

EXECUTIVE SUMMARY

Title: Revision of SBE Policy, EEO-U-006, Policy for Charter Schools on Financial and Governance Non-Compliance

Type of Executive Summary:

- Action
- Action on First Reading
- Discussion
- Information

Policy Implications:

- Constitution _____
- General Statute # _____
- SBE Policy # EEO-U-006
- SBE Policy Amendment
- SBE Policy (New)
- APA # _____
- APA Amendment
- APA (New)
- Other _____

Presenter(s): Mr. Jack Moyer (Director, Office of Charter Schools)

Description:

The Office of Charter Schools recommends that the State Board EEO-U-006 on Financial and Governance Non-Compliance to be updated and reflect relevant changes in the area of teacher certification.

Resources:

N/A

Input Process:

Finance and Business Services and Office of Charter Schools

Stakeholders:

Charter Schools, Teachers, Parents and Students

Timeline For Action:

The proposed revision is being presented for Action at the April 2008 State Board of Education meeting.

Recommendations:

It is recommended that the SBE approve the amendment to SBE Policy EEO-U-006.

Audiovisual equipment requested for the presentation:

- Data Projector/Video (Videotape/DVD and/or Computer Data, Internet, Presentations-PowerPoint preferred)
Specify: _____
- Audio Requirements (computer or other, except for PA system which is provided)
Specify: _____
- Document Camera (for transparencies or paper documents – white paper preferred)

 Motion By: _____ Seconded By: _____
 Vote: Yes _____ No _____ Abstain _____
 Approved _____ Disapproved _____ Postponed _____ Revised _____

*Person responsible for SBE agenda materials and SBE policy updates: Janice Ham, 807-3491

**NORTH CAROLINA STATE BOARD OF EDUCATION
Policy Manual**

Policy Identification

Priority: Effective and Efficient Operations

Category: Charter Schools Administration

Policy ID Number: EEO-U-006

Policy Title: Policy for charter schools on financial and governance noncompliance

Current Policy Date: 04/06/2000

Other Historical Information:

Statutory Reference:

Administrative Procedures Act (APA) Reference Number and Category:

FINANCIAL AND GOVERNANCE NONCOMPLIANCE POLICY FOR CHARTER SCHOOLS

The following policy represents the North Carolina Department of Public Instruction's internal operating procedures and does not preclude the Deputy Superintendent of NC DPI or the Chief Financial Officer of NC DPI, ~~after consultation with the Charter School Advisory Committee~~ from making any recommendations to the State Board of Education with regards to a Charter School, if so warranted, regardless of the charter school's financial and governance noncompliance status.

I. IMPACT OF FINANCIAL NONCOMPLIANCE

There are three (3) stages of financial noncompliance under which a charter school may be placed: Cautionary, Probationary, and Disciplinary. A charter school may be placed in each stage of noncompliance based on any one of the following financial warning conditions:

- A. If the charter school fails to report required, Uniform Education Reporting System (UERS), data within 30 days of the required or agreed-upon reporting date or does not submit accurate data due to incorrectly utilizing UERS approved materials or software within the next reporting cycle;
- B. If the charter school fails to respond to a specific financial, personnel, or student information request for information/data;

C. If the charter school shows signs of financial insolvency or weakness as determined by independent auditors, by the Deputy Superintendent, or the Chief Financial Officer (CFO) of NC DPI;

D. If the Office of State Treasurer receives a "non sufficient funds (NSF)" notification during the course of cash certification processing;

E. If the charter school receives a material audit finding in their annual independent audit which indicates a violation of State law or State Board of Education Policy, a violation of any of the conditions or procedures set forth in their Charter, a failure to meet generally accepted accounting practices and principles, including sound fiscal management in accordance with section 115C-238.29G of the General Statutes and remains unresolved as determined by the Deputy Superintendent or CFO of NC DPI; and/or

F. If the charter school's staff fails to attend required financial training.

NOTE: For warning conditions A) through D), funds may be frozen (i.e. the school's access to the cash management system is revoked) until the exception is corrected, or as determined by the CFO of NC DPI. Any combination of the above violations which accumulate three (3) or more warnings may immediately move the charter school to Financial Disciplinary Status without the benefit of being first held in either the Cautionary or Probationary status. Should a charter school have repeated violations of the same or similar non-compliance condition, the charter school may be moved to Financial Disciplinary Status.

This policy does not preclude the Deputy Superintendent of NC DPI, ~~the~~ or the CFO of NC DPI ~~or the Charter School Advisory Committee~~ from making any recommendations to the State Board of Education with regards to a charter school if so warranted, regardless of the charter school's financial noncompliance status.

G. The stages of financial noncompliance are as follows:

Level 1: Financial Cautionary Status

Upon receiving a Financial Warning for any of the above conditions, the charter school will be placed on Financial Cautionary Status. The school remains in cautionary status for 30 calendar days from the date of notification, and during that time must correct the exception(s) that caused the financial warning(s). When the 30 calendar days have ended and the exception(s) is corrected, the financial warning(s) will be removed and the school will be removed from cautionary status.

Level 2: Financial Probationary Status

The school will be placed in Financial Probationary Status, if the school fails to correct the exception(s) during the 30 calendar days cautionary period. The school remains in

probationary status for 30 calendar days, from the date of notification, and during that time must correct the exceptions that caused all of the financial warnings. When 30 calendar days have ended and all of the exceptions have been corrected, the financial warnings will be removed and the school will be removed from probationary status. While in probationary status, state funds for the school may be allotted on a monthly basis, at the discretion of the Deputy Superintendent or CFO of NC DPI, until the exceptions that caused all of the financial warnings are corrected.

Level 3: Financial Disciplinary Status

The school will be placed in Financial Disciplinary Status, if the school fails to correct all of the exceptions during the 30 calendar days probationary period. When in Disciplinary Status, the school is expected to immediately address all of the exceptions that caused the financial warnings within ten (10) business days from the date of notification. State funds for the school may be allotted on a monthly basis until the exceptions that caused all of the financial warnings are corrected. Also, any combination of the above violations which accumulate three (3) or more warnings may immediately move the charter school to Financial Disciplinary Status without the benefit of being first held in either the Cautionary or Probationary status. Also, should a charter school have repeat violations of the same or similar non-compliance condition, the charter school may be moved to Financial Disciplinary Status without the benefit of completing either the Cautionary or Probationary status periods.

If exceptions are not resolved in the required 10 business days, they will be referred to the ~~Charter School Advisory Committee~~ Leadership for Innovation Committee for appropriate inquiry and action as determined by the Deputy Superintendent or CFO of NC DPI.

Referral to the ~~Charter School Advisory Committee (CSAC)~~ Leadership for Innovation Committee (LFI)

The charter school will be notified when information will be presented to the ~~Charter School Advisory~~ Leadership for Innovation Committee related to its noncompliance with financial and/or student reporting requirements. The ~~Charter School Advisory~~ Leadership for Innovation Committee may recommend to the State Board of Education any corrective action required by the charter school or that the charter school's Charter be revoked pursuant to Paragraph X of the Charter Agreement.

This policy does not preclude the Deputy Superintendent of NC DPI or the CFO of NC DPI ~~or the Charter School Advisory Committee~~ from making any recommendations to the State Board of Education with regards to a charter school if so warranted, regardless of the charter school's financial noncompliance status.

II. IMPACT OF GOVERNANCE NONCOMPLIANCE

There are three (3) stages of Governance Noncompliance: Governance Caution Status, Governance Probationary Status, and Governance Disciplinary Status. A charter school may earn placement within a status based on any one of the following governance warning conditions:

- A. Failure to have a functioning board in place, including failure to conduct regular meetings of the board and failure to adopt policies regarding the operation of the charter school. Such policies would include a minimum of Personnel, Disciplinary, and Parental Grievance policies.
- B. Inability to show progress towards the educational and organizational goals described in the charter school application.
- C. Failure to maintain student enrollment. (i.e., Required minimum of 65 students, or as otherwise stated in the charter application or approved waiver to operate under the minimum of 65 students.)
- D. Bylaws violations including, but not limited to, following the Open Meetings Law, maintaining Public Records, implementing a Conflict of Interest Policy, adhering to basic rules of Parliamentary Procedure.
- E. Charter Agreement violations including, but not limited to, following State/Federal Regulations, ensuring Health & Safety Standards, making adequate ABCs progress, meeting Testing and Reporting requirements.
- F. Substantiated complaints indicating that the Board is not acting as a representative of the school community to ensure that the needs of all students, parents, and teachers will be addressed.
- G. Failure to maintain at least seventy-five percent (75%) teacher certification in grades kindergarten through five, at least fifty percent (50%) of teachers in grades six through eight, and at least fifty percent (50%) of teachers in grades nine through twelve, pursuant to G.S.115C-238.29F(e)(1). Charter schools shall maintain compliance with this policy from the first school day of each year through the end of the school calendar year. Failure to do so will be seen as noncompliance with the policy and generate the following financial ramifications.

Failure to begin the year in compliance, the DPI will reduce the charter schools PRC 036 allotment by the amount of the salary of the Headmaster/Director of the school. This reduction will be seen as an audit exception and for each month the school is not in compliance, the charter school will lose the funding for the salary and benefits of the Headmaster/Director. Once the school comes into compliance, an allocation will be reinstated for remaining months of the school year. The allocation will be based on the monthly salary and benefits required to pay the

remaining months costs. During the period in which the audit exception is in place, the charter school shall not use state or federal funds to pay the individual for whom the state has reduced the allocation.

For each month after the first month of school that a charter school is not in compliance, the DPI will reduce the charter schools PRC 036 allotment by the amount of the salary of the highest paid non-certified teacher's salary of the school. This reduction will be seen as an audit exception and for each month the school is not in compliance, the charter school will lose the funding for the salary and benefits for highest paid uncertified teacher's salary. Each month thereafter, the charter schools allocation will be reduced by the amount equal to the highest salary. Then the following month the next highest will be added on to the previous months reduction until the charter school comes into compliance. Once the school comes into compliance, an allocation will be reinstated for remaining months of the school year. The allocation will be based on the monthly salary and benefits required to pay the remaining months costs. During the period in which the audit exception is in place, the charter school shall not use state or federal funds to pay the individual for whom the state has reduced the allocation.

If the charter school is non-compliant in teacher certification as of February 1 of the current academic year, the Department of Public Instruction will recommend to the State Board of Education revocation of the school's charter at the end of the academic year.

NOTE: This policy does not preclude the Deputy Superintendent of NC DPI or the CFO of NC DPI, ~~or the Charter School Advisory Committee~~ from making any recommendations to the State Board of Education with regards to a charter school if so warranted, regardless of the charter school's governance noncompliance status.

The stages of noncompliance are as follows:

Level 1: Governance Cautionary Status: Upon receiving a Governance Warning for any of the above conditions, the charter school will be placed on Governance Caution Status. The school remains in cautionary status for 30 calendar days and during that time must correct the exception that caused the warning. When the 30 calendar days have ended and the exception is corrected, the governance warning will be removed and the school will be removed from cautionary status. Failure to correct the exception during the 30 calendar days cautionary period constitutes a second warning and the school will be placed on Governance Probationary Status.

Level 2: Governance Probationary Status: The school remains on Governance Probationary Status for 30 calendar days and during that time must correct the exceptions that caused all of the governance warnings. When the 30 calendar days have ended and the exception is corrected, the governance warning will be removed and the school will

be removed from probationary status. Failure to correct the exception during the 30 calendar days probationary period constitutes a third warning and the school will be placed on Governance Noncompliance Status.

Level 3: Governance Noncompliance Status: The school remains on Governance Noncompliance Status for 10 calendar days. When in Noncompliance Status, the school is expected to immediately address all of the exceptions that caused the governance warnings. State funds for the school will be allotted on a monthly basis until the exceptions that caused all of the governance warnings are corrected. A School placed in Governance Noncompliance Status may be referred to the ~~Charter School Advisory~~ Leadership for Innovation Committee for appropriate inquiry and action as determined by the Chief Financial Officer of NC DPI. The Charter School Board Chair and School Operations Manager will be notified that information will be presented to the ~~Charter School Advisory~~ Leadership for Innovation Committee related to its noncompliance with governance requirements.

Referral to the ~~Charter School Advisory~~ Leadership for Innovation Committee. The ~~Charter School Advisory~~ Leadership for Innovation Committee may "(iv) make recommendations as to whether the State Board should terminate or not renew a Charter, (v) make recommendations concerning grievances between a charter school and its chartering entity, the State Board, or a local board." After hearing the facts, the Committee may recommend corrective action required by the charter school or that the charter school's Charter be revoked pursuant to Subtitle 24 of the Charter Agreement. The charter school may appeal a decision to terminate a Charter. Subtitle 24 of the Charter Agreement (Termination of Charter) outlines the procedures for appeal.

This policy does not preclude the Chief Financial Officer of NC DPI or the ~~Charter School Advisory~~ Leadership for Innovation Committee from making any recommendations to the State Board of Education with regards to a charter school if so warranted, regardless of the charter school's governance compliance status.

III. IMPACT OF REVOCATION

Recommendation for Revocation

Should a public charter school be recommended to the State Board of Education (SBE) for revocation, by either the ~~Charter School Advisory Committee (CSAC)~~ Leadership For Innovation Committee, Chief Financial Officer of NC DPI or the Deputy Superintendent of North Carolina Department of Public Instruction (NC DPI), the following policy, in addition to the provisions for revocation already contained in the Charter Agreement, shall be followed:

1. Upon the recommendation of revocation, the charter school's access to State and Federal funding via the NC DPI Cash Management System will be frozen. However, the charter school may request State and Federal funds via telephone or written request through the NC DPI's School Business division under normal cash

management timelines. NC DPI may, as determined by the Deputy Superintendent or CFO of NC DPI, require adequate documentation to support any requested funds during the review and appeal time period.

2. The allotment for State funds for the school may be adjusted and allotted on a monthly basis, at the discretion of the Deputy Superintendent or CFO of NC DPI, from the point of recommendation through the review and appeal period. The allotment would be based on 1st month ADM figures received via the Student Information Management System (SIMS). Ten percent (10%) of the remaining funds available from the adjusted allotment will be held in reserve, pending the results of any review or appeal process.

Revocation

Should the State Board of Education (SBE) vote to revoke a public charter school's Charter the policies outlined in the Charter Agreement, in conjunction with the steps outlined below, will be followed:

1. The charter school's financial activity with regards to State, Federal and Local District Funding must be discontinued upon the effective date of revocation, or "closing period"*, as approved by Deputy Superintendent or CFO of NC DPI. The charter school must transmit final financial information at that time.
2. *The "closing period" is the length of time given the school to successfully close their business with regards to State, Federal and Local District funding, which should be the end of the month that the revocation becomes effective.*

The charter school's access to State and Federal funding via the NC DPI Cash Management System will be discontinued.

The allotments for State and Federal funds for the school will be adjusted and a final allotment adjustment will be made based on 1st month ADM figures received via the Student Information Management System (SIMS) through the last day of the month that the revocation becomes effective. Ten percent (10%) of the remaining funds available from the adjusted allotment will be held in reserve, pending the results of any review or appeal process, should the school's Charter be revoked by the SBE these funds will be held in reserve, pending the results of the "closing audit"**.

*** The "closing audit" to be conducted will be designed by NC DPIs Office of Financial and Business Services in conjunction with the Local Government Commission to ensure that the audit is in compliance with all required policies and legislation and to ensure a smooth close-out process. The "closing audit" will serve as the annual fiscal year ending audit for the charter school.*

3. After the final allotment adjustment, the charter school may request, in writing, any remaining State and Federal funds through the NC DPIs School Business

Division. The request must include adequate documentation to support any requested funds during the closing period. Should the final allotment adjustment indicate that the charter school has overdrawn any State or Federal funds a refund may be due to NC DPI. NC DPI will verify the potential refund amount upon the receipt of the final closing audit and the charter school will be notified, in writing, of any refunds due to NC DPI and given 20 business days to issue the refund.

4. The charter school must transmit final financial information through the last day of the month that the revocation becomes effective.
5. NC DPI will designate and pay a CPA firm to do a "closing audit"* of the charter school. The school will be notified when this audit shall occur. Each officer, employee, and agent of the charter school having custody of public money or responsibility for keeping records of public financial or fiscal affairs shall produce all books and records requested by the auditor and shall divulge such information to fiscal affairs as the auditor may request.
6. All net assets as of the effective date of revocation, purchased with public funds, shall be deemed the property of the appropriate local education agency. A listing of all assets should be provided to the auditor conducting the closing audit.
7. The auditor in conjunction with NC DPI will ensure that the SIMS software has been removed from the schools computers to ensure the integrity of the school's student data and transcripts.
8. If, upon review by NC DPI, the results of the final closing audit disclose any misuse of funds, violations of state law or SBE policy, or any other indiscretion deemed material, the SBE and/or NC DPI will take the necessary action as indicated per each finding. This would include, but is not exclusive to requiring refunds of state or federal funds.
9. The charter school and the SBE will be notified, in writing, when the NC DPI has determined that the school has been effectively closed.