held accountable for performance goals stated in the charter.

(f) CHARTER SYSTEM PETITIONS. All charter system petitions shall address all petition requirements for conversion charter petitions in (5)(b) above with the exception of (5)(a)(5)(viii) relating to extracurricular activities, (5)(a)(7)(iii)(I) relating to recruitment of students from the school system, 5(a)(10) relating to governance, and (5)(b)(1), relating to parent and faculty votes. In addition, the petition shall include the following minimum requirements:

1. GOVERNANCE STRUCTURE AND SCHOOL-LEVEL GOVERNANCE. All charter system petitions must provide a detailed explanation of the system's governance structure and school-level governance, which highlights the differences between the current structure of the system and the proposed charter system, addressing each of the following elements:

(i) Describe the organizational structure of the charter system, including the general areas of responsibility for the principal of each charter system school, the governing council of each charter system school, and the local board of education. With respect to the governing councils, provide a statement for each of the following:

(I) The composition of each council, including how and when members will be selected, how long they will serve, how they can be removed from office, and how they will avoid conflicts of interest.

(II) Acknowledgement of compliance with the provisions of O.C.G.A. § 50-14-1 *et seq.* and O.C.G.A. § 50-18-70 *et seq.*

(ii) Describe in detail the decision-making authority of the principal of each charter system school, the governing council of each charter system school, and the local board of education, including an explanation of the rights and responsibilities of each, and providing specific examples of how decisions will be made, in each of the following areas:

(I) Personnel decisions, including hiring school principals and teachers;

(II) Financial decisions;

(III) Curriculum and instruction;

(IV) Resource allocation;

(V) Establishing and monitoring the achievement of school improvement goals; and

(VI) School operations.

(iii) To meet the objective of maximizing financial decision-making at the school level, describe:

(I) How federal, state, and local funds shall be distributed to each system charter school; and

(II) What autonomy each charter system school shall have over budgets and expenditures.

(iv) Describe in detail any other elements of the system charter that meet the objective of maximizing school-level governance and school choice, including but not limited to open enrollment policies within the charter system or any distinguishing features to be implemented through the use of waivers.

(v) Describe the training that will be provided for principals and for members of the governing councils that will allow them to implement the school-level decision-making described in this paragraph (f)(1). This description shall include training timelines and topics to be covered.

(vi) Describe in detail how the parents, teachers and community members, outside of each school's governing council, will be involved in implementing the school-level decision-making described in this paragraph (f)(1).

2. **FISCAL HISTORY.** Provide a statement regarding the fiscal history of the system, including whether the system currently is operating, or has ever operated, under a fiscal deficit plan over the previous five (5) year period, and if so, state the system's plan to correct the fiscal deficit.

3. A list of any schools within the school system applying for a system charter that are currently in Needs Improvement status, and an explanation of how the school system will support such schools under the system charter.

4. A copy of the local board resolution approving the proposed charter system petition.

5. A copy of the required notice to each principal within the proposed charter system regarding hearings on the charter system petition.

(g) **VIRTUAL CHARTER SCHOOL PETITIONS.** Any petition that includes a proposal to create a virtual charter school shall meet all the requirements set forth in this Rule and all the requirements for virtual charter schools set forth in the Guidance accompanying this Rule.

**(6) RENEWAL OF CHARTERS**

(a) All charter renewal petitions that are submitted by a charter petitioner to the local board(s), SBOE or the Commission shall meet all petition requirements in paragraphs (5)(a), (b), (c), (d), (e), (f), and (g) above which pertain to the type of renewal charter petition submitted, and must comply with current charter law, Rule, and Guidance. In addition, a charter school's renewal petition must contain each of the following:

1. An executive summary that provides:

(i) A succinct overview of the performance of the school or schools over the term of the charter and the proposed changes to the charter;

(ii) Information that demonstrates the success of the charter school(s) or system during the previous charter term(s). This demonstration shall explain how the charter school(s) or system succeeded in meeting the annual measurable objectives of AYP and the performance-based objectives stated in the charter and how the charter school(s) or system succeeded in achieving financial and organizational stability and effectiveness. For high school cluster charter renewal petitions and system charters, this demonstration must address each charter school in the cluster/system and the cluster/system as a whole; and

(iii) If termination proceedings were initiated during the most recent charter term, the petitioner must state that in its charter renewal petition.

**(7) CHARTER AMENDMENTS.**

(a) Pursuant to O.C.G.A. § 20-2-2067.1, the charter of a local charter school may be amended during the charter term upon the approval of the school governing board, the local board(s), and the SBOE. The charter of a state chartered special school may be amended upon the approval of the school governing board and the SBOE. The charter of a charter system may be amended upon approval of the local board and the SBOE. The charter of a commission charter school may be amended during the charter term upon approval of the charter school governing board and the Commission. Once an amendment is approved by the governing board and/or the local board(s), it shall be submitted to the SBOE or the Commission, as appropriate, for approval. Amendment requests submitted to the SBOE and the Commission must address requirements stipulated in Guidance accompanying this Rule.

1. For local charter schools, the local board(s) shall, by a majority vote, approve or deny the proposed amendment no later than sixty (60) days after the amendment's submission to the local board(s), unless the local board(s) and the charter school governing board mutually agree to temporarily postpone the vote to a specific date.

2. The local board(s) shall notify the Department in writing of the charter amendment decision.

3. If the local board(s) and the charter school governing board do not agree to the amendment, the SBOE may recommend mediation between both parties upon the request of any party to help

resolve differences regarding the proposed amendment.

4. If the amendment is not accepted by the local board(s) or the SBOE, the charter continues in its current unamended form.

(b) Pursuant to O.C.G.A. § 20-2-2068(b)(2), the charter of a system charter may be amended with respect to a particular system charter school during the charter system term upon request of the system charter school's governing council.

1. A request to amend a system charter with respect to a particular system charter school must be submitted in writing to the SBOE and to the charter system.

2. The charter system shall have thirty (30) days from receipt of the request for amendment to provide a written response to the SBOE.

3. Upon receipt of the request for amendment and following the 30-day period for the charter system's response, the SBOE shall conduct a hearing and determine whether the system charter shall be amended to address the concerns of the requesting system charter school.

#### **(8) TERMINATION OF A CHARTER.**

(a) Pursuant to O.C.G.A. § 20-2-2068, the termination of a charter for a local charter school may be requested by a majority of the parents or guardians of students enrolled at the charter school, by a majority of faculty and instructional staff employed at the charter school, by the local board(s), or by the SBOE; provided, however, that termination of a system charter may not be requested by either a majority of the parents or guardians of students enrolled at the charter school, or by a majority of faculty and instructional staff employed at the charter school.

(b) For termination requests from a majority of the parents or guardians of students enrolled at the charter school or by a majority of the faculty and instructional staff employed at the charter school:

1. The group requesting the termination of the charter must submit within thirty (30) days of the public meeting held pursuant to O.C.G.A. § 20-2-2068(a)(1) (A) or (B), a petition for termination to the SBOE which shall include the following:

(i) A written statement detailing the reasons for termination, including supporting documentation;

(ii) The minutes, if any, of the public meeting where the termination request was voted upon;

(iii) Documentation showing that a public meeting and vote was held in accordance with the requirements of O.C.G.A. § 20-2-2068(a)(1) (A) or (B);

(iv) A written statement signed by a member of the group requesting termination stating that an identical copy of the materials submitted by such group to the SBOE pursuant to this subsection has also been provided to the appropriate officials at the charter school, which shall

include at a minimum the principal of the school and the president of the governing board, and the superintendent of the local board of education that serves as the fiscal agent for the charter school; and

(v) Any other pertinent information.

2. The charter school and local board shall have thirty (30) days from receipt of the petition for termination to provide a written response to the petition to the SBOE.

3. Upon receipt of the termination request and following the 30-day period for the charter school's response, the SBOE shall conduct a hearing and render a decision in accordance with Georgia's Administrative Procedures Act.

4. If the SBOE votes to sustain the charter, it shall take notice of the termination request if the charter comes up for renewal.

(c) For termination requests originating with the local board(s):

1. The local board(s) shall provide appropriate notice of proposed termination to the charter school and conduct a hearing on the proposed termination in accordance with O.C.G.A. § 20-2-2068;

2. If the determination is made that the termination of the charter will be requested, the local board(s) shall then file a petition for termination with the SBOE within thirty (30) days of the local board hearing.

(i) Pursuant to O.C.G.A. § 20-2-2068(a)(3), the request shall include a succinct statement of the reasons for the termination request, the transcript of the evidence and proceedings, and the decision of the local board of education;

(ii) The local board(s) shall send a copy of the above documents to the charter school at the same time such documents are filed with the SBOE.

3. Upon receipt of the above documents, the SBOE shall assign a hearing officer to consider the petition, review the transcript of evidence, proceedings, and findings of the local board(s), and make a report and recommendation to the SBOE.

(i) The SBOE shall uphold the decision of the local board(s) if it finds sufficient evidence to sustain the decision.

(ii) The SBOE shall render a final written decision and shall notify the parties accordingly.

(d) For termination requests initiated by the SBOE, including termination requests for state chartered special schools:

1. The SBOE shall notify the charter school and, where applicable, the local board(s), of its intention to convene a hearing for the purposes of determining whether the charter school is in

violation of a provision of O.C.G.A. § 20-2-2068(a)(2). The notification shall include the specific provisions of O.C.G.A. § 20-2-2068(a)(2) that the charter school is alleged to have violated and shall contain all information contained in O.C.G.A. § 50-13-13(a)(2).

2. The charter school and, where applicable, the local board(s) shall have thirty (30) days from the date of SBOE notification to file a response.

3. After the thirty-day period for receiving a response has elapsed, the SBOE shall conduct a hearing and render a decision in accordance with Georgia's Administrative Procedures Act.

4. If the SBOE determines that the charter should be terminated, it shall issue a statement setting forth the reasons for such termination.

(e) The governing council of a system charter school may request termination of a system charter. For such requests:

1. A petition to terminate a system charter must be submitted in writing by the school governing council of a system charter school to the SBOE and to the charter system.

2. The charter system shall have thirty (30) days from receipt of the petition for termination to provide a written response to the SBOE.

3. Upon receipt of the petition for termination and following the 30-day period for the charter system's response, the SBOE shall conduct a hearing and determine whether the system charter shall be terminated.

Nothing contained herein shall prevent the SBOE from proposing an amendment to the system charter to address the concerns raised by the request for termination.

(f) The Commission may terminate a charter for a commission charter school as follows:

1. A majority of the parents or guardians of students enrolled or a majority of faculty and instructional staff employed at the commission charter school may vote to request the termination of a commission charter school if they have voted to do so at a public meeting called with two (2) weeks advance notice that the purpose of the meeting is to decide whether to request the Commission to terminate the charter. Within thirty (30) days of this public meeting, the majority of parents or guardians or the majority of faculty and instructional staff shall submit to the Commission a termination petition that shall include the following:

(i) A written statement detailing the reasons for termination, including supporting documentation;

(ii) The minutes, if any, of the public meeting where the termination request was voted upon;

(iii) Documentation showing that a public meeting and vote was held in accordance with the requirements of this Rule;

(iv) A written statement signed by a member of the group requesting termination stating that an identical copy of the materials submitted by such group to the Commission pursuant to this subsection has also been provided to the appropriate officials at the charter school, which shall include at a minimum the principal of the school, the president of the governing board, and the fiscal agent for the charter school; and

(v) Any other pertinent information.

2. The Commission may initiate a termination request if it notifies the charter school of its intention to convene a hearing for the purposes of determining whether the charter school has engaged in any conduct set forth in O.C.G.A. § 20-2-2068(a)(2)(A)-(F). The hearing notification shall include the specific conduct that the charter school is alleged to have engaged in.

3. The charter school shall have thirty (30) days from receipt of the termination petition or hearing notification to provide a written response to the Commission.

4. Following the 30-day period for the charter school's response, the Commission shall conduct a hearing and render a decision.

5. If the Commission determines that the charter should be terminated, it shall issue a statement setting forth the reasons for such termination.

(g) Emergency Terminations. In cases where the health, safety, or welfare of students or staff of a charter school is in danger or where the charter school has experienced financial irregularities, any party to the charter or the SBOE may make an emergency termination request. The SBOE, through a regular or special-called meeting, may temporarily suspend the operations of the charter school until a termination hearing as described above can be conducted. Depending on the nature of the danger or financial irregularity, the SBOE may request the local board(s) to assign the charter school students to another public school or overtake operations of the charter school.

(h) Upon termination, whether initiated during the charter term or at the end of the charter term and with or without the consent of the charter school, all assets and unencumbered funds of the terminated local charter school remaining after liabilities have been satisfied shall revert to the local board(s). All assets and unencumbered funds of a state chartered special school shall revert to the Department. Upon termination or closing of a charter school, the local board(s) shall also notify affected charter school students and parents of the charter school closing and their other public school choice options no later than one week after the charter terminates.

#### **(9) ALLOTMENT OF FUNDS.**

(a) A charter school shall be eligible for federal, state, and other funds pursuant to O.C.G.A. § 20-2-2068.1 and § 20-2-2090, as appropriate. As noted in paragraph (2)(a)(6) above, the local board(s) shall ensure that local charter schools comply with requirements for monitoring of the use of federal funds.

(b) For the purpose of local charter schools, the Department shall determine the allotment of

state funds and the allocation of federal funds for the LEA in which the charter school is physically located, pursuant to O.C.G.A. § 20-2-2068.1, or to the local board stipulated as the fiscal agent in the charter. Upon request, the Department shall provide to potential charter school petitioners estimates of state funds to be available per FTE and the basis for the estimates as well as approximate dates of availability of funds.

(c) Pursuant to O.C.G.A. § 20-2-2068.1(a) the local board(s) and the SBOE shall treat a local charter school no less favorably than other local schools located within the applicable local system unless otherwise provided by law, including with respect to the provision of funds for instruction, school administration, transportation, food services, and, where feasible, building programs. Funds for transportation and food service shall be provided in accordance with Guidance accompanying this Rule. A local charter school may request the SBOE to order mediation if it believes the local board is treating the charter school less favorably than other local schools. A local charter school intending to request that the SBOE order mediation must make a written request for mediation to the local board(s) not less than sixty (60) days before requesting that the SBOE order mediation.

(d) Pursuant to O.C.G.A. § 20-2-2068.1(c), the local board shall calculate and distribute the funding for the start-up charter school on the basis of its actual or projected enrollment in the current school year according to an enrollment count procedure or projection method stipulated in the terms of the charter. This shall include funding on the basis of its actual or projected enrollment in the current school year in the charter school's first year of operation and in any year that the charter school significantly expands its enrollment (*e.g.*, by adding a grade or grades to the school).

#### **(10) CHARTER SCHOOL FACILITIES FUND.**

(a) Pursuant to O.C.G.A. § 20-2-2068.2, in each year in which charter school facilities funds are appropriated by the General Assembly for charter school facilities, the SBOE shall allocate the funds among eligible charter schools.

(b) Charter school facilities funds may, among other allocation methods, be allocated on a per pupil basis. For purposes of this section only, "pupil" is defined as 1.0 FTE. Students who attend a charter school less than full-time may be combined with other part-time students to generate a 1.0 FTE.

(c) Charter schools must enter into a written agreement with the local board that governs the system in which the charter school is physically located or with the local board stipulated as the fiscal agent in the charter that includes a provision for the reversion of any unencumbered funds and all equipment and property purchased with public education funds to the ownership of the local board in the event the charter school terminates operations. State chartered special schools must enter into such agreement with the SBOE.

**(11) CHARTER SCHOOL CAPITAL FINANCING.**

(a) Pursuant to O.C.G.A § 20-2-3010 *et. seq.*, in each year in which charter school capital financing funds are appropriated by the General Assembly, the SBOE shall establish a grant program, in the form of matching funds, for qualified charter school contributions.

(b) The SBOE shall determine the maximum amount of matching funds authorized for each dollar of funds donated to a qualified charter school organization for any single charter school project. In so doing, the SBOE shall take into account local revenue, special-purpose local-option sales tax (SPLOST) and bond funding and shall view such local revenue and funding favorably in determining the amount of grant funds to authorize.

(c) The matching grant funds shall apply to any eligible funds donated to a qualified charter school organization within the three (3) year period immediately preceding an appropriation by the General Assembly.

Authority O.C.G.A §§ 14-3-101, 20-2-880, 20-2-910, 20-2-1185, 20-2-2061, 20-2-2062, 20-2-2063, 20-2-2063.1, 20-2-2063.2, 20-2-2064, 20-2-2064.1, 20-2-2065, 20-2-2066, 20-2-2067, 20-2-2067.1, 20-2-2068, 20-2-2068.1, 20-2-2068.2, 20-2-2069, 20-2-2070, 20-2-2071, 20-2-2080, 20-2-2081, 20-2-2082, 20-2-2083, 20-2-2085, 20-2-2086, 20-2-2088, 20-2-2090, 20-2-2091, 20-2-2092, 20-2-3011, 20-2-3012, 20-2-3013, 20-2-3014, 20-2-3015, 20-14-30 through 20-14-41, 20-2-204, 20-2-161, 20-2-164, 50-14-1, 50-13-13, 50-18-70.

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