

CHAPTER 187
FORMERLY
HOUSE BILL NO. 205

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO CHARTER SCHOOLS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §504A, Title 14 of the Delaware Code by striking the language in the first sentence prior to the punctuation “:” and inserting in lieu thereof: “Consistent with its charter and the provisions of its certificate of incorporation, bylaws or membership agreements, the board of directors of a charter school or schools shall, as to each charter that the board holds, have the power to”.

Section 2. Amend §509(b)(1), Title 14 of the Delaware Code by adding the following after the last sentence of that subsection:

“Notwithstanding the above, a charter school in its first year of operation shall receive 50% of the anticipated funding pursuant to this subsection at the beginning of the fiscal year, provided that the charter school has provided the Department of Education with a preliminary roster of its students on or before May 1st of such year. The charter school shall receive an additional 25% of the funding due pursuant to this subsection on October 1st of its first year in operation and shall receive the remaining 25% on February 1st of its first year in operation, provided that the school has completed and posted the required Standardized Financial Report Forms and the Department has reviewed those forms and determined that the school’s finances will not at that time lead the Department to submit the school for formal review pursuant to Section 515 of this title. A determination that the school will be submitted for formal review shall prompt the Department of Education to advance a level of funding appropriate to pending administrative action. The percentage of funding to be provided to charter schools on July 1st and October 1st pursuant to the above may be increased in the Secretary’s discretion.”

Section 3. Amend §509, Title 14 of the Delaware Code by adding a new subsection (k) to provide as follows:

“(k) A charter school shall display on its website all Standardized Financial Report Forms for the current fiscal year and the final monthly Standardized Financial Report Forms for each previous fiscal year of operation. Charter schools that are required to file Internal Revenue Service Form 990 shall post the current and prior year Form 990 on the website as well.”

Section 4. Amend § 511(b), Title 14 of the Delaware Code by renaming the existing subsection (b) as subsection (b)(1) and adding the following subsections:

“(2) A request for modification to increase a charter school’s total authorized enrollment by more than 15% shall be considered a major modification, regardless of whether the additional students will attend school at the current location or at a separate location.

(3) In addition to meeting the approval criteria established in §512 of this title, an authorizer considering an application for a modification as described in subsection (b)(2), in which the increased enrollment will occur less than 18 months from the date of application, shall also consider the impact of the proposed increase on the schools from which the charter school’s new students will likely be drawn. In reviewing the impact, the authorizer shall consider factors to be established by Department regulation.

(4) Information regarding impact shall be considered in conjunction with the factors in §512 of this title and shall not alone provide the basis for approval or disapproval of an application for a modification as described in subsection (b)(2). The information regarding impact may, however, by itself or in combination with other factors, form the basis for conditions being placed on the approval.”

Section 5. Amend § 511, Title 14 of the Delaware Code by striking subsection (e) in its entirety and inserting in lieu thereof:

“(e)(1) Except as noted in Subsection (e)(2), new charter school applications shall be submitted to an approving authority between November 1 and December 31 for schools to be established and prepared to admit students on or after the second August 1 thereafter.

(2) Applications by a highly successful charter school operator as described in subsection (n) of this section shall be submitted to an approving authority between November 1 and December 31 for schools to be established and prepared to admit students on or after the August 1 thereafter. The application submission dates in this subsection may be amended by agreement of the authorizer and the applicant if necessary to allow the applicant to serve students who would otherwise be displaced due to the closure of an existing charter school.

(3) Applications to renew a charter shall be submitted to the approving authority on or before September 1 of the year immediately preceding the calendar year in which the school's current charter term will expire, except that all applications to renew a charter that expires on or before December 31, 2012 shall be submitted to the approving authority on or before October 15, 2011.

(4) Charter school applications which propose the conversion of an existing public school, or a part thereof to charter school status must be submitted to an approving authority on or before October 30 if the application proposes that the newly converted charter school is to be established and prepared to admit students for the next ensuing school year.

(5) If the date for submitting an application or commencing the school's instructional program shall fall on a weekend or state holiday, the time for such shall be continued to the first working day thereafter.”

Section 6. Amend § 511(f), Title 14 of the Delaware Code by inserting "new charter school" in the first sentence of that subsection after "number of" and before "applications it will consider", and by inserting "new charter school" in each of the second and third sentences of that subsection after "accept any" and before "applications".

Section 7. Amend §511, Title 14 of the Delaware Code by adding the following subsections (n) through (r):

“(n) “Highly successful charter school operator” means an entity that currently operates or whose principals currently operate one or more highly successful charter schools showing sustained high levels of student achievement and sustained fiscal stewardship, as further defined by Department regulation. Notwithstanding the provisions of this chapter, for purposes of this definition the phrase “charter school” shall include public schools operated under a charter regardless of whether the schools are located or organized in Delaware. A highly successful charter school operator may be authorized to operate a charter school in the timeframe provided by subsection (e)(2) provided that the application is submitted for the purpose of operating a charter school at the site of and serving students currently attending a charter school whose charter has been revoked, has not been renewed, or whose charter is on formal review and whose board has agreed to abandon their charter.

(o) The charter school application shall include a disclosure of any ownership or financial interest in the charter school, including but not limited to the building and real property to be used in the operation of the charter school, by the charter school founders and the board of directors of the proposed charter school. If the building and real property to be used in operation of the charter school are not known at the time of application, disclosures pertaining to those interests shall be made once the building and real property to be used in operation of the charter school become known. In addition, the board of directors of the charter school shall have a continuing duty to disclose such interests to the approving authority pursuant to this chapter during the terms of any charter. The charter school and the Department shall promptly disclose the information required by this subsection to any member of the public upon request.

(p) Charter school board members and founders shall be required to complete the criminal background checks in the same manner as persons seeking employment with a public school pursuant to Section 8571(a) of Title 11. In addition, the authorizer shall complete a check of the Child Abuse Registry established by Section 921 of Title 16 for charter school founders and board members. The results of said background and Child Abuse Registry checks shall be provided to the authorizer for review as part of the application process and on an ongoing basis if new board members are seated or current board members are convicted of a crime or placed on the Child Abuse Registry. Any person convicted of a felony offense or of any crime against a child in this State or any other jurisdiction shall not be permitted to serve as a founder or member of a charter school board of directors. No individual shall be permitted to serve as a charter school founder or board member if the individual would not be permitted to be employed in a public school pursuant to Section 8563 of Title 11 regarding the Child Abuse Registry. Other crimes may be considered disqualifying, in the discretion of the authorizer. The State Bureau of Identification may release any subsequent criminal history to the authorizer. Individuals currently serving as board members of a charter school must complete a criminal background check and the Department shall complete a Child Abuse Registry check for such members on or before February 1, 2012.

(q) The founder or board member shall be provided with a copy of all information forwarded to the authorizer pursuant to subsection (p). Information obtained under subsection (p) is confidential and may only be disclosed to the chief officer and one additional person in each authorizing body.

(r) Costs associated with obtaining criminal history information and child protection registry checks shall be paid by the applicant.”

Section 8. Amend § 512(1), Title 14 of the Delaware Code by striking the phrase “at the school and a parent of a student enrolled at the school as members” and inserting in lieu thereof the phrase “from at least one of the charter schools operated by the board and at least one parent of a student enrolled in a charter school operated by the board.”

Section 9. Amend § 513(a), Title 14 of the Delaware Code by adding the following sentence at the end of that subsection:

“The charter school shall contract to have an audit of the business and financial transactions, records, and accounts after July 1 for the prior fiscal year. The results of the audit shall be shared with the Department of Education. A charter school shall display on its website the annual report including financial statement and audit required by this subsection.”

Section 10. Amend Title 14, Chapter 5 by adding a new §517 to read as follows:

“§517. Charter Transfer to Different Authorizer

Transfer of a charter, and of oversight of that public charter school, from one authorizer to another before the expiration of the charter term shall require a petition by the public charter school or its authorizer to the new authorizer. A petition to transfer is considered a major modification and will follow the same timelines and hearing process as a major modification.”

Section 11. Amend Title 14, Chapter 5, by adding a new Section 518 to read as follows:

“§ 518. Oversight and Revocation for Multiple Charter Holders

For purposes of §§ 515 and 516 of this title, each charter held by a common board of directors shall be treated separately and individually.”

Section 12. Amend § 1802, Title 14 of the Delaware Code by deleting that section in its entirety and replacing it with the following:

“§ 1802. Financial Recovery Team.

Upon the recommendation of the Secretary of Education ("Secretary") that a school district or charter school is in financial distress as provided in paragraph (1) of this section, the Director of the Office of Management and Budget ("Director"), with the consent of the Controller General, may appoint a Financial Recovery Team ("Team"), and the Department of Education is hereby authorized to secure technical assistance and other resources as necessary to ensure the effective operations of the Team.

(1) For the purposes of this section a local school district or charter school shall be considered in financial distress when 1 or more of the following criteria are met:

- a. The district financial position report required to be submitted on May 1, pursuant to § 1507(a) of this title, projects less than 1 month's carryover; or
- b. It is projected at any time during the course of the fiscal year that local payroll expenses will exceed projected local revenues; or
- c. The charter school has been placed on formal review based, at least in part, on concerns regarding the charter school's finances; or
- d. Whenever a school district or charter school projects that it cannot fund 1 or more scheduled payroll disbursements.

(2) During any period of time when it is determined that a school district or charter school is in financial distress, the Financial Recovery Team shall be empowered to exercise, subject to the approval of the Secretary, control over the expenditure of funds appropriated to a school district or charter school as deemed necessary by the members of the Team. Control shall include, without limiting the foregoing, the right to approve the school district's or charter school's annual budget and any subsequent material amendment thereto, the right to approve district tax rates, the right to request drawdown of state financial assistance if applicable, the right to approve financial reporting to the local board of education or charter school board, the right to approve accounting policies, procedures and reports, the right to require a Financial Responsibility Committee be established by the local school board or charter school comprised of 1 or more members of the said board and/or residents of the district or, in the case of a charter school, parents of students attending the school. The Committee shall examine and report on the financial status of the district or charter school and shall have the right to pre-approve any obligation or contract that would require the expenditure of funds by the school district or charter school. Notwithstanding any provision of either this Code or any applicable rule or regulation to the contrary, the authority extended under this section shall apply to the expenditure of all funds received by a school district or charter school.

(3) The Financial Recovery Team shall report at least monthly to the Governor, the General Assembly, Director and the Controller General regarding the district's or charter school's current and projected financial position.

(4) The district or charter school shall reimburse the State for all salary and related costs of the Financial Recovery Team.

(5) Upon the recommendation of the Secretary that a school district or charter school is no longer in financial distress as defined in this section, the Director, with the consent of the Controller General, may elect to remove the members of the Financial Recovery Team.”

Approved August 19, 2011