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## Title 28 EDUCATION

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# Title 28 EDUCATION

## Part CXXXIX. Bulletin 126—Charter Schools

### Chapter 1. General Provisions

#### §101. Purpose, Scope, and Effect

A. The purpose of this bulletin is to provide rules to govern the implementation of R.S. 17:3971 et seq., the "Charter School Demonstration Programs Law" (hereafter, the "Charter School Law").

B. This bulletin is established to set forth the requirements for applying for a charter to operate an independent public school, the principles and requirements of authorizing the operation of a charter school, the requirements of performance contracting, the funding of charter schools, and the implementation of and enactment of regulatory requirements that must be met in the operation of a charter school. It is further established to set forth procedures for monitoring and evaluating charter schools, and amending, renewing, and revoking charters approved by the Board of Elementary and Secondary Education.

C. The regulations set forth in this bulletin are incorporated into all charters approved by BESE and shall bind all charter schools approved by BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1357 (July 2008).

#### §103. Definitions

A. The words defined in this Section shall have the meanings set forth below whenever they appear in this policy, unless:

1. the context in which they are used clearly requires a different meaning; or
2. a different definition is prescribed for a particular provision.

*Appropriate Technical Infrastructure*—any servers, programs, internet access, and/or management systems that allow user interaction, provide sufficient bandwidth to host courses or online services, and sustain peak periods of usage without a reduction in performance.

*BESE and/or Board*—the state Board of Elementary and Secondary Education as created by the Louisiana Constitution and the *Louisiana Revised Statutes*.

*Charter*—the agreement and authorization to operate a charter school, which includes the charter contracts and exhibits.

*Charter Management Organization (CMO)*—nonprofit entities that manage two or more charter schools.

*Charter Operator*—the nonprofit corporation or school board authorized to operate a charter school.

*Charter School*—an independent public school that provides a program of elementary and/or secondary education established pursuant to and in accordance with the provisions of the Louisiana charter school law to provide a learning environment that will improve pupil achievement.

*Charter School Application*—the proposal submitted to BESE, which includes but is not limited to, responses to questions concerning:

- i. a charter school's education program;
- ii. governance, leadership, and management;
- iii. financial plan; and
- iv. facilities.

*Charter School Law*—Louisiana laws, R.S. 17:3971 et seq., governing the operation of a charter school.

*Chartering Authority*—a local school board or the state Board of Elementary and Secondary Education.

*Core Subject*—shall include those subjects defined as core subjects in Bulletin 741.

*Department of Education or LDE or Department*—the Louisiana Department of Education. The Department of Education includes the recovery school district, or RSD, where references are made to type 5 charter schools.

*Domicile*—the place where the student predominantly sleeps, takes meals, and maintains personal belongings.

*Education Service Provider (ESP)*—any third-party entity, whether non-profit or for-profit, that provides comprehensive education management services to a school via contract with the school governing board.

*Face Covering*—a piece of material used to cover both the nose and mouth for the purpose of forming a barrier to droplets or airborne particles that are coughed, sneezed, or exhaled when talking. Face coverings are meant to protect both the wearer of the face covering and surrounding individuals.

*Hearing Officer*—the individual assigned by BESE to perform adjudicatory functions at charter school revocation hearings.

*High-Touch Surface*—surfaces that are touched frequently, including but not limited to door handles, bathroom fixtures, drinking fountains, railings, desks, and other surfaces in school facilities or on school buses.

*Instructional and Communication Hardware*—any equipment used to ensure students can access and engage with the educational program (e.g., headphones, wireless air cards, learning management systems, web-based communication tools).

*Instructional Coach*—a parent or guardian, extended adult family member, or other adult designated by the parent or guardian who works in person with each virtual charter school student under the guidance of the Louisiana-licensed professional teacher.

*LDH*—the Louisiana Department of Health.

*Legal Custody*—the legal status created by a court order which establishes in a custodian the right to have physical custody of the child. Custody for educational purposes only or provisional custody by mandate will not be accepted.

*Local School Board*—any city, parish, or other local education agency.

*Management Organization*—a for-profit company that manages academic, fiscal, and operational services on behalf of boards of directors of BESE-authorized charter schools through contractual agreements.

*Public Service Organization*—any community-based group of 50 or more persons incorporated under the laws of this state that meets all of the following requirements:

i. has a charitable, eleemosynary, or philanthropic purpose; and is qualified as a tax-exempt organization under section 501(c) of the United States *Internal Revenue Code* and is organized for a public purpose.

*State Superintendent*—the superintendent of education, who is the chief administrative officer of the Louisiana Department of Education, and who shall administer, coordinate, and supervise the activities of the department in accordance with law, regulation, and policy.

*Static Group*—a group whose composition of students and adults does not change.

*Technical Access*—computer and internet availability sufficient to ensure access for all students.

*Virtual School*—an educational program operated for a minimum of one academic year and covering specified educational learning objectives for the purpose of obtaining a Louisiana-certified diploma, the delivery of such a program being through an electronic medium such that the students are not required to be at a specific location in order to receive instruction from a teacher, but instead access instruction remotely through computers and other technology, which may separate the student and teacher by time and space. This does not preclude the ability of said program to host face-to-face meetings, including field trips, extracurricular activities, conferences between the student, parents, and teachers, or any such related events.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), 17:439.1, 17:3391, 17:3981, and 17:3973.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:1357 (July 2008), amended LR 37:867 (March 2011), LR 37:2383 (August 2011), LR 38:37 (January 2012), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:1583 (July 2012), LR 39:3062 (November 2013), LR 40:1321 (July 2014), LR 42:1018 (July 2016), LR 43:2476 (December 2017), LR 46:1670 (December 2020), LR 47:569 (May 2021).

## §105. Purpose of Charter Schools

A. The charter school law was enacted by the Louisiana Legislature to create a structure whereby city, parish, and other local public school boards and BESE can authorize the creation of innovative kinds of independent public schools for students in Louisiana.

B. The Charter School Law provides a mechanism for all persons with valid ideas and motivation to participate in the development of innovative schools and a mechanism to analyze results of charter schools. Analysis of results allows for the positive results to be repeated or replicated, if appropriate, and the negative results identified and eliminated.

C. The charter school law expresses the intention of the legislature that the best interests of economically-disadvantaged pupils shall be the overriding consideration in implementing the provisions of the law.

D. The purposes of charter schools include providing opportunities for educators and others interested in educating pupils to form, operate, or be employed within a charter school, with each such school designed to accomplish one or more of the following objectives:

1. improve pupil learning and, in general, the public school system;
2. increase learning opportunities and access to quality education for pupils;
3. increase educational opportunities for students in formerly failing schools;
4. increase learning opportunity choices for parents and students;
5. encourage the use of different and innovative teaching methods and a variety of governance, management, and administrative structures;
6. require appropriate assessment and measurement of academic learning results;
7. account better and more thoroughly for educational results;
8. create new professional opportunities for teachers and other school employees, including the opportunity to be responsible for the learning program at the school site;
9. provide competition within the public school system in order to stimulate continued improvement in all public schools; and/or
10. expand the capacity of the public school system.

E. It is not a purpose of the Charter School Law or this bulletin to permit the establishment of a charter school to be used as the means of keeping open an existing public school that otherwise would be closed. Such a circumstance, however, shall not preclude approval of a proposed charter that otherwise fulfills a purpose of the Charter School Law and for which the application/proposal clearly demonstrates that the educational program proposed to be offered will improve the achievement levels of the students enrolled in that school.

1. For the purposes of this bulletin, the term *existing public school* shall be defined as a school that is open during the school year in which the charter applicant is submitting a charter application or was open in the school year immediately preceding the school year in which the charter applicant is submitting a charter application.

F. It is not a purpose of the Charter School Law or this bulletin to provide a means of funding for nonpublic schools or any home study program.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3972, and R.S. 17:3981.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:1358 (July 2008), amended LR 40:1322 (July 2014), LR 44:2130 (December 2018).

**§107. Types of Charter Schools**

A. A type 1 charter school is a new school operated as the result of and pursuant to a charter between the nonprofit corporation created to operate the school and a local school board.

B. A type 2 charter school is a new school or a preexisting public school converted and operated as the result of and pursuant to a charter between the nonprofit corporation created to operate the school and the state Board of Elementary and Secondary Education.

C. A type 3 charter school is a preexisting public school converted and operated as the result of and pursuant to a charter between a nonprofit corporation and the local school board.

D. A type 3B charter school is a former type 5 charter school transferred from the Recovery School District to the administration and management of the transferring local school system pursuant to R.S. 17:10.5, R.S. 17:10.7 and Bulletin 129, §505.

E. A type 4 charter school is a preexisting public school converted and operated or a new school operated as the result of and pursuant to a charter between a local school board and the state Board of Elementary and Secondary Education.

F. A type 5 charter school is a preexisting public school transferred to the recovery school district as a school determined to be failing pursuant to R.S. 17:10.5 or R.S. 17:10.7 and operated as the result of and pursuant to a charter between a nonprofit corporation and the state Board of Elementary and Secondary Education.

G. Charter schools that serve as alternative education sites must adhere to the provisions of LAC 28:CXLIX (Bulletin 131) and will be subject to school accountability as set forth in LAC 28:XI.Chapter 35 (Bulletin 111). The Department of Education may provide for charter school alternative education site approval as part of the common charter application established in accordance with §311.B of this Part.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3973.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:1358 (July 2008), amended LR 39:3249 (December 2013), LR 43:306 (February 2017), LR 45:1451 (October 2019).

**Chapter 3. Charter School Authorizers**

**§301. Charter School Authorizers**

A. The state Board of Elementary and Secondary Education authorizes the operation of type 2, type 4, and type 5 charter schools.

B. Local school boards authorize the operation of type 1, type 3, and type 3B charter schools.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3982.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:1359 (July 2008), amended LR 39:473 (March 2013), LR 39:3249 (December 2013), LR 43:306 (February 2017).

**§303. BESE Authorizing Responsibilities**

A. BESE, as the authorizer of type 2, type 4, and type 5 charter schools, has the following authorizing responsibilities:

1. to implement a comprehensive application process with fair procedures and rigorous criteria that results in applications recommended for approval that demonstrate strong capacity for establishing and operating a quality charter school;

2. to review each proposed charter in a timely manner to determine whether each charter school application complies with the charter school law and this bulletin and whether the application is valid, complete, financially well-structured, educationally sound, whether it provides for a master plan for improving behavior and discipline in accordance with R.S. 17: 252, whether it provides a plan for collecting data in accordance with R.S. 17:3911, and offers potential for fulfilling the purposes of the charter school law. BESE shall engage in an application review process that complies with the latest principles and standards for quality charter school authorizing, as promulgated by the National Association of Charter School Authorizers, and shall provide for an independent evaluation of the charter proposal by a third party with educational, organizational, legal, and financial expertise;

3. to enter into any proposed Type 2, Type 4, or Type 5 charter only after there has been a specific determination by BESE that the proposed school will be operated in

compliance with all applicable state and federal laws, rules, and regulations; that the accounting and financial practices to be used are sound and in accordance with generally accepted standards for similar entities; and that the educational program to be offered will comply with all requirements of the Charter School Law and be based on generally accepted education research findings applicable to the pupils to be served;

4. to enter into performance contracts with approved charter schools that articulate the rights and responsibilities of each party regarding school autonomy, expected outcomes, measures for evaluating success or failure, performance consequences, operating terms, and other material terms;

5. to direct the Department of Education in providing adequate administrative and programmatic support and oversight; monitoring compliance; measuring progress; and implementing interventions, when necessary, with respect to type 2, type 4 and type 5 charter schools; and

6. to implement a transparent and rigorous process that uses comprehensive academic data and financial, legal, and contractual reporting and compliance to make merit-based recommendations for charter extension, renewal, and revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1359 (July 2008), amended LR 37:868 (March 2011), LR 39:3063 (November 2013).

**§305. BESE Duties Relating to Charter Schools**

A. BESE has the following duties relating to charter schools:

1. subject to the availability of funds, to administer loans pursuant to the Charter School Law for assisting in meeting the costs required to establish a charter school as well as the costs of operation;

2. to determine the policy and provide direction to the Department of Education for providing oversight of the operation of charter schools chartered by BESE;

3. upon the request of any school system with fewer than 5,000 students, to provide technical assistance to the system in determining the potential financial impact of any proposed charter school on the operation of the system;

4. to notify local school boards of the receipt of any Type 2 charter school application for a school which is proposed to be located within the district. In addition, the local board as well as other interested groups shall be allowed to provide written information regarding any charter application and be allowed to present information at a scheduled public meeting of BESE prior to any determination being made by BESE; and

5. to fulfill all other obligations created by state and federal law with respect to students attending charter schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1359 (July 2008), amended LR 37:2383 (August 2011).

**§306. Local School Board Authorizing Responsibilities**

A. Local school boards, as the authorizer of type 1 and type 3 charter schools, have the following authorizing responsibilities:

1. except as otherwise provided herein relating to local school systems in academic crisis, as defined in Bulletin 111, §4901, to review and formally act upon each charter proposal submitted in conducting such a review, the local school board shall determine whether each proposed charter complies with the law and rules, whether the proposal is valid, complete, financially well-structured, and educationally sound, whether it provides for a master plan for improving behavior and discipline in accordance with R.S. 17:252, whether it provides a plan for collecting data in accordance with R.S. 17:3911, and whether it offers potential for fulfilling the purposes of the law;

2. engage in a transparent application review process that complies with the latest *Principles and Standards for Quality Charter School Authorizing*, as promulgated by the National Association of Charter School Authorizers, and shall provide for an independent evaluation of the charter proposal by a third party with educational, organizational, legal, and financial expertise;

3. make public through its website, and in printed form upon request, the guidelines for submitting a charter proposal, all forms required for submission of a charter proposal, the timelines established for accepting and reviewing charter proposals, the process that will be used to review charter proposals submitted to the board, and the name and contact information for a primary point of contact for charter proposals;

4. prior to approving a charter for a Type 1 or Type 3 school, to hold a public meeting for the purpose of considering the proposal and receiving public input. Such meeting shall be held after reasonable efforts have been made by the local school board to notify the public of the meeting and its content.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:868 (March 2011), amended LR 39:3063 (November 2013).

**§307. Local School Board Duties**

A. Local school boards have the following duties relating to charter schools:

1. to report any charter entered into; and to report the number of schools chartered, the status of those schools, and any recommendations relating to the charter school program to BESE no later than July 1 of each year;



2. provide each charter school with the criteria and procedures that will be used when considering whether to renew a school's charter;

3. to notify the chartering group in writing of any decisions made relative to the renewal or nonrenewal of a school's charter not later than January 31 of the year in which the charter would expire. A notification that a charter will not be renewed shall include written explanation of the reasons for such non-renewal;

4. to make available to chartering groups any vacant school facilities or any facility slated to be vacant for lease or purchase at up to fair market value. In the case of a type 2 charter school created as a result of a conversion, the facility and all property within the existing school shall also be made available to the chartering group. In return for the use of the facility and its contents, the chartering group shall pay a proportionate share of the local school board's bonded indebtedness to be calculated in the same manner as set for in R.S. 17:1990(C)(2)(a)(i). If such facilities were constructed at no cost to the local school board, then such facilities, including all equipment, books, instructional materials, and furniture within such facilities, shall be provided to the charter school at no cost;

5. if requested by a charter school, provide transportation services to a charter school student pursuant to R.S. 17:158.

a. The charter school shall reimburse the local school board for the actual cost of providing such transportation unless an amount less than the actual cost is agreed upon by both parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3982, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1359 (July 2008), amended LR 37:868 (March 2011), LR 38:3117 (December 2012), LR 39:3064 (November 2013), LR 43:307 (February 2017).

### **§309. BESE and Local Charter Authorizer Reporting Requirements**

A. All charter authorizers including BESE and local school boards shall notify state legislators regarding initial charter school proposals and applications according to the following requirements.

1. At the time a chartering group submits its initial proposal or application to operate a charter school, the chartering authority shall notify each state senator and state representative in whose district the charter school is to be located that such proposal or application has been submitted.

2. Such notification shall be limited to the date the proposal or application was submitted, the charter authorizer to which the proposal or application was submitted, the type of charter school the chartering group seeks to operate, and the location of the proposed school.

3. The charter authorizer shall also notify each state senator and state representative in whose district the charter

school is to be located whether the proposal or application to operate a charter school was approved or denied.

4. The notifications shall be sent by both postal mail and electronic mail to each legislator's district office.

5. This Section shall not apply to renewals of the charter of an existing charter school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3982, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 40:2517 (December 2014), amended LR 43:307 (February 2017).

### **§311. Application Process for Locally-Authorized Charter Schools**

#### **A. Application Cycle**

1. Local school boards shall accept charter applications from applicants according to the local district timeline established by the department and approved by BESE. BESE shall approve at least one charter application cycle for the local district timeline per year. The department may extend approved cycles or provide for additional cycles, and shall notify BESE of any such changes.

2. Local school boards may request supplementary materials once the initial application has been submitted. Final decisions regarding the approval of charter applications must be made by local school boards according to the local district charter application timeline. Notifications of charter proposal denied shall include written explanation of the reasons for such denial.

3. Prior to the consideration of a charter school proposal by any local school board, each charter applicant shall be afforded the opportunity to provide a written response to the independent evaluation of the application. Such response shall be available to the independent reviewers for consideration prior to issuing a final recommendation to the chartering authority.

4. The local board shall send to the charter applicant, either by electronic means or hand delivery, the final evaluation and recommendations of the third-party evaluator. Such information shall be sent no later than five business days prior to the meeting at which the local board will take action on the charter proposal.

5. The local school board shall notify the department of the receipt of charter applications and any board action taken on such applications in accordance with procedures developed as part of the local district timeline.

6. If a proposal is not approved by the local school board and then also not approved by BESE within the same approval cycle, then the proposal shall be submitted to the local school board for its consideration during the next approval cycle prior to being submitted to BESE.

#### **B. Competitive Process**

1. The charter application process shall be a competitive process whereby any entity meeting eligibility requirements may be approved.

2. The charter application shall be in the form of a request for applications.

3. The release of a request for application must include:

- a. public notice;
- b. notice to national, regional, and state organizations that support charter schools; and
- c. notice to all known interested parties.

4. Local school boards, as the authorizer of type 1 and type 3 charter schools, shall make public through the local school board website, and in printed form upon request, the guidelines for submitting a charter proposal, all forms required for submission of a charter proposal, the timelines established for accepting and reviewing charter proposals, the process used to review charter proposals submitted to the board, and the name and contact information for a primary point of contact for charter proposals.

5. Charter Applicant Orientation. The local authorizer shall provide an orientation session for interested applicants prior to full application submission. The orientation shall provide applicants a clear understanding of the application process, expectations for high-quality applications, evaluation criteria, and authorizer expectations upon approval.

#### C. Application Evaluation

1. Local school boards must provide for an independent evaluation of the charter proposal by a third party with educational, organizational, legal, and financial expertise.

2. Local school boards must engage in a transparent application review process that complies with the latest *Principles and Standards for Quality Charter School Authorizing*, as promulgated by the National Association of Charter School Authorizers.

3. Final decisions regarding the approval of charter applications must be made by local school boards according to the local district charter application timeline.

4. Prior to approving a charter for a Type 1 or Type 3 school, the local school board shall hold a public meeting for the purpose of considering the proposal and receiving public input. Such meeting shall follow applicable open meeting laws and shall be held after reasonable efforts have been made by the local school board to notify the public of the meeting and content.

5. Prior to the consideration of a charter school proposal by any local school board, each charter applicant shall be afforded the opportunity to provide a written response to the independent evaluation of the application. Such response shall be available to the independent reviewers for consideration prior to issuing a final recommendation to the chartering authority.

6. The local board shall send to the charter applicant, either by electronic means or hand delivery, the final

evaluation and recommendations of the third-party evaluator. Such information shall be sent no later than five business days prior to the meeting at which the local board will take action on the charter proposal.

7. The local school board shall notify the department of the receipt of charter applications and any local board action taken on such applications in accordance with procedures developed as part of the local district timeline.

8. If a proposal is not approved by the local school board and then also not approved by BESE within the same approval cycle, then the proposal shall be submitted to the local school board for consideration during the next approval cycle prior to being submitted to BESE.

#### D. Common Charter Application

1. Each local school board shall use a common charter application developed by the department and approved by BESE, but may request additional information from applicants as needed.

2. BESE shall annually approve the common application to be used by local school boards. If there are no changes to be made to the common application from a previous year, BESE will not be required to vote to approve the common charter application.

#### E. Appeals to State Process

1. If a charter applicant believes that a local school board has not complied with the requirements in §306 of this part, the charter applicant may submit the proposal to BESE for review and approval as a type 2 charter as part of the annual request for applications.

a. Upon local receipt of the application from the local charter applicant, the department shall investigate and make a determination as to whether the local school board failed to comply with §306 of this part.

b. If the department determines that the local school board failed to comply with §306, the LDE shall notify the local school board of that determination within 30 days, and BESE may proceed with review of the charter application.

2. The charter applicant may submit a proposal to BESE for review and approval as a type 2 charter for other reasons as provided for in §503 of this part.

#### F. Partnerships with the Department

1. A local school board may enter into an agreement with the Louisiana Department of Education by which the department will conduct the local school board charter application and evaluation process, Local school boards that have entered into such agreements shall be exempt from Subsection A of this Section, and shall instead follow timelines established by the department.

2. The department shall create the process and timeline by which such agreements can be created and implemented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3981, 17:93, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 44:231 (February 2018), LR 47:570 (May 2021).

**§313. Local School Board Consideration of Charter Application, Awarding of Charters**

A. Local school boards shall carefully review each type 1 and type 3 charter school application they receive and may approve a charter application only after it has made a specific determination whether each proposed charter complies with the law and rules, whether the proposal is valid, complete, financially well-structured, and educationally sound, whether it provides for a master plan for improving behavior and discipline in accordance with R.S. 17:252, whether it provides a plan for collecting data in accordance with R.S. 17:3911.

B. Local school boards may approve requests to establish a type 3B charter school pursuant to the process outlined in Bulletin 129, §505.

1. A type 3B charter school is a former type 5 charter school transferred from the Recovery School District to the administration and management of the transferring local school system pursuant to R.S. 17:10.5, R.S. 17:10.7 and Bulletin 129, §505.

2. A type 3B charter school shall retain its type 5 academic accountability history, including, but not limited to prior school performance scores. The performance of a type 3B charter school shall be included in the local school district's district performance score.

3. Throughout initial and all subsequent renewal charter terms, the type 3B charter contract shall:

a. comply with any transfer conditions previously specified by BESE at the time BESE made the determination to allow the transfer;

b. permit the charter school to remain in its facility or designate an alternative facility for use by the charter school;

c. prohibit the charter school from establishing admissions requirements; and

d. require any school that participated as a type 5 charter school in unified processes common to other public schools located in the same parish or school district boundaries that are critical to providing equity and access to students and families to continue to participate in such processes. At a minimum, the contract shall require the charter school to:

i. continue to participate in any unified enrollment system and expulsion process established by the RSD for the parish or region where the charter school is located. The charter school shall follow all policies and procedures applicable to type 5 charter schools participating in the enrollment system and expulsion process; and

ii. continue to provide transportation services for students who reside more than one mile away from the school.

4. The length of the initial term for the type 3B charter school shall be equal to the number of years remaining on the charter school's former type 5 charter contract or the number of years approved by BESE for the renewal term of the type 5 charter school if the charter contract for the type 5 charter school was set to expire at the conclusion of the school year in which the charter school makes a request to transfer to the local school board pursuant to this Section.

5. If granted a renewal, in determining the length of the term for the first renewal of the type 3B charter contract, the local school board shall set the length of the renewal term to be three or more years, not to exceed the number of years the charter school would be granted under the "maximum charter renewal terms" contained in §1503 of this Bulletin. Differing academic performance standards for the first renewal of the charter contract must be approved by BESE. Subsequent renewal term lengths shall be determined by the local school board.

6. At the time of transfer, the type 3B charter school shall have the option to remain its own local educational agency or have the local school system serve as the charter school's local education agency. A type 3B charter school acting as its own local education agency shall comply with the requirements provided for in §2303 of this bulletin.

C. For each locally-authorized charter school which has met the performance criteria below, a charter operator may open and operate two additional schools that serve the same grade levels and the same enrollment boundaries as the school meeting the automatic renewal criteria without formal application to the local school board.

1. The charter school must have:

a. A letter grade of "A" or "B", or an equivalent school performance score (SPS);

b. Met or exceeded for the three preceding school years the benchmarks established for it by the local school board in accordance with the school and district accountability system;

c. Demonstrated growth in student academic achievement for the three preceding school years; and

d. Had no significant audit findings during the term of the charter agreement.

2. The charter operator shall notify the local school board of its intent to open one or two such additional charter schools at least 120 calendar days prior to the day on which each additional school shall enroll students.

3. At least 90 calendar days prior to the day on which each additional school shall enroll students, the local school board shall enter into a charter agreement with the chartering group for each additional school and shall notify BESE of its action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:231 (February 2018).

## Chapter 5. Application and Approval Process for BESE-Authorized Charter Schools

### §501. Organization of Nonprofit Corporation

A. A nonprofit corporation may be formed for the purpose of submitting an application for a charter school by:

1. a group of three or more teachers;
2. a group of 10 or more citizens;
3. a public service organization;
4. a business or corporate entity registered to do business in Louisiana pursuant to law, excluding any business or corporate entity subject to the provisions of R.S. 18:1505.2(L) as provided in R.S. 18:1505.2(L)(3);
5. a Louisiana college or university, licensed by the Board of Regents, pursuant to R.S. 17:1808;
6. the faculty and staff of any city or parish public school or any local school board; or
7. the Department of Education, subject to the approval of BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981(3), and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1360 (July 2008), amended LR 44:232 (February 2018).

### §503. Eligibility to Apply for a Type 2 Charter School

A. To be eligible to submit a type 2 charter school application, a group must:

1. be organized as a nonprofit corporation under Chapter 2 of Title 12 of the *Louisiana Revised Statutes*, Nonprofit Corporation Law;
2. be recognized as or have applied for recognition as a nonprofit corporation under applicable federal law;
3. have a board of directors with a minimum of three members and at least 60 percent of the board of directors shall reside in the Parish or Parishes in which the school seeks to enroll;
4. include three or more persons holding valid and current Louisiana teaching certificates in the development of the charter application;
5. except as provided in Subsection B or C of this Section, has submitted a proposal for a type 1 or type 3 charter school to the local school board in whose jurisdiction the charter school is proposed to be located which:
  - a. has been denied in the most recent application cycle, as evidenced by a motion or resolution of the local school board; or
  - b. has conditions that have been placed on it that are unacceptable to the group proposing the charter as provided for in Paragraph D of this Section; or

c. the local school board has not complied with the requirements of a local charter authorizer, as provided for in §311.C of this bulletin; or

d. the local school board has made no final decision in accordance with the timelines established by BESE for consideration of type 1 and 3 charter applications by local school boards as provided for in §311 of this bulletin; and

e. have met the requirement set forth in §507, if proposing to convert from a pre-existing school to a charter school.

B. Applicants applying to operate a charter school which is to be located in a local school system in academic crisis, as defined in Bulletin 111, §4901, are not required to submit a type 1 charter application to such local school system and may submit a proposal for a type 2 charter school directly to BESE.

C. If the local school system in which a charter group intends to apply to operate a type 1 or type 3 charter school has received a letter grade designation of “D” or “F” or any variation thereof, then a proposal for a type 2 charter school may be made to BESE.

#### D. Type 2 Charter Appeals Based on Conditions

1. Each approved charter may be approved subject to whatever other resolutive or suspensive conditions the chartering authority requires provided the charter school agrees with the conditions.

2. If the local board seeks to amend the charter contract in a manner that is unacceptable to the charter school or if the charter school finds requested terms for charter renewal to be unacceptable, the charter school may petition BESE to convert to a Type 2 charter school.

3. A charter school may request a Type 2 charter appeal based on:

a. resolutive or suspensive conditions imposed on the approved charter by the local school board that the charter school does not agree with; or

b. amendments being imposed on the charter contract or new terms in the renewal contract by the local school board that the charter school finds to be unacceptable.

4. A charter school requesting an appeal under this section shall do so in accordance with timelines and procedures developed by the department.

5. The state superintendent may disqualify a charter school from submitting a type 2 charter appeal under this section to BESE if the conditions imposed by the chartering authority are required by state law or policy.

E. The eligibility criteria set forth in this section shall be the minimum criteria necessary to be approved for a type 2 charter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, R.S. 17:3981, R.S. 17:3982, R.S. 17:3983, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1360 (July 2008), amended LR 37:868 (March 2011), LR 38:3117 (December 2012), LR 39:1431 (June 2013), LR 39:3064 (November 2013), LR 44:232 (February 2018), LR 47:571 (May 2021).

**§505. Eligibility to Apply for a Type 4 Charter School**

A. To be eligible to submit a type 4 charter school proposal, a group must:

1. be a local school board;
2. include three or more persons holding valid and current Louisiana teaching certificates in the development of the charter application; and
3. have met the requirement set forth in §507, if proposing to convert from a pre-existing school to a charter school.

B. The eligibility criteria set forth in this Section shall be the minimum criteria necessary to be approved for a type 4 charter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1360 (July 2008), amended LR 39:1431 (June 2013), LR 40:1322 (July 2014).

**§507. Existing Public Schools Converting to Charter Schools**

A. Prior to applying for a type 2 charter school, which proposes to be a school converted from a preexisting public school to a charter school, BESE shall require an applicant to receive approval from the professional faculty and staff of the pre-existing school and the parents or guardians of children enrolled in the school.

B. Prior to applying for a type 3, or type 4 charter school, which proposes to be a school converted from a preexisting public school to a charter school, the chartering authority may require an applicant to receive approval from the professional faculty and staff of the pre-existing school and the parents or guardians of children enrolled in the school.

C. Approval of the professional faculty and staff requires a favorable vote of the majority of the faculty and staff who are certified by BESE and who were employed at the pre-existing school. The number needed for approval shall be determined by the number of professional faculty and staff assigned to the pre-existing school on October 1 preceding the election.

1. An election must be held for the purpose of voting to convert a preexisting public school to a charter school.
2. Employees eligible to vote in an election are members of the faculty and staff who are employed at the pre-existing school and who are certified by BESE.
3. Each eligible employee may cast only one vote.
4. The election must be held by secret ballot.

5. Type 2 conversion votes by professional faculty and staff will follow the process established by the department.

D. Approval by the parents or guardians requires a favorable vote of the majority of the voting parents or guardians of pupils enrolled in the school.

1. An election must be held for the purpose of voting to convert a pre-existing public school to a charter school.
2. The number of votes cast by the parents or guardians in an election must equal at least 50 percent of the number of students enrolled in the school at the time of the election.
3. Only one vote may be cast by one parent or guardian for each student enrolled in the school at the time of the election.
4. Type 2 conversion votes by parents or guardians will follow the process established by the department.

E. An election of the professional faculty and staff or of the parents and guardians may be repeated in any school for approval of the same or a different charter proposal; however, such an election may not occur more than once in any school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1361 (July 2008), amended LR 37:869 (March 2011), LR 39:1431 (June 2013), LR 39:3064 (November 2013).

**§509. Eligibility to Apply for a Type 5 Charter School**

A. To be eligible to submit a Type 5 charter school proposal, a group must:

1. be organized as a nonprofit corporation under Chapter 2 of Title 12 of the *Louisiana Revised Statutes*, Nonprofit Corporation Law;
2. be recognized as or have applied for recognition as a nonprofit corporation under applicable federal law;
3. have a board of directors with a minimum of three members;
4. include three or more persons holding valid and current Louisiana teaching certificates in the development of the charter application; and
5. include a person, whether a natural person or artificial entity, who or which has at least five years of significant experience operating or working for or with a person who operates a public, private, or charter school; a public or private postsecondary institution; or a for-profit business or a nonprofit entity which provides academic instruction to students.

B. The eligibility criteria set forth in this Section shall be the minimum criteria necessary to be approved for a type 5 charter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, R.S. 17:3983, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1361 (July 2008), amended LR 37:2383 (August 2011), LR 39:1431 (June 2013).

**§511. Application Process for BESE-Authorized Charter Schools**

**A. Application Cycle**

1. All type 2, type 4, and type 5 charter applications will be received, reviewed, and approved pursuant to a charter application cycle.

2. Type 2, type 4, and type 5 charter applications must be submitted in accordance with a charter application cycle to be considered by BESE.

3. BESE shall approve at least one charter application cycle per year for the submission of type 2, type 4, and type 5 charter school applications.

4. The department may extend approved cycles or provide for additional cycles for the submission of type 2, type 4, and type 5 charter school applications, and shall notify BESE of any such changes.

**B. Competitive Process**

1. The charter application process shall be a competitive process whereby any entity meeting eligibility requirements may be approved.

2. The charter application shall be in the form of a request for applications.

3. The release of a request for applications must include:

- a. public notice;
- b. notice to national, regional, and state organizations that support charter schools; and
- c. notice to all known interested parties.

4. BESE, as the authorizer of type 2, type 4, and type 5 charter schools, shall make public through the BESE website, and in printed form upon request, the guidelines for submitting a charter proposal, all forms required for submission of a charter proposal, the timelines established for accepting and reviewing charter proposals, the process used to review charter proposals submitted to BESE, and the name and contact information for a primary point of contact for charter proposals.

5. Charter Applicant Orientation. The department shall provide an orientation session for interested applicants prior to full application submission. The orientation shall provide applicants a clear understanding of the application process, expectations for high-quality applications, evaluation criteria, and authorizer expectations upon approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1361 (July 2008), amended LR 39:1431 (June 2013), LR 39:3064 (November 2013), LR 44:233 (February 2018), LR 47:571 (May 2021).

**§513. Stages of Application Cycle for BESE-Authorized Charter Schools**

A. Each charter application process shall be approved by BESE on an annual basis.

**B. Application Evaluation by Team of Evaluators**

1. Teams of local, state, and national evaluators with expertise in charter schools and charter school authorizing, curriculum and instruction, governance and management, and finance shall be assembled for the review of charter applications.

2. Each charter application will be reviewed by the evaluation team and scored with a uniform evaluation rubric.

**C. Application Process Components**

1. Letter of Intent. As a prerequisite for application submission, the charter applicant shall submit a letter of intent to the department in accordance with BESE Charter Application timelines. The letter of intent shall include the mission, vision, instructional model, grades to be served, anticipated number of students, and potential physical location.

2. Eligibility Determination. Applicants shall submit the required documents to the department to determine eligibility prior to the submission of the full application.

3. Charter Board Capacity Interview. The charter applicant and charter board shall demonstrate the capacity to execute and operate a high-quality charter school. A majority of the identified charter board members of the charter applicant group shall attend the capacity interview. Members of the charter board shall be prepared to discuss the content of the application, inclusive of the academic, organizational, and financial proposals.

D. Evaluators shall make recommendations to the LDE for approval or denial of each charter school application.

E. Prior to the consideration of a charter school proposal by BESE, each charter applicant shall be afforded the opportunity to provide a written response to the independent evaluation of the application. Such response shall be available to the independent reviewers for consideration prior to issuing a final recommendation to BESE.

F. Prior to approving a charter for a Type 2, Type 4, or Type 5 school, BESE shall hold a public meeting for the purpose of considering the proposal and receiving public input. Such meeting shall be held after reasonable efforts have been made by BESE to notify the public of the meeting and agenda content.

G. The department shall forward to the charter applicant, either by electronic means or hand delivery, the final evaluation and recommendations of the third-party evaluator. Such information shall be sent no later than five business days prior to the meeting at which BESE will take action on the charter proposal.

H. The department shall notify the local school district superintendent of the receipt of a charter application and any

BESE action taken on such application in accordance with procedures developed as part of the BESE approved timeline.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:1361 (July 2008), amended LR 37:869 (March 2011), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:3118 (December 2012), LR 39:1431 (June 2013), LR 43:2477 (December 2017), LR 44:233 (February 2018), LR 47:571 (May 2021).

### **§515. Application Components for BESE-Authorized Charter Schools**

A. The BESE charter school application shall be prepared as a request for applications. Each request for applications shall consist of sections that provide applicants with information on charter schools in Louisiana, an explanation of the application process and timelines, charter school application questions, and any other information which is necessary for an applicant to be able to respond to the charter application questions.

B. A framework of all BESE requests for applications, which shall include an assurance that all required sections are or will be included in the final request for applications, must be submitted to BESE by the department prior to the release of the request. In cases of a type 5 charter operator voluntarily relinquishing its charter, the state superintendent of education may issue an emergency request for applications and BESE shall be notified of such action within two business days. The Department of Education may accept charter applications in a single submission or may structure a process to accept applications in a set of sequential, cumulative submissions.

C. The charter school application questions contained in the BESE request for applications shall consist of questions in the following areas: executive summary, education program design and capacity, organizational plan and capacity, and financial plan and capacity.

D. The charter school application questions for all types of charter schools shall address the following:

1. an executive summary;
2. the role, scope, and mission of the proposed public charter school, including identification of the targeted student population and the community the school hopes to serve;
3. admission requirements, if any, that are consistent with the school's role, scope, and mission may be established in accordance with that permitted in charter school law and this bulletin;
4. a description of the jurisdiction within which a pupil shall reside or otherwise be eligible to attend a public school in order to be eligible for admission;
5. for each elementary and middle charter school, other than a type 2 charter school, a description of the

geographic boundaries circumscribing the neighborhood immediately surrounding the charter school from which students residing within may be given preference for enrollment in accordance with R.S. 17:3991;

6. the grades to be served each year for the full term of the charter contract;

7. minimum budgeted and maximum enrollment per grade per year for the term of the charter contract;

8. evidence of community engagement throughout the development of the charter application and the mechanisms by which community stakeholders will be engaged in decision-making processes throughout the proposed charter term;

9. a description of how the proposed charter school fulfills one or more of the purposes specified in the charter school law and this bulletin;

10. background information on the proposed founding governing board members and, if identified, the proposed school leadership and management team;

11. the proposed school calendar and sample daily student schedules representing a population of diverse learners, including students with exceptionalities and English language learners;

12. the school's proposed curriculum, a description of how it aligns with state standards, and how it will meet the needs of the targeted student population;

13. a description of the school's instructional design, including the type of learning environment (such as classroom-based or independent study), class size and structure, curriculum overview, and teaching methods, and how the program will meet the needs of students from diverse backgrounds, circumstances and ability levels;

14. the school's plans for identifying and successfully serving students with disabilities, English language learners, students who are academically behind, and gifted and talented students, as applicable, in order to comply with applicable laws and regulations;

15. the school's plan for using internal and external assessments to measure and report student progress and a description of how such assessments align with state standards;

16. a description of co-curricular or extracurricular programs and how they will be funded and delivered;

17. plans and timelines for the school's recruitment, enrollment, and admission process;

18. school rules and regulations applicable to students, including disciplinary policies and procedures for all students, including those with exceptionalities, that incorporate research-based discipline practices such as positive behavior interventions and supports restorative justice principles in accordance with R.S. 17:252;

19. an organizational chart that clearly presents the school's organizational structure, including lines of authority

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and reporting between the governing board, staff, any related bodies (such as advisory bodies or parent and teacher councils), and any external organizations that will play a role in managing the school;

20. a plan for complying with applicable public body laws;

21. a clear description of the roles and responsibilities for the governing board, the school's leadership and management team, and any other entities shown in the organization chart;

22. a staffing chart for the school's first year, and a staffing plan for the term of the charter;

23. plans for recruiting, developing, and retaining a diversified school leadership and staff;

24. personnel policies and employment practices applicable to the school's officers and employees;

25. the manner in which teachers, leaders, and other school employees will be evaluated;

26. proposed governing bylaws;

27. explanations of any partnerships or contractual relationships central to the school's operations or mission;

28. the school's plans for providing transportation, food service, and all other significant operational or ancillary services;

29. policies, programs, and practices to ensure parental involvement and procedures to respond to parental complaints;

30. a detailed school start-up plan, identifying tasks, timelines and responsible individuals;

31. description of the school's financial plan and policies sufficient to permit a government audit, including financial controls and audit requirements;

32. management and accounting practices to be employed;

33. a description of the insurance coverage the school will obtain;

34. start-up and five-year budgets with clearly stated assumptions;

35. start-up and first-year cash-flow projections with clearly stated assumptions;

36. evidence of anticipated fundraising contributions, if claimed in the application;

37. academic, organizational, and financial goals to be achieved within the contract term, and how results will be measured and assessed;

38. an agreement to provide a report at the end of each semester to parents of pupils enrolled in the school, the community, the local school board, and BESE indicating progress toward meeting the performance objectives as stated in the charter;

39. information concerning the school location and the adequacy of its facilities and equipment. Such information shall include a statement of the procedures to be followed and disposition of facilities and equipment should the charter be terminated or not renewed;

40. rationale and purpose for seeking to serve the proposed student population;

41. provisions regarding liability issues;

42. assurance that the curriculum of the proposed charter school shall be focused on the intellectual domain with intellectual development defined as acquisition of discrete technical and academic skills;

43. assurance that the proposed charter school will regularly assess the academic progress of its students, including the participation of such students in the state testing programs, and the sharing of such information with parents;

44. assurance that students shall have a mastery of grade-appropriate skills before they can be recommended for promotion or promoted;

45. provisions regarding the safety and security of the school;

46. provisions regarding electronic communications by an employee of the charter school to a student enrolled at the charter school;

47. provisions regarding the inspection and operation of all fire prevention and safety equipment at the school;

48. a plan for collecting data in accordance with R.S. 17:3911;

49. a description of any proposed corporate partnerships as specified in Chapter 39 of this bulletin.

50. research-based evidence demonstrating the proposed educational model will lead to increased academic performance for the proposed student population;

51. the school plan for providing trauma-informed care, administering mental health screeners, and providing social emotional supports;

52. a detailed, hybrid learning plan which outlines the circumstances under which the plan would be implemented and details regarding the school plan to acquire and disseminate technology, track and monitor attendance, utilize a learning management system, provide technical support, and communicate with students, families, and staff;

53. a proposed Student Code of Conduct or Discipline Policy and Procedures; and

54. parent and employee grievance process and policies.

E. For a proposed public charter school that intends to contract with an education service provider for substantial educational services, management services, or both types of services, the request for proposals shall additionally require the applicants to:



1. provide evidence of provider success in serving student populations similar to the targeted population, including demonstrated academic achievement, fiscal responsibility, and organizational effectiveness;

2. provide the contract or MOU setting forth the proposed duration of the service contract; roles and responsibilities of the governing board, the school staff, and the service provider; scope of services and resources to be provided by the service provider; performance evaluation measures and timelines; compensation structure, including clear identification of all fees to be paid to the management organization; methods of contract oversight and enforcement; investment disclosure; and conditions for renewal and termination of the contract; and

3. disclose and explain any existing or potential conflicts of interest between the school governing board and proposed service providers or any affiliated business entities;

4. provide a detailed plan outlining the mechanisms by which the charter board will oversee and will hold the management organization or vendor to agreed-upon terms, as well as the conditions under which the contractual relationship may be terminated; and

5. provide rationale for consideration of an education service provider and evaluation of all providers considered.

F. For a public charter school proposal from an applicant that is an education service provider or is using an education service provider that currently operates one or more schools in any state or nation, the request for proposals shall additionally require the applicant to provide evidence of past performance and current capacity for growth, financial audits, and details regarding any previous, pending, or current litigation.

G. Type 1 and type 2 charter school applications shall describe how the charter school will serve the percentage of required students defined in the charter school law and in §2713 of this bulletin.

H. In the case of a proposed virtual charter school, the request for applications shall additionally require the applicants to provide:

1. a testing plan that meets the requirements set forth in Section 317 of Bulletin 118;

2. a plan for delivering instruction in the event of technical and other course delivery problems which prevent normal course delivery;

3. a summary of data protection and recovery procedures in the event of catastrophic system failure;

4. a staff/teacher acceptable use policy for technology that complies with R.S. 17:3996(21);

5. a school electronic communication policy that complies with the federal Child Internet Protection Act and R.S. 17:100.7, including information on school Internet safety and filtering practices and policies;

6. a plan for providing professional development appropriate to the delivery method used and the acceptable use and electronic communication policies;

7. a plan for providing adequate, timely, and appropriate technical support to students, teachers, facilitators, and instructional coaches;

8. a plan for providing orientations to enrolled students, their parents, and their instructional coaches on the course delivery model prior to the beginning of the class;

9. a plan outlining the nature, frequency, and location of all required and optional in-person meetings and interactions between parents and school faculty, including but not limited to parent/teacher conferences, open houses, and school community meetings;

10. a plan for verifying student participation and performance, including specific intervention procedures the school will take when students are not participating as required;

11. a plan for complying with Title 28, Chapter 11, §1119, Health Screening as part of enrollment and the ongoing functioning of the school;

12. a plan for student engagement, attendance and truancy; and

13. a plan to provide at least 20 percent of instruction to struggling students in-person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:3981, and 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1362 (July 2008), amended LR 37:869 (March 2011), LR 37:2383 (August 2011), LR 38:38 (January 2012), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:1583 (July 2012), LR 38:3118 (December 2012), LR 39:1432 (June 2013), LR 43:2477 (December 2017), LR 44:233 (February 2018), LR 44:2130 (December 2018), LR 47:572 (May 2021).

**§517. Consideration of Charter Applications and Awarding of Charters by BESE**

A. BESE shall consider each type 2 and type 4 charter school application and vote to approve or deny the application.

B. BESE shall consider each type 5 charter school application that is recommended by the state superintendent of education, based on a recommendation by the Department of Education, and may vote to approve or deny the recommended application.

C. BESE shall carefully review each type 2, type 4, and type 5 charter school application it receives and may approve a charter application only after it has made a specific determination that the proposed school will be operated in compliance with all applicable state and federal laws, rules, and regulations; that the accounting and financial practices to be used are sound and in accordance with generally accepted standards for similar entities; and that the educational program to be offered will comply with all requirements of the charter school law and be based on

generally accepted education research findings applicable to the pupils to be served, including but not limited to school discipline practices and policies that incorporate positive behavior interventions and supports, restorative justice, and other research-based discipline practices and classroom management strategies and otherwise conform to the other model master discipline plan required in accordance with R.S. 17:252.

D. Approval of type 2, type 4, and type 5 charter schools shall require an affirmative vote of at least six board members.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008), amended LR 37:870 (March 2011), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 39:1432 (June 2013), LR 39:3064 (November 2013).

#### **§519. Opening of Additional Charter Schools in BESE-Approved Application**

A. A charter operator may open additional schools included in its approved charter application if the following performance targets for all Louisiana charter schools currently operated by the charter operator are met:

1. No charter schools have a letter grade of “F” or an equivalent school performance score (SPS); and

2. All charter schools have:

a. a letter grade of “C” or higher or an equivalent SPS; or

b. a letter grade of “D” or higher or an equivalent SPS, and a progress index equivalent to an “A” letter grade.

3. All BESE-authorized charter schools have earned designations of “meets all expectations” or “meets most expectations” for financial and organizational performance as provided for in the Charter School Performance Compact in each of the previous three years of operation, or for every year of operation if the school has been open less than three years; and

4. The charter operator notifies the department of the planned school opening according to timelines developed by the department.

B. The department may consider the financial and organizational performance of charter schools authorized by local school boards as appropriate.

C. If the charter operator contracts with a management organization, the state superintendent may consider the performance of other charter schools affiliated with the management organization in determining whether or not the charter operator is allowed to open an additional approved school.

D. The state superintendent may waive one or more of the required performance criteria for:

1. charter schools that are in the first or second year of operation that have not yet received been evaluated for academic, financial, or organizational performance;

2. charter schools approved as alternative schools pursuant to Bulletin 111 or charter schools that are evaluated pursuant to an alternate framework as provided for in §1103 of this bulletin; or

3. a circumstance where anticipated new students in the charter school being proposed to open would otherwise predominantly be enrolled in schools performing at levels lower than or equivalent to the participating school.

E. The department shall notify BESE prior to the opening of any charter school pursuant to this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 44:233 (February 2018).

#### **§521. Charter School Replication for BESE-Authorized Charter Schools (Formerly §523)**

A. A charter operator may open and operate up to two additional charter schools without making a formal application to BESE:

1. the average of the school performance scores of all Louisiana charter schools operated by the charter operator is equivalent to a letter grade of “B” or higher for the previous three school years; and

2. the average progress index of all Louisiana charter schools operated by the charter operator is equivalent to a letter grade of “A” for the previous three school years;

3. all BESE-authorized charter schools operated by the charter operator have earned designations of “Meets All Expectations” or “Meets Most Expectations” for financial and organizational performance as provided for in the charter school performance compact in each of the previous three years of operation.

B. If the charter operator contracts with a management organization, the state superintendent may consider all charter schools operating in Louisiana affiliated with the management organization in determining whether or not the charter operator meets the academic requirements above.

C. The new charter schools must serve the same grade levels and enrollment boundaries as one of the operator’s charter schools currently in operation that meets the eligibility criteria outlined above.

D. The type of charter schools the charter operator may open shall be determined as follows.

Charter School Meeting Eligibility Requirements	Permitted New Types of Charter Schools
Type 2	<ul style="list-style-type: none"> <li>• New Type 2;</li> <li>• May be a Type 2 conversion charter school upon receiving approval from the professional faculty, staff, and parents or guardians of the pre-existing school, as required in §507, and meeting the other eligibility requirements to apply for a Type 2 in §503;</li> <li>• May be a Type 5 subject to approval by the RSD to transform a school under the jurisdiction of the RSD</li> </ul>
Type 4	<ul style="list-style-type: none"> <li>• Type 4</li> </ul>
Type 5	<ul style="list-style-type: none"> <li>• New Type 2, subject to the approval of the state superintendent;</li> <li>• May be a Type 2 conversion charter school upon receiving approval from the professional faculty, staff, and parents or guardians of the pre-existing school, as required in §507, and meeting the other eligibility requirements to apply for a Type 2 in §503;</li> <li>• May be a Type 5 subject to approval by the RSD to transform a school under the jurisdiction of the RSD</li> </ul>

E. The charter operator shall notify BESE of its intent to open one or two additional charter schools pursuant to this Section at least 120 calendar days prior to the day on which each additional school shall enroll students.

F. At least 90 calendar days prior to the day on which each additional school shall enroll students, BESE shall enter into a charter agreement with the chartering operator for each additional school and shall notify BESE of its action.

G. The charter operator must complete all processes and required by law and BESE policy to open a school, including, but not limited to the procurement of all required permits, inspections and approvals necessary to safeguard student safety and welfare.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992(A).

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education LR 39:1432 (June 2013), amended LR 39:3250 (December 2013), LR 43:308 (February 2017), LR 44:234 (February 2018).

## Chapter 7. Charter School Contract for BESE-Authorized Charter Schools

### §701. Charter School Contract with BESE

A. Following charter application approval by BESE, approved nonprofit corporations must complete pre-opening requirements developed by the department.

B. The department may condition the execution of the charter contract or the opening of a school on completion of one or more pre-opening requirements.

C. The charter school contract shall represent the legal agreement between BESE and the charter operator, which defines the rights and responsibilities of the parties.

D. The charter school contract shall define the performance standards to which the charter school will be

held accountable and the general terms and conditions under which the charter school will operate. The charter school contract template shall include, but not be limited to:

1. provisions regarding the establishment of the charter school;
2. the operation of the charter school;
3. charter school financial matters;
4. charter school personnel;
5. charter term, renewal and revocation; and
6. other provisions determined necessary by BESE.

E. The charter school contract shall also include exhibits that provide detailed information about the terms and conditions under which the school will operate.

F. Each contract entered into by BESE for the operation of a charter school shall contain provisions set forth in a standard contract template; however, BESE shall not be precluded from allowing for provisions that may be specific to an individual charter operator.

G. Any contracts entered into between a charter operator and a management organization shall:

1. set forth material terms including but not limited to: performance evaluation measures; methods of contract oversight and enforcement by the charter school board; compensation structure and all fees to be paid to the management organization; and conditions for contract renewal and termination;

2. contain provisions relative to the submission of documents, including but not limited to student records and financial information, upon request and in a timely manner. The contract shall specify that any documents not provided by a management organization to the charter operator must be reported by the charter operator to the department. If such documents are financial documents, the department shall notify BESE and the Office of the Louisiana Legislative Auditor. Failure to comply with requests for documents may render the management organization ineligible to contract with any BESE-authorized charter school as a management organization for up to five years.

H. Contracts between charter operators and management organizations may be reviewed by the department to ensure compliance with the provisions of Subsection D of this Section. Any contracts entered into between charter operators for the provision of services shall require an assurance statement signed by the presidents of the charter operators' board of directors to be submitted to the department. The assurance statement shall indicate that both parties have complied with the provisions of Subsection D of this Section.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008), amended LR 37:2385 (August 2011), LR 38:751 (March 2012), repromulgated LR 38:1393 (June 2012), LR 38:3118 (December

2012), LR 39:3065 (November 2013), amended LR 44:235 (February 2018).

### **§703. Performance Measures**

A. The charter school contract shall provide for specific student performance, financial, and legal and contractual standards which must be met by the charter operator during the term of the charter contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008).

### **§705. Contract Execution**

A. A duly authorized officer of the board of directors of the charter operator shall sign the charter contract on behalf of the charter operator.

B. The president of BESE shall sign the charter contract on behalf of BESE.

C. The charter contract shall not be fully executed until the charter operator completes all pre-opening requirements identified for completion prior to contract execution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008).

## **Chapter 9. Opening of Charter School**

### **§901. Timeline for Opening of BESE-Authorized Charter Schools**

A. A BESE-authorized charter school shall begin operation by not later than 24 months after the final approval of the charter at a BESE meeting, or upon notification to BESE if opening additional approved charter schools pursuant to §519 of this bulletin, unless such charter school is engaged in desegregation compliance issues and, therefore, must begin operation by not later than 36 months. However, upon request, BESE may extend the time period within which any charter school must begin operation.

B. If a charter school fails to begin operation within the time periods set forth in §901.A, the charter for that school shall be automatically revoked although a new charter may be proposed in a subsequent application cycle.

C. A BESE-authorized charter school shall not begin operation sooner than eight months after approval of the charter school has been granted, unless BESE or the state superintendent agrees to a lesser time period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008), amended LR 37:870 (March 2011), LR 37:2385 (August 2011), LR 38:751 (March 2012), repromulgated LR 38:1393 (June 2012), amended LR 39:1433 (June 2013), LR 44:235 (February 2018).

## **Chapter 11. Ongoing Review of Charter Schools**

### **§1101. Evaluation for BESE-Authorized Charter Schools**

A. BESE authorizes the operation of charter schools to provide schools with increased educational and operational autonomy in exchange for accountability for performance.

B. The performance of type 2, type 4, and type 5 charter schools will be reviewed and/or evaluated annually in the following categories:

1. academic performance;
2. financial performance; and
3. organizational performance.

C. BESE shall approve a charter school performance compact that will articulate the specific criteria the Department of Education will use to annually evaluate the academic, financial, and organizational performance of BESE-authorized charter schools. As necessary, the Department of Education may revise the charter school performance compact, subject to BESE approval of all material changes. All criteria used in the charter school performance compact shall correspond to one of the categories listed above.

D. In measuring the organizational and financial performance of schools as part of the charter school performance compact, charter schools will be given one of the following ratings:

1. meets all expectations;
2. meets most expectations;
3. does not meet expectations.

E. The charter school performance compact may include other supporting evidence to be included in evaluating school performance.

F. BESE shall receive a report on the review of type 2, type 4, and type 5 charter schools not later than January of each year.

1. Each charter school will be subject to regular site visits, monitoring, and contract, school policies, and data review on a schedule established by the Department of Education.

2. For a charter school with a renewal term of six or more years, the department will conduct an in-depth review and evaluation of the charter school, equivalent to a renewal review, at least once every five years to measure the charter school's performance as measured by the charter school performance compact. The department shall present such review and evaluation to BESE at a regular meeting and provide an opportunity for BESE to take appropriate action or impose meaningful consequences, if necessary, as provided for in this bulletin.

#### **G. Academic Performance**

1. Academic performance is the primary measure of school quality. BESE shall use the state's assessment and

accountability programs as objective and verifiable measures of student achievement and school performance. Student performance is the primary indicator of school quality; therefore, BESE will heavily factor contract extensions and renewal decisions on a school's achievement of the student performance standards.

2. Charter schools are required to administer all state assessments and are subject to the Louisiana School and District Accountability System as required by Bulletin 111.

### 3. Pre-Assessment Index

a. In the fall of each charter school's second year of operation, the Department of Education shall provide each charter school with a pre-assessment index, as available.

b. The pre-assessment index will consist of the test results of the students enrolled in the charter school from the immediately preceding spring state testing prior to the creation of the new charter school, where available.

4. The charter school performance compact shall articulate the specific criteria the Department of Education will use to evaluate academic performance.

### H. Financial Performance

1. Charter schools are required to engage in financial practices, financial reporting, and financial audits as set forth in charter school law, this bulletin, and the charter. The requirements imposed by law, regulation, and contract ensure the proper use of public funds and the successful fiscal operation of the charter school.

2. Charter schools will be evaluated annually on the timely submission of budgets, audits, annual financial reports, and all other financial reporting and compliance with applicable financial budgeting; accounting; and auditing laws, regulations, and procedures.

3. Financial performance shall be assessed annually using the financial risk assessment framework approved and adopted by BESE. The financial risk assessment shall:

a. monitor external conditions encountered by charter operators that, if not addressed, could render the school financially vulnerable; and

b. identify internal factors that could lead to weaknesses or challenges in the financial operations of an operator.

4. The financial risk assessment shall be a factor in determining the financial performance of a charter school.

5. The financial risk assessment shall result in one of the following actions:

a. no action. The school's fiscal health is determined to be satisfactory and does not require continued departmental monitoring; or

b. monitoring. The department will monitor specific aspects of the financial risk assessment, in order to assure continued progress in areas that have been problematic in the past; or

c. dialogue. The department will conduct a detailed review of the school's finances and financial practices; follow-up may include, but not be limited to, discussions between department staff and school leadership regarding issues of major concern, a formal site visit, or recommended action by BESE in order to address deficiencies.

6. Charter schools in their first year of operation shall be provided a financial practices self-assessment in order to determine the extent to which the school is positioned for strong financial performance.

7. The charter school performance compact shall articulate any other specific criteria the Department of Education will use to evaluate financial performance.

### I. Organizational Performance

1. BESE shall evaluate a charter school's organizational performance based on the Department of Education's oversight and monitoring of the charter school's compliance with and performance of statutory, regulatory, reporting, and contractual obligations, including R.S. 17:3972, which provides that the best interests of economically-disadvantaged pupils shall be the overriding consideration in implementing the provisions of charter law.

2. BESE's organizational performance evaluation of each charter school shall be based on, but not limited to data and information in the following areas:

a. special education and ELL program;

b. student enrollment;

c. student discipline;

d. health and safety

e. governance; and

f. facilities.

3. The charter school performance compact shall articulate the specific criteria the Department of Education will use to evaluate organizational performance.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), 17:3981, and 17:3991.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008), amended LR 37:871 (March 2011), repromulgated LR 37:1124 (April 2011), amended LR 37:2385 (August 2011), LR 38:751 (March 2012), repromulgated LR 38:1393 (June 2012), amended LR 38:3118 (December 2012), LR 39:1433 (June 2013), LR 39:3065 (November 2013), amended LR 40:1322 (July 2014), LR 44:235 (February 2018), LR 44:2130 (December 2018).

### **§1103. Alternate Extension and Renewal Standards for Certain BESE-Authorized Charter Schools**

A. BESE may approve alternate extension and renewal standards for a charter school serving a unique student population or populations, or for a charter school that is not included in the Louisiana School and District Accountability System provided that:

1. the department determines that the school primarily serves a special or non-traditional student population or

populations and mission, or the school is not included in the Louisiana School and District Accountability System;

2. the alternate extension and renewal standards are set forth in a framework approved by BESE; and

3. the alternate extension and renewal standards include specific academic performance criteria.

B. The department shall develop the alternate extension and renewal standards framework and shall engage with charter schools requesting use of such framework to determine the specific criteria to be included in the framework to be proposed for approval by BESE.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:1366 (July 2008), amended LR 40:1322 (July 2014), LR 44:236 (February 2018).

### **§1105. Intervention Process for BESE-Authorized Charter Schools**

A. The charter school performance compact may include an intervention process that articulates the steps the Department of Education may take should a school fall out of compliance with requirements outlined in the charter school performance compact, law, or BESE policy. The stages of the intervention process shall include, at a minimum:

1. good standing. All charter schools will begin at this level;

2. notice of concern. If the Department of Education receives a verified complaint or if regular oversight generates significant concerns or questions, a school will receive a notice of concern. The notice of concern will contain specific actions and due dates required to remedy the concern. Upon remedying the concern the school will return to good standing. One or more notices of concern may lead to increased oversight by the Department of Education;

3. notice of breach. For significant, intentional, or repeated non-compliance with requirements outlined in the charter school performance compact, law, or BESE policy, or if a school fails to correct a notice of concern, the school will be issued a notice of breach that will contain specific actions and due dates required to remedy the breach. The Department of Education will monitor the implementation of the steps required to cure the breach. Once a school has fulfilled the notice of breach requirements, the school will return to good standing. One or more notices of breach may lead to increased oversight by the Department of Education;

4. revocation review. Upon failure to meet the requirements specified in the notice of breach, in instances of ongoing and significant concerns, or when the safety, health, or welfare of students is threatened, the department may initiate a revocation review. The review may include additional visits to the school or an in-depth audit to assess financial and/or organizational health. Findings from the revocation review will determine whether the Department of Education shall commence revocation proceedings or

whether the school will be granted a new or revised notice of breach.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 39:1435 (June 2013), amended LR 44:236 (February 2018).

## **Chapter 13. Charter Term**

### **§1301. Initial Charter**

A. An approved charter shall be valid for an initial term of four years.

B. A charter operator shall have a right to operate a charter school during its initial four year term unless the charter is revoked or surrendered.

C. A charter operator's right to operate a charter school shall cease upon the expiration of the initial four year term, unless the charter operator is granted an extension to operate for a fifth year.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:1366 (July 2008), amended LR 38:3118 (December 2012).

### **§1303. Extension Review for BESE-Authorized Charter Schools**

A. Each charter school shall be reviewed by its chartering authority after the completion of the third year of operation. If the charter school is achieving its stated goals and objectives pursuant to its approved charter, then the chartering authority shall extend the duration of the charter for a maximum initial term of five years. If the charter school is not achieving its stated goals and objectives pursuant to its approved charter, then the chartering authority shall not extend the duration of the charter, and the charter shall expire at the end of the school's fourth year.

B. Each type 2, type 4, and type 5 charter school's extension review shall be used to determine if the school will receive a one-year extension, as follows.

1. Each charter school shall be reviewed based on academic, financial, and organizational performance data collected by the Department of Education as provided for in the charter school performance compact in order to provide relevant information to BESE in making an extension determination.

2. For the 2018 and beyond extension processes, in order to be eligible for extension:

a. a turnaround school, qualified to receive a letter grade of "T" per Bulletin 111, §1105, school has

(i.) earned a letter grade of "D" or higher based on performance data from the school's third year of operation; or

(ii). earned a progress index equivalent to a letter grade of “A” based on performance data from the school’s third year of operation.

b. a non-turnaround school shall have earned a letter grade of “D” or higher based on performance data from the school’s third year of operation;

c. a school approved by BESE to be evaluated using an alternate framework pursuant to §1103 of this bulletin shall have met the standards for extension provided for in such approved framework.

3. For the 2017 extension process, in addition to the 2017 school performance score and letter grade, the department shall calculate a school performance score and letter grade for each charter school being considered for extension based on the formula that will be utilized for the 2018 school performance score and letter grade formula. The school performance score and letter grade that result in the better outcome for the charter school shall be considered by the department and BESE for extension purposes.

4. The state superintendent shall recommend that BESE extend the charter for any charter school meeting the extension eligibility criteria above, unless the charter school has significant, intentional, or repeated non-compliance with financial or organizational requirements outlined in the charter school performance compact, in which case the state superintendent may recommend that BESE allow the charter to expire at the conclusion of the school’s fourth year of operation.

5. If a charter school has not earned a letter grade in its third year of operation, or if the charter school fails to meet any of the standards set forth in Paragraph B.2 of this Section, or if the charter school has one or more outstanding issues or deficiencies related to organizational or financial performance, BESE may, at the superintendent’s recommendation, grant the school a one-year probationary extension that may include conditions or other required actions.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10).

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:1367 (July 2008), amended LR 37:2387 (August 2011), LR 38:751 (March 2012), repromulgated LR 38:1393 (June 2012), amended LR 38:3118 (December 2012), LR 39:1435 (June 2013), LR 39:3065 (November 2013), LR 40:1322 (July 2014), LR 41:1264 (July 2015), LR 43:2477 (December 2017), LR 44:237 (February 2018).

## Chapter 15. Charter Renewal

### §1501. Renewal of Charter

A. At the conclusion of a charter school's fifth year of operation and the expiration of its initial charter contract, a charter operator no longer has a continuing right to operate a charter school.

B. No charter shall be renewed unless the charter can demonstrate, at a minimum, using standardized test scores, improvement in the academic performance of students over

the term of the charter school's existence. For BESE-authorized charter schools, such improvement shall be evaluated by the department using appropriate data and the standards for renewal provided for in this chapter.

C. A charter may be renewed for additional periods of not less than three nor more than 10 years after thorough review by the approving chartering authority of the charter school's operations and compliance with charter requirements.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981 and R.S. 17:3992.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:1367 (July 2008), amended LR 37:871 (March 2011), LR 37:2388 (August 2011), LR 38:751 (March 2012), repromulgated LR 38:1393 (June 2012), amended LR 38:3118 (December 2012), LR 44:237 (February 2018).

### §1503. BESE Processes for Charter Renewal (Formerly §§1502 and 1503)

A. For each BESE-authorized charter school in the final year of operation under its current charter term, the state superintendent shall make a recommendation to BESE as to whether the charter should be renewed, and if so, the length of the proposed renewal term.

B. A BESE-authorized charter school may be renewed at the discretion of BESE if all requirements set forth in law and policy for the renewal of a charter have been met.

C. The process for renewing a school charter shall be based on a thorough review of the charter school's academic, financial, and organizational performance as provided for in the charter school performance compact.

D. BESE will rely on data from the state’s assessment and accountability program as objective and verifiable measures of student achievement and school performance. Student performance is the primary indicator of school quality; therefore, BESE will heavily factor each charter school’s student performance data in all renewal decisions.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981 and R.S. 17:3992.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:1367 (July 2008), amended LR 37:871 (March 2011), LR 37:2388 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), LR 38:3119 (December 2012), LR 39:1436 (June 2013), LR 39:3066 (November 2013), LR 40:1323 (July 2014), LR 41:1264 (July 2015), LR 43:2477 (December 2017), LR 44:237 (February 2018).

### §1505. Eligibility for Renewal for BESE-Authorized Charter Schools (Formerly §1503.B)

A. For initial renewals during the 2018 and beyond renewal processes, a BESE-authorized charter school receiving a letter grade of “F” in the prior academic year will not be eligible for renewal, unless one of these conditions are met:

1. the charter school is a school approved by BESE to be evaluated using alternate renewal standards pursuant to

§1103 of this bulletin and has met such alternate standards;  
or

2. the school is a turnaround charter school that qualified to receive a letter grade of “T” per Bulletin 111, §1105 and has earned a progress index equivalent to a letter grade of “A.”

B. For subsequent renewals during the 2018 and beyond renewal processes, a BESE-authorized charter school receiving a letter grade of “D” or “F” in the prior academic year will not be eligible for renewal, unless one of these conditions are met:

1. the charter school is a school approved by BESE to be evaluated using alternate renewal standards pursuant to §1103 of this bulletin and has met such alternate standards;  
or

2. the charter school has a current letter grade of “D,” or an equivalent SPS and:

a. has received a letter grade of “C” or an equivalent SPS for more than half of the letter grades received during the charter’s current term and the final letter grade received in charter school’s prior term; or

b. has earned a progress index equivalent to a letter grade of “A” in the most recent year and for more than half of the progress indices received during the charter’s current term and the final progress index received during the charter school’s prior term.

i. For years in which the school does not earn a progress index, a progress index may be calculated using the available data for that year.

C. When a charter school does not meet the criteria for renewal in the initial or subsequent charter term, BESE may renew the charter based upon the recommendation of the state superintendent. Such renewal may include conditions to be incorporated in the charter school contract and may require the charter operator to phase out operation of the school over the course of the renewal term. Prior to recommending such renewal, the following must be considered:

1. nonrenewal may require students to attend lower-performing schools;

2. available academic data, including student performance data and/or student growth data of neighboring and comparable schools, has been reviewed; and

3. efforts to find a new, high-quality operator for the charter school have failed.

D. For the 2017 renewal process, in addition to the 2017 school performance score and letter grade, the department shall calculate a school performance score and letter grade for each charter school being considered for renewal based on the formula that will be utilized for the 2018 school performance score and letter grade formula. The school performance score and letter grade that result in the better outcome for the charter school shall be considered by the department and BESE for renewal purposes.

E. The state superintendent of education may recommend a corrective action plan as a condition for renewal for any charter school that is eligible for renewal, but fails to fully meet any performance expectations of the charter school performance compact. The board may make the execution of the renewal charter contract contingent upon the completion of all or some of the actions required by the corrective action plan. The board may also direct the department to include all or some of the actions required by the corrective action plan to be incorporated into the charter contract so that failure to complete corrective actions may serve as grounds for revocation.

F. A recommendation for non-renewal may also include a recommendation that a new charter provider operate the school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:479 (March 2010), amended LR 37:871 (March 2011), LR 37:2388 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 38:3119 (December 2012), LR 39:1436 (June 2013), LR 39:3066 (November 2013), LR 40:1323 (July 2014), LR 41:1264 (July 2015), amended LR 44:238 (February 2018), LR 46:788 (June 2020).

**§1507. Renewal Term Length for BESE-Authorized Charter Schools (Formerly §1503.C)**

A. For each charter school meeting the eligibility criteria for renewal in §1503 of this bulletin, the state superintendent shall recommend that BESE renew of the charter for a specified number of years as provided for in Subsection C of this section, unless the charter school has significant, intentional, or repeated non-compliance with financial or organizational requirements outlined in the charter school performance compact, in which case the state superintendent may recommend that BESE allow the charter to expire at the conclusion of the school’s current charter term.

B. For those charter schools the state superintendent recommends for renewal, the state superintendent shall recommend a renewal term length as follows:

1. the state superintendent shall recommend a minimum renewal term length based on the charter school’s current letter grade; and

2. the state superintendent may recommend a term of years longer than the minimum renewal term length through the optional addition of one or more years to the minimum renewal term length in recognition of the charter school’s financial and organizational performance as provided for in the charter school performance compact over the term of the school’s current charter.

C. The state superintendent shall recommend renewal term lengths in accordance with the table below.

Current Letter Grade	Minimum Term Length	Potential Additional Years (Based on Organizational and Financial Performance Over Current Term)	
		“Does Not Meet	No additional
A	6 Years	“Does Not Meet	No additional



Current Letter Grade	Minimum Term Length	Potential Additional Years (Based on Organizational and Financial Performance Over Current Term)	
		Expectations” in any year	years
		“Meets All” and/or “Meets Most” Expectations all years	≤ 2 Years
		“Meets All Expectations” all years	≤ 4 Years
		“Does Not Meet Expectations” in any year	No additional years
B	5 Years	“Meets All” and/or “Meets Most” Expectations all years	≤ 1 Year
		“Meets All Expectations” all years	≤ 2 Years
		No additional years	
C	4 Years	No additional years	
D, F or no letter grade	3 Years	No additional years	

D. Notwithstanding the above:

1. the state superintendent may recommend a renewal term that is up to two years shorter than the minimum term length specified above, which shall be no shorter than three years in any case, for a charter school:

- a. where fewer than 50 percent of the school’s enrolled grades are testable under state accountability; or
- b. that has significant, intentional, or repeated non-compliance with financial or organizational requirements outlined in the charter school performance compact.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:479 (March 2010), amended LR 37:871 (March 2011), LR 37:2388 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 38:3119 (December 2012), LR 39:1436 (June 2013), LR 39:3066 (November 2013), LR 40:1323 (July 2014), LR 41:1264 (July 2015), LR 44:238 (February 2018).

**§1509. Automatic Renewal of BESE-Authorized Charter Schools (Formerly §1503.G)**

A. A charter school which has met or exceeded for the three preceding school years the benchmarks established for it in accordance with the school and district accountability system, has demonstrated growth in student academic achievement for the three proceeding school years, and has had no significant audit findings during the term of the charter agreement shall be deemed a high-performing school, and such school's charter shall be automatically renewed.

B. A BESE-authorized charter school that meets the following conditions shall be automatically renewed and

shall be exempted from the renewal process requirements listed in this Section, as appropriate:

1. has received a letter grade of “A” or “B” or an equivalent SPS for the previous three years;
2. has demonstrated growth in student academic achievement as measured by a current progress index equivalent to a letter grade of “A”;
3. has received a “meets all expectations” or “meets most expectations” designation for organizational performance according to the charter school performance compact for the three previous years;
4. has received a “meets all expectations” or “meets most expectations” designation for financial performance according to the charter school performance compact for the three previous years; and
5. has no outstanding notices of concern or breach.

C. The state superintendent shall determine the automatic renewal term length according to the terms specified in Subsection C of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:479 (March 2010), amended LR 37:871 (March 2011), LR 37:2388 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 38:3119 (December 2012), LR 39:1436 (June 2013), LR 39:3066 (November 2013), LR 40:1323 (July 2014), LR 41:1264 (July 2015) LR 44:239 (February 2018).

**Chapter 16. School Closure**

**§1601. Closure of BESE-Authorized Charter Schools**

A. In the event a BESE-authorized charter school closes permanently for any reason, the school shall adhere to the school closure procedures developed by the Department of Education.

B. The charter board shall have direct responsibility for carrying out the dissolution of the school and disposition of assets in accordance with applicable law and policy.

C. Once the school has ceased operations or the charter board or BESE has taken board action to close the school, whichever occurs first, the department shall have authority to supervise, oversee, or direct the dissolution of the charter school and the disposition of assets of the charter school, and the charter school shall:

1. make no disposition of equipment and cash on hand attributable to state public funding without written permission from the department;
2. transfer or dispose of assets in accordance with §2509 of this bulletin;
3. designate a representative who shall retain responsibility for the security of and access to all charter school records;

4. provide the means and capability to access charter school records, including student records, to the department, as designated in writing, and as permitted by law;

5. fully cooperate with the department, who shall have unrestricted and equal access to charter school records, including student records, as permitted by law, during the period prior to the closure of the charter school;

6. secure all charter school records, including student records, in the possession of the charter school and shall grant to the department access to records requested by the department, as permitted by law.

a. Upon taking possession of such records, the department shall thereafter fulfill any and all statutory and contractual duties concerning the charter school records, including the student records which are within the department's possession.

b. The charter school shall take all reasonable steps necessary to collect and assemble in an orderly manner the educational records of each student who is or has been enrolled in the school so that those records may be transmitted to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and RS 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:3067 (November 2013), amended LR 44: 239 (February 2018).

## Chapter 17. Revocation

### §1701. Reasons for Revocation

A. An authorizer may revoke a school's charter any time prior to the expiration of a charter operator's five-year term following initial approval or prior to the expiration of its subsequent renewal, if such is granted pursuant to Chapter 15 of this bulletin, upon a determination that the charter school or its officers or employees did any of the following:

1. committed a material violation of any of the conditions, standards, or procedures provided for in the approved charter;

2. failed to meet or pursue within the agreed timelines any of the academic and other educational results specified in the approved charter;

3. failed to meet generally accepted accounting standards of fiscal management;

4. violated any provision of law or BESE policy applicable to a charter school, its officers, or employees.

B. BESE may also revoke a schools charter if:

1. the health, safety, and welfare of students is threatened;

2. any other reasons for revocation listed as such in a charter school's charter contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981 and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1368 (July 2008), amended LR 37:872 (March 2011), LR 38:3120 (December 2012).

### §1703. Revocation Proceedings

A. Recommendation to Revoke Charter for BESE-Authorized Charter Schools

1. A recommendation to revoke a charter shall be made to BESE by the state superintendent of education based on information provided by the Department of Education, at least one BESE meeting prior to the BESE meeting at which the recommendation may be considered, except as otherwise provided herein when the health, safety, and welfare of students is at issue.

2. Prior to the BESE meeting at which the state superintendent of education will make a recommendation that BESE commence a revocation proceeding, the Department of Education will inform the charter operator that it is requesting such and the reasons therefor and may meet with the charter operator, upon request, to discuss the revocation recommendation.

3. Following the state superintendent of education's recommendation to revoke a charter, BESE shall determine if it will commence a revocation proceeding.

4. BESE may, on its own, commence a charter revocation proceeding.

B. Revocation Hearing for BESE-Authorized Charter Schools

1. The charter operator shall have an opportunity for a hearing prior to the revocation of its charter.

2. All charter school revocation hearings shall be heard by the School Improvement and Turnaround Committee of BESE.

3. Following the Department of Education's recommendation to revoke a charter, BESE shall determine if it will commence a revocation proceeding.

C. Hearing Officer for BESE-Authorized Charter Schools

1. BESE shall appoint a hearing officer to preside over the revocation hearing and carry out certain adjudicative functions including, but not limited to, the following:

a. set procedures and deadlines for the exchange of information, the filing of motions and requests for orders, and other discovery, as necessary;

b. rule on all pre-hearing motions and requests for declaratory orders;

c. direct parties to appear and confer for the simplification of issues, the setting of pre-hearing deadlines, or to otherwise address pre-hearing conferences, if deemed necessary by the hearing officer, to effectuate an orderly hearing;

d. issue subpoenas under the authority of BESE;

e. administer oaths and affirmations;

f. regulate the course of the hearing and the conduct of the parties and their counsel;

g. rule on offers of proof and receive relevant evidence;

h. rule on all objections to evidence presented, with the ability to exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence;

i. consider and rule upon procedural requests or similar matters;

j. direct witnesses to testify, limit the number of times any witness may testify, limit repetition or cumulative testimony and set reasonable limits on the amount of time each witness may testify;

k. assist the chair of the committee hearing the revocation and/or president of BESE in preparing findings of fact and conclusions of law consistent with the determinations made by the committee of BESE and/or BESE.

2. It shall not be the function of the hearing officer to make a determination or decision with respect to the revocation of a charter.

D. Revocation Hearing Notice for BESE-Authorized Charter Schools

1. A charter operator shall be provided reasonable notice of the revocation hearing at least 15 calendar days prior to the scheduled revocation hearing.

a. Except as otherwise provided herein, the notice of the revocation hearing shall be provided to the charter operator and shall include:

i. a statement of the time, place, and nature of the hearing;

ii. a statement of the legal authority and jurisdiction under which the hearing is to be held;

iii. a reference to particular sections of statutes, rules, and/or the charter school contract involved; and

iv. a short and plain statement of the matters asserted.

2. If BESE is unable to provide the exact date and time of the hearing when the initial notice is provided to the charter operator, it may provide a range of dates when the hearing will be held and provide a supplemental notice of hearing with the exact date and time. Such supplemental notice with the exact date and time shall be provided to the charter operator no later than seven calendar days prior to the hearing date.

3. If BESE is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, a more definite and detailed statement shall be furnished to the charter operator.

4. The hearing office shall send notice or conduct a scheduling conference to establish all pre-hearing deadlines.

5. All notices with respect to a revocation hearing shall be made by personal delivery; by registered or certified mail; or by U.S. regular mail, postage prepaid; and by facsimile, if available. Notice shall be determined to be provided on the day on which personal delivery or mailing occurs or the day on which facsimile is transmitted.

E. Issuance of Subpoenas for BESE-Authorized Charter Schools

1. The president of BESE or the hearing officer shall have power to sign and issue subpoenas in the name of BESE requiring attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence.

2. No subpoena shall be issued until the party who wishes to subpoena the witness first deposits with BESE a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to Title 13 of the Louisiana Revised Statutes.

3. A subpoena issued pursuant to this Section shall be served by any agent of BESE or the Department of Education; by the sheriff; by any other officer authorized by law to serve process in this state; by certified mail, return receipt requested; or by any person who is not a party and who is at least 18 years of age.

4. Witnesses subpoenaed to testify before BESE only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witness.

F. Presentation and Evaluation of Evidence at Revocation Hearing for BESE-Authorized Charter Schools

1. At the charter revocation hearing, an opportunity shall be afforded all parties to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

2. BESE shall give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs and shall give effect to the rules of privilege recognized by law.

a. All evidence, including records and documents in the possession of the Department of Education or BESE of which the Department of Education desires to avail itself, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by the parties before being received in evidence.

b. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the Department of Education or BESE's specialized knowledge.

Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The Department of Education's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

#### G. Revocation Decision

1. A charter may be revoked upon an affirmative vote of six members of BESE or by an affirmative vote of at least a majority of the local board membership.

2. A decision to revoke by an affirmative vote of six members of BESE members shall be considered a final decision and shall be in writing or stated in the record.

3. The revocation decision shall include findings of fact and conclusions of law.

4. The charter operator shall be notified in writing of the revocation decision.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 34:1368 (July 2008), amended LR 37:872 (March 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 39:3067 (November 2013), LR 41:1265 (July 2015).

## Chapter 18. Voluntary Relinquishment of a BESE-Authorized Charter

### §1801. Voluntary Relinquishment of a BESE-Authorized Charter

A. If the operator or board of a BESE authorized charter school determines that it can no longer operate the charter school, it shall relinquish the charter to BESE at least 90 days prior to the beginning of the next school year.

B. Failure to relinquish a charter at least 90 days prior to the beginning of the next school year may result in BESE declining to accept a charter application submitted by that operator to BESE for up to five years. If at any time during this period, members of such charter operator's board form a majority of board membership for a different charter operator, BESE may decline to accept a charter application submitted by such charter operator.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:3981 and R.S. 17:3992.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 37:873 (March 2011), amended LR 37:2389 (August 2011).

## Chapter 19. Amendments to BESE-Authorized Charters

### §1901. Charter Amendments

A. Any modification to the provisions of a school's charter contract or proposed charter prior to the execution of

a charter contract shall constitute an amendment to the charter. An amendment may be material or non-material, as defined in this bulletin.

B. All charter amendment requests or notices, as applicable, must be submitted by the charter operator.

C. No charter amendment shall be the basis of extending the duration of the school's original charter.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:1369 (July 2008), amended LR 44:239 (February 2018).

### §1903. Material Amendments for BESE-Authorized Charter Schools

A. A material amendment to a charter contract or proposed charter prior to the execution of the charter contract is an amendment that makes substantive changes to a charter school's governance, operational, or academic structure. Material amendments include:

1. creation of or change in corporate partnership, assignment of charter contract, or addition of or changes in management organization;

2. the addition of new grade levels;

3. changes in student enrollment which result in enrollment in excess of 120 percent of the total number of students set forth in the school's charter, as applicable;

4. changes in admission requirements other than the removal of one or more admission requirements, if applicable;

5. changes in any option expressed in the charter contract exhibit with respect to collective bargaining;

6. changes in LEA status for type 4 charter schools in Orleans Parish pursuant to §2303 of this bulletin;

7. changes in school location for Type 2 charter schools; and

8. any changes to the charter contract not specifically identified as non-material amendments that the state superintendent determines to be material changes.

B. A material amendment to a charter must be approved by an affirmative vote of at least a majority of the membership of BESE.

C. The charter operator shall submit a request for a material amendment to its charter in compliance with all timelines and pursuant to all guidance, forms, and/or applications developed and set forth by the Department of Education.

D. The LDE shall make recommendations to BESE on each material amendment request it receives from a charter operator that requires BESE approval.

E. BESE shall delegate authority to the department to approve a material amendment regarding the addition of new grade levels or changes in student enrollment which result in

enrollment in excess of 120 percent of the total number of students set forth in the school's charter, for any charter school meeting the following conditions, as determined by the department:

1. The charter school has:

a. a current letter grade of "C" or higher or an equivalent SPS, or

b. a current letter grade of "D" or higher or an equivalent SPS, and a progress index equivalent to a letter grade of "A"; and

2. The charter school's most recent designations for financial and organizational performance under the charter school performance compact are "Meets Most Expectations" or "Meets All Expectations."

F. Should the state superintendent deny the charter operator's request pursuant to Subsection E of this section, the charter operator may subsequently seek approval from BESE.

G. When time is of the essence and circumstances require immediate consideration of a material amendment request, a committee composed of the state superintendent, BESE president, and School Innovation and Turnaround Committee shall have interim authority to consider material amendment requests. All approvals or denials of material amendment requests pursuant to this Subsection shall be ratified by BESE at the following BESE meeting.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:1369 (July 2008), amended LR 37:873 (March 2011), LR 37:2389 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 38:3120 (December 2012), LR 39:3067 (November 2013), LR 40:1324 (July 2014), LR 43:635 (April 2017), LR 44:240 (February 2018).

#### **§1905. Non-Material Amendments for BESE-Authorized Charter Schools**

A. A non-material amendment to a charter is an amendment that makes non-substantive changes to a school's charter. Non-material amendments may include:

1. changes to the name, mailing address, telephone, and/or facsimile number of the charter school;

2. the removal of one or more admission requirements;

3. changes to the designated contact person for the charter operator or changes to the contact person located at the charter school site; and

4. changes in any option expressed in the charter contract exhibits with respect to the Teachers' Retirement System of Louisiana.

B. The charter operator shall provide the Department of Education with written notification of a non-material amendment to its charter within five days of board approval in compliance with all requirements set forth by the

Department of Education. A non-material amendment will be effective following notification to the department.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:1370 (July 2008), amended LR 37:873 (March 2011), LR 39:3068 (November 2013), LR 40:1324 (July 2014), LR 44:240 (February 2018).

## **Chapter 21. Charter School Governance**

### **§2101. Board of Director Composition**

A. The members of the board of directors shall receive no compensation other than reimbursement of actual expenses incurred while fulfilling duties as a member of such a board.

B. A charter school shall be prohibited from employing, in any manner, any member of the governing or management board of such school.

C. Not more than 20 percent of the members of any governing or management board of a charter school shall be members of the same immediate family. Members of the same immediate family shall include a board member and any other board members to whom he is related as defined in R.S. 42:1102(13) and any other board members to whom any of them are so related.

D. Beginning October 1, 2018, the membership of the governing or management board of each charter school located in a parish with a population between 325,000 and 375,000 persons, based on the most recent federal decennial census, shall include at least one member who is a parent, legal guardian, or grandparent of a student enrolled in the charter school or an alumnus of the school, who may be appointed or elected.

E. Beginning with the 2019-2020 school year, at least 60 percent of the governing or management board of each charter school, other than a type 2 charter school, located in a parish with a population of between 325,000 and 375,000 persons census, shall be residents of the parish in which the charter school is located.

F. Board of Director Composition for BESE-Authorized Charter Schools

1. The board of directors of each charter operator shall consist of no fewer than seven members. Should a board have fewer than seven members due to the resignation or other loss of one or more board members, the board shall have 90 calendar days after such loss to appoint one or more replacements.

2. The board of directors of each charter operator should consist of members with a diverse set of professional skills and practical work experience in the areas of education, public/non-profit and/or for-profit administration or operations, community development, finance, and law.

3. The board of directors of each charter operator should be representative of the community in which the

charter school is located and no fewer than 60 percent of its members shall reside in the community in which the charter school is located. Community, for the purposes of this Paragraph, shall consist of the parish in which the school is located and immediate neighboring parishes and, for type 2 charter schools, any parish that is included in the charter school's attendance zone. No fewer than 60 percent of the members of the board of directors of any charter operator that operates multiple schools in different communities shall reside in the communities in which the charter schools are located, with equal representation from each community to the greatest extent possible.

4. The board of directors of each charter operator shall consist of no more than one person from the same immediate family, as defined by the Code of Governmental Ethics.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10) and 17:3981.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:1370 (July 2008), amended LR 37:873 (March 2011), LR 37:1377 (May 2011), LR 44:240 (February 2018), LR 44:2130 (December 2018).

### **§2103. Board Member Responsibilities**

A. The board of directors of each charter operator shall be responsible for implementing the public charter school program proposed in its charter application, complying with and carrying out the provisions of the charter school contract and complying with all applicable federal and state laws and policies governing the charter school.

B. The board of directors of each charter operator shall operate in accordance with its duly adopted bylaws, which shall include a conflicts of interest policy that is consistent with applicable law including, but not limited to, the Louisiana Code of Governmental Ethics.

C. The board of directors of each charter operator shall comply with all requirements set forth by the Louisiana Nonprofit Corporations Law and Louisiana Secretary of State and shall remain in good standing during the term of its charter.

D. The board of directors of each charter operator shall comply with all laws applicable to public bodies including, but not limited to, the Louisiana Open Meetings Law, the Louisiana Public Records Law, and the Code of Governmental Ethics.

E. The board of directors of each charter operator is responsible for the sound fiscal management of the charter school.

F. The board of directors of each charter operator shall exercise final authority in matters affecting the charter school including, but not limited to, staffing, financial accountability, and curriculum.

G. Each member of the governing authority or management board of a charter school shall annually file a financial statement in accordance with R.S. 42:1124.3

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:1370 (July 2008), amended LR 37:874 (March 2011).

### **§2107. Prohibitions**

A. No member of BESE shall be a member of the board of directors of any Type 2, Type 4, or Type 5 charter school.

B. No member of any city, parish, or other local public school board shall be a member of the board of directors of any Type 5 charter school within the jurisdictional area of such city, parish, or other local public school board.

C. No member of the board of directors of any Type 5 charter school shall be an elected official as defined by the Louisiana Code of Governmental Ethics. No individual formerly classified as an elected official may serve on the board of directors of any Type 5 charter school for a period of one year following his or her termination from elected service.

D. The board of directors of each charter operator shall receive no compensation other than reimbursement of actual expenses incurred while fulfilling duties as a member of the board.

E. The board of directors of each charter operator shall be prohibited from employing, in any manner, any of its members.

F. A charter school shall not be supported by or affiliated with any religion or religious organization or institution; however, a charter school may receive from any such organization or institution support or student services including but not limited to mentoring, volunteering, fund-raising, or tutoring.

G. A charter school shall not result from the conversion of any private school or any home study program, as defined in R.S. 17:236.

H. A charter school shall not charge any student any tuition or an attendance fee of any kind.

I. A charter school shall not discriminate among potential employees, or pupils in violation of any state or federal law. A charter school shall recruit, employ, and train teachers, administrators, and other employees without regard to race, color, religion, sex, or national origin. Race, color, religion, sex, and national origin shall not constitute bona fide occupational qualifications. Proficiency in a foreign language may constitute a bona fide occupational qualification for a teacher who spends more than half of his daily instruction time providing instruction in or teaching in a foreign language.

J. A charter school shall not hire anyone:

1. as an administrator, teacher, substitute teacher, bus operator, substitute bus operator, janitor, or other school employee who might reasonably be expected to be placed in a position of supervisory or disciplinary authority over school children who has been convicted of or has pled nolo contendere to a crime listed in R.S. 15:587.1(C) unless approved in writing by a district judge of the parish and the district attorney. This statement of approval shall be kept on

file at all times by the school and shall be produced upon request to any law enforcement officer;

2. as an administrator, teacher, or substitute teacher if any of the following apply to anyone who has been:

a. convicted or has pled *nolo contendere* to any other felony offense even if adjudication was withheld or a pardon or expungement was granted;

b. found to have submitted fraudulent documentation to the board or department as part of an application for a Louisiana teaching certificate or other teaching authorization; or

c. found to have facilitated cheating on any state assessment as determined by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:3981, and 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1371 (July 2008), amended LR 37:874 (March 2011), LR 44:241 (February 2018), LR 44:2134 (December 2018).

## Chapter 23. Charter School Funding

### §2301. State Funding

A. Unless otherwise provided by law, the per pupil amount provided to a type 1, 2, 3, 3B, or 4 charter school shall be computed at least annually and shall be equal to the per pupil amount provided through the Minimum Foundation Program formula, determined by the allocation weights in the formula based upon student characteristics or needs, received by the school district in which the student resides, as determined by the weighted differentiated funding formula based upon individual student characteristics or needs that is provided through the Minimum Foundation Program, except as provided in Subsection E of this Section.

1. The state-funded per pupil allocation shall be based upon the weighted student membership count received by the district pursuant to the most recent legislatively approved Minimum Foundation Program formula, and include all levels and allocation weights based upon student characteristics or needs as provided in the formula except any supplementary allocations for specific purposes. Supplementary allocations for specific purposes shall be provided to charter schools based solely on the funds generated by the charter school within each specific allocation.

B. Initial allocation of the per pupil amount each year shall be based on estimates provided by the Louisiana Department of Education using the most recent local revenue data and projected pupil counts available. Allocations may be adjusted during the year to reflect actual pupil counts.

C. For the purposes of funding, and unless otherwise permitted by law, each type 1, type 3, and type 4 charter school shall be considered an approved public school of the local school board entering into the charter agreement.

D. Type 5 charter schools shall receive a per pupil amount each year pursuant to formulas developed by the RSD which may include differentiated funding for certain students, including students identified as being eligible for special education services, and based on the October 1 membership count of the charter school and any other membership count authorized pursuant to the Minimum Foundation Program formula adopted each year.

E. Pursuant to R.S. 17:10.1, for a school system from which one or more schools have been transferred to the recovery school district pursuant to R.S. 17:10.7, the local school board shall adopt a policy that establishes a process to determine the district-level funding allocation based upon student characteristics or needs, as determined by the local school board, to distribute the total amount of minimum foundation program formula funds allocated to the local school board and to Type 1, 1B, 3, 3B, 4, and 5 charter schools that are located within the geographic boundaries of the local school system.

F. Type 2 charter schools approved prior to July 1, 2008 shall receive a per pupil amount from the Louisiana Department of Education each year based on the October 1 membership count of the charter school and using state funds specifically provided for this purpose. In order to provide for adjustments in allocations made to type 2 charter schools as a result of changes in enrollment, BESE may provide annually for a February pupil membership count to reflect any changes in pupil enrollment that may occur after October 1 of each year. Type 2 charter schools authorized by the state Board of Elementary and Secondary Education after July 1, 2008, shall receive a per pupil amount each year as provided in the Minimum Foundation Program approved formula.

1. Any allocation adjustment made pursuant to this Paragraph shall not be retroactive and shall be applicable for the period from March 1 through the end of the school year. The provisions of this Paragraph relative to an allocation adjustment shall not be applicable to any type 2 charter school that has had an increase or decrease in student enrollment of 5 percent or less in any school year for which the February membership count occurs.

G. A charter authority may annually charge each charter school it authorizes a fee in an amount equal to 2 percent of the per pupil allocation that is received by a charter school for administrative overhead costs incurred by the chartering authority for considering the charter application and any amendment thereto, providing monitoring and oversight of the school, collecting and analyzing data of the school, and for reporting on school performance. Such fee amount shall be withheld from the per pupil amount in monthly increments and shall not be applicable to any federal money or grants received by the school. Administrative overhead costs shall not include any cost incurred by the charter authority to provide purchased services to the charter school.

1. At least 30 days prior to the beginning of each fiscal year, each charter school shall be provided by its chartering authority with a projected budget detailing

anticipated administrative overhead costs and planned uses for fees charged for such costs.

2. By no later than 90 days following the end of each fiscal year, each charter school shall be provided by its chartering authority or the Recovery School District, if applicable, an itemized accounting of the actual cost of each purchased service provided to the charter school.

3. The department may withhold and retain from state funds otherwise allocated to a local public school system through the Minimum Foundation Program an amount equal to 1 quarter of 1 percent of the fee amount charged to a type 3B charter school for administrative costs incurred by the department for providing financial oversight and monitoring of a type 3B charter school acting as its own LEA.

4. The department may withhold and retain from state funds otherwise allocated to a local public school system through the Minimum Foundation Program an amount equal to 1 quarter of 1 percent of the fee amount charged to a type 1, 3, 3B, or 4 charter school considered its own LEA pursuant to §2303 of this Bulletin for administrative costs incurred by the department for providing financial oversight and monitoring.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:1371 (July 2008), amended LR 37:874 (March 2011), LR 39:3250 (December 2013), LR 40:1324 (July 2014), LR 42:549 (April 2016), LR 42:1019 (July 2016), LR 43:308 (February 2017), LR 43:636 (April 2017), LR 44:241 (February 2018).

### **§2303. Local Education Agency (LEA) Status and Federal Funding**

A. Any type 2 or type 5 charter school shall be considered the local education agency (LEA) for funding purposes and statutory definitions and, as a local education agency, shall receive allocations for all available funding.

B. Type 1, 3, 3B, and 4 Charter School LEAs

1. A type 3B charter school shall have the option to remain its own LEA or have the local school board serve as the charter school's LEA, pursuant to §519 of this bulletin. A type 3B charter school considered its own LEA shall comply with the requirements for type 3B charter schools detailed in §519 of this Bulletin.

2. Pursuant to R.S. 17:10.7.1, a type 1, 3, 3B or 4 charter school located in Orleans Parish may be considered its own LEA for funding purposes and statutory definitions, and as an LEA, shall receive allocations for all available funding.

a. At all times the charter school is considered its own LEA; it shall:

i. continue participation and follow all rules of the parish-wide enrollment system or, if not currently participating, begin participation upon renewal of the charter school's charter contract, and when enrolling or registering students at the school, do so without regard to English

language learner (ELL) or disability status, type or severity of disability, or level of services required;

ii. provide all identification, evaluation, and special education and ELL services to students enrolled at the school required by the Individuals with Disabilities Education Act (IDEA) and other applicable federal and state laws and regulations for LEAs;

iii. when requesting a transfer for a student with a disability, do so in accordance with IDEA and other applicable state and federal special education laws and regulations for LEAs, and only when such transfer has been initiated or agreed to by the student's parent or legal guardian;

iv. continue participation and follow all rules of the parish-wide student expulsion process, and when making a change of placement or an expulsion request for a student with a disability, do so according to such process and in compliance with the provisions of IDEA and other applicable federal and state special education laws and regulations for LEAs;

v. provide transportation services for students as required by applicable state laws and regulations, the school's charter contract, and local school board policy;

vi. comply with all financial, testing, and reporting requirements required by the charter school's authorizer or the department pursuant to applicable federal, state, and local laws and regulations; and

vii. comply with any monitoring, reporting, or corrective actions required by the school's charter authorizer or the department related to the requirements of this Section and any other applicable federal, state, or local laws or regulations for LEAs.

b. For type 1 and 3 charter schools in Orleans Parish, the local superintendent shall implement a process to identify those schools requesting to be considered their own LEAs. LEA status shall commence on July 1 following receipt by the state superintendent of written notification from the local superintendent no later than the preceding April 1. Such written notification shall include:

i. documentation of the local school board's approval of the charter school to be considered its own LEA;

ii. written certification by the president or chairman of the board of the charter school that at all times the charter school is considered its own LEA it shall comply with the requirements of this Section; and

iii. a letter of attestation signed by the local superintendent, certifying that the requirements listed in this section shall be incorporated into the charter school's contract, and the local superintendent's oversight, evaluation, and renewal determination processes for the charter school.

c. A type 4 charter school in Orleans Parish may be considered its own LEA upon request by the local school board and approval by BESE. The local school board may



request LEA status for a type 4 charter school no later than the April 1 preceding the year in which LEA status would commence through any one of the following procedures:

i. inclusion of the request for the charter school to be considered its own LEA in the initial charter application to BESE;

ii. submission of a request to BESE for a material amendment to the charter to permit the charter school to be considered its own LEA pursuant to §1903 of this Bulletin; or

iii. written request for the charter school to be considered its own LEA as part of BESE's renewal of the school's charter.

d. Each type 1, 3, 3B, and 4 charter school in Orleans Parish that is considered its own LEA shall be held solely responsible for the requirements of this section and any other applicable federal, state, or local laws or regulations related to the charter school's LEA status, including, but not limited to data reporting, testing regulations, IDEA compliance, title I regulations, and requirements of other grants made available and secured by the charter school in its capacity as an LEA. However, each type 1, 3, 3B or 4 charter school considered its own LEA is under the jurisdiction of the Orleans Parish School Board and as such, the local superintendent shall have the duty, obligation and authority to monitor and enforce corrective actions and interventions related to the requirements of this Section and any other applicable federal, state, or local laws or regulations for such charter school. Based on evidence of noncompliance with any such requirements, laws, or regulations, or that the continuation of LEA status for the charter school may result in a threat to the health, safety, or welfare of students or staff at the charter school, the local superintendent may submit a written request to the state superintendent for rescission of the charter school's LEA status.

e. The local superintendent and the department shall work together to coordinate each entity's reporting requirements for a charter school considered its own LEA in order to streamline and minimize duplication of reporting by the charter school. Upon written request by the local superintendent, the department shall, to the extent permitted by state and federal law, share data reported to the department by a charter school authorized by the local school board and acting as its own LEA. The written request shall include the specific data requested, whether the data will be needed on an ongoing basis, an explanation of the necessity and intended use of the data requested, and a plan for protecting the privacy and security of such data in accordance with applicable laws and regulations.

3. The state superintendent may rescind the LEA status of a type 1, 3, 3B or 4 charter school at the beginning of a subsequent school year (July 1) should the charter school fail to meet the requirements of this Section or other requirements related to LEA status. Prior to such rescission, the state superintendent shall provide written notification of the rescission to the local school board and the charter

school no later than April 1. Such written notification shall include the reason for the rescission and a date by which the local school board and charter school may respond prior to rescission.

4. In situations where continued LEA status for the charter school may result in a threat to the health, safety, or welfare of students or staff at the charter school, the state superintendent may temporarily rescind the charter school's LEA status immediately, without prior written notification. In such a case, the state superintendent shall be required to provide written notification to the local school board and the charter school of the temporary rescission as soon as is feasible. Such written notification shall include the reason for the temporary rescission and a date by which the local school board and charter school may respond prior to permanent rescission of the charter school's LEA status.

5. Upon rescission, the local school board shall begin to serve as the charter school's LEA. The state superintendent may reinstate the charter school's LEA status at the beginning of a subsequent school year (July 1) provided the local school board approves such reinstatement and the state superintendent has determined that the charter school has demonstrated the ability to comply with all applicable requirements henceforth.

6. With the local school board's approval, a type 1, 3, 3B, or 4 charter school considered its own LEA may voluntarily request to relinquish its LEA status. The state superintendent may only approve such request following receipt of the charter school's request and the local school board's approval by April 1. Upon approval by the state superintendent, the local school board shall begin to serve as the charter school's LEA at the beginning of the following school year (July 1).

C. For each pupil enrolled in a charter school who is entitled to special education services, any state special education funding beyond that provided in the Minimum Foundation Program and any federal funds for special education for that pupil that would have been allocated for that pupil shall be allocated to the charter school which the pupil attends.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:1372 (July 2008), amended LR 39:3251 (December 2013), LR 40:1324 (July 2014), LR 43:309 (February 2017), LR 43:636 (April 2017), LR 43:2478 (December 2017), LR 43:2478 (December 2017), LR 44:241 (February 2018).

### **§2305. Other Funding**

A. Any approved charter school shall be eligible for any other federal, restricted state, and unrestricted state funding for which the school or its pupils qualify.

B. Each charter school shall receive, at a minimum, its per pupil share for any state or federal grant program such as any funding provided for technology, teacher supplies, kindergarten through third grade reading and mathematics, summer school, and other remediation funding. In addition,

each charter school shall receive any other state or federal grant program funding, where such funding is distributed on a per pupil basis and a charter school is eligible to receive the funding under the terms of the grant. The charter operator shall comply with the terms of the grant.

C. A charter school may apply for and receive funding directly from the state or federal government.

D. Any approved charter school may solicit, accept, and administer donations or any other financial assistance in the form of money, grants, property, loans, or personal services for educational purposes from any public or private person, corporation, or agency and must comply with rules and regulations governing grants from the federal government or from any other person or agency, which are not in contravention of the federal or state constitution or any other federal or state law.

E. Every pupil enrolled in a charter school shall be counted in the charter school's total pupil count for purposes of funding, including each pupil who is pursuing a high school diploma or participating in a pre-general education development skills program, as defined by BESE policy.

F. No child enrolled in a pre-kindergarten program offered by a charter school shall be counted for purposes of funding pursuant to §2301, unless such funding is specifically provided for such purpose. However, such school shall be eligible for any other funding that may become available for children enrolled in pre-kindergarten programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1372 (July 2008).

## Chapter 25. Charter School Fiscal Responsibilities

### §2501. Qualified and Competent Business

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A. Each type 2 and type 5 charter operator shall hire or procure the services of one or more qualified and competent business professionals who shall produce all financial and accounting information and reporting required by its charter contract, state law, and BESE policy, except as otherwise provided herein.

B. A qualified and competent business professional shall meet one of the qualifications as listed in Bulletin 1929, §1301.

C. Any applicant for a qualified and competent business professional position shall have not less than three years of work experience in a field relevant to the duties and responsibilities of a lead school business administrator. Relevant areas shall include accounting, finance, or other areas of fiscal management.

D. All qualified and competent business professionals must acquire Certified Louisiana School Business Administrator (CLSBA) certification or Certified Louisiana

Charter School Business Administrator (CLCSBA) certification by the Louisiana Association of School Business Officials (LASBO) within seven years of the first date of hire as a qualified and competent business professional by any BESE-authorized charter school and maintain certification while employed as a qualified and competent business professional. A Louisiana CPA license may be substituted for the CLSBA certification. The CPA license must remain in active status while employed as a qualified and competent business professional.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1372 (July 2008), amended LR 38:3120 (December 2012), LR 39:1437 (June 2013), LR 39:3068 (November 2013), LR 44:241 (February 2018).

### §2503. Budgeting

A. All charter operators shall comply with the provisions of the Louisiana Local Government Budget Act, R.S. 39:1301 through 1315.

B. Charter operators shall budget on a fiscal year basis, July 1-June 30.

C. Type 4 charter operators shall annually submit a budget to the Superintendent of Education in accordance with the provisions of R.S. 17:88. Each type 2 charter school, type 5 charter school, and each type 3B charter school acting as its own LEA shall annually submit its budget directly to the superintendent of education in accordance with deadlines established by the department.

D. Each charter operator shall submit its budget and all related documents on forms required by the department and shall comply with *Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook*.

1. The revenues/receipts and expenditures/disbursements in the charter operator's budget shall be listed and classified in such manner and substance as prescribed by the department, and shall detail as nearly as possible the items of expected revenue/receipts and expenditures/disbursements, the total of which shall not exceed the expected means of financing composed of the beginning fund balance, cash balances, and revenues/receipts.

2. If, during the course of the fiscal year, it becomes evident that receipts or disbursements will vary substantially from those budgeted, the charter operator shall prepare and adopt, in like form, manner, and substance, an amended budget as prescribed by the department.

E. The charter operator shall maintain records in a manner to reflect compliance with generally accepted accounting principles.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1372 (July 2008), amended LR 39:3252 (December 2013).

**§2505. Financial Reporting for BESE-Authorized Charter Schools**

A. Each charter operator shall submit quarterly reports to the department listing year-to-date revenues and expenditures through that quarter and budgeted revenues and expenditures for the fiscal year, using forms provided by the department and on dates specified by the department as set forth below.

Due Date	Financial Report
July 31	Annual Operating Budget Includes actual data for the prior fiscal year ending June 30 along with budgeted data for the current fiscal year starting July 1.
October 31	First Quarter Financial Report Includes budgeted data for the fiscal year along with the YTD actual data through September 30.
January 31	Second quarter Financial Report Includes budgeted data for the fiscal year along with the YTD actual data through September 30.
April 30	Third Quarter Financial Report Includes budgeted data for the fiscal Year along with the YTD actual data through March 31.

B. Each charter school will submit an annual financial report (AFR) to the department no later than September 30 of each year. The AFR shall follow the format and contain information prescribed by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1373 (July 2008), amended LR 37:875 (March 2011).

**§2507. Annual Independent Audit**

A. Each charter operator shall have an annual independent audit to be conducted by a certified public accountant in accordance with R.S. 24:513 et seq., and 17:3996(F), the cost of which shall be borne by the charter operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1373 (July 2008).

**§2509. Assets of BESE-Authorized Charter Schools**

A. Any assets acquired by a type 2, type 3B, or type 5 charter operator are the property of the charter school for the duration of the charter school's charter. Any assets acquired by a type 4 charter school are the property of the local school board.

B. For a type 5 charter school transferring to the local school board as a type 3B charter school, all property of the type 5 charter school shall remain property of the charter operator upon transfer to the local school board. Property belonging to the RSD used by the type 5 charter operator may be transferred to the ownership of the charter operator or the local school board, in accordance with state and federal law, BESE policy, auditing rules, and grant guidelines.

C. Charter operators shall maintain an inventory of all assets, including records of any assets acquired with any

private funds. Inventories of assets must be audited annually and maintained consistent with the requirements set forth in *Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook*.

D. If a charter operator's charter is revoked, non-renewed, surrendered or the school otherwise ceases to operate, or the charter school fails to open and serve students, all assets and cash on hand shall be transferred or disposed of as authorized or directed by the department pursuant to §1601 of this bulletin.

1. Assets or cash on hand attributable to state public funds shall be transferred to BESE or disposed of, as authorized or directed by the department.

2. All assets and cash on hand attributable to federal funding shall be returned to the appropriate division within the U.S. Department of Education or the Louisiana Department of Education, or to any other federal funding source, except as specifically permitted by BESE pursuant to a written agreement.

3. All assets and cash on hand attributable to private funds shall remain the property of the charter operator, if the inventory or records of the charter operator demonstrate that the assets were purchased with private funds. If the records fail to clearly establish whether a particular asset was purchased with public funds or private funds, ownership of the asset shall revert to BESE.

E. If the charter school operates a charter school that results from the conversion of a pre-existing traditional public school, the charter operator shall manage any school fund maintained by the pre-existing school pursuant to R.S. 17:414.3 and any amounts therein prior to the charter school's conversion to a charter school in accordance with the provisions of R.S. 17:414.3 and as directed by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3991, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1373 (July 2008), amended LR 39:3252 (December 2013), LR 44:242 (February 2018).

**§2511. Cash Management and Investment**

A. Each charter school board shall create and adopt a policy and implement procedures regarding cash management and investments of public funds. The policy shall protect public funds by minimizing the amount of unsecured funds to the extent practical.

B. Best practices identified for political subdivisions in R.S. 33:2955, Investment by Local Political Subdivisions and R.S. 39:1211, Banking Law for Political Subdivisions may be used as a guide for developing a cash management and investment policy for charter school boards. The use of any of the best practices shall not be interpreted to define charter schools as political subdivisions.

C. The cash management and investment policy shall contain procedures for determining the bank or other such entity in which public funds in an amount equal to the

amount insured by the FDIC shall be deposited. The bank or other such entity shall be a stock-owned federally insured depository institution organized under the laws of this state or of any other state of the United States, or under the laws of the United States.

D. Each charter school board shall include in the policy a process for examination of the soundness of any banking institution considered as the fiscal agent or local depository prior to deposit of funds. Charter operators shall utilize the quarterly Federal Financial Institutions Examination Council's (FFIEC) Uniform Bank Performance Review (UBPR) to select an institution in which to deposit funds. Two metrics included in this report indicate the stability of a bank specifically, high capital ratio and non-current loans equity capital, and shall be reviewed prior to conducting business with this institution. Documentation shall be maintained to support the completion of this verification and made available for review if requested.

E. The policy shall contain procedures for identifying one or more methods for managing unsecured funds in order to minimize the risk of loss. Documentation shall be maintained to support the selection of one or more methods for managing unsecured funds and made available for review if requested. In order to minimize unsecured cash, the following methods for cash management and investments may be considered:

1. collateralization of funds offered to public entities, if available;
2. certificate of deposit laddering;
3. deposits in the Louisiana Asset Management Pool (LAMP);
4. deposits in the certificate of Deposit Account Registry Service (CDARS);
5. deposits in an insured cash sweep service; and
6. deposits in multiple banking institutions.

F. Adherence to the adopted policy shall be measured as part of the annual independent audit of the financial statements of each charter school. The audit shall note if the charter operator holds any unsecured cash as of the end of the fiscal year, as well as the amount.

G. Each charter school board shall create and adopt a policy in compliance with the aforementioned requirements no later than December 31, 2021.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3991, and R.S. 17:3995.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 47:1491 (October 2021).

## Chapter 27. Charter School Recruitment and Enrollment

### §2701. Students Eligible to Attend BESE-Authorized Charter Schools

A. Type 2 Charter Schools. Students meeting residency requirements established in a type 2 charter school's charter are eligible to attend a type 2 charter school. A type 2 charter school may establish residency requirements for students living within the state or may establish residency requirements restricted to a particular parish or parishes.

1. Type 2 charter schools shall collect and verify documents substantiating the residency of each student prior to submitting residency information to statewide student information system. Acceptable documents shall be as follows:

- a. mortgage (if owned);
- b. tax assessor's bill (if owned);
- c. homestead exemption bill (if owned);
- d. current lease of residence for the school year (if leased);
- e. current rent receipt (if leased);
- f. previous two months utility bill (disconnect notices are not acceptable):
  - i. gas;
  - ii. water or sewer;
  - iii. telephone (land line only);
  - iv. cable or satellite television bill;
  - v. internet service;
- g. current driver's license or government-issued identification;
- h. current official letter from a government agency such as Department of Children and Family Services or Department of Health regarding services provided; or
  - i. current bank statements.

2. The name of the parent or legal custodians must appear on each document and the addresses must match on all documents. The residency information must be updated annually prior to the start of school for the student to be enrolled in that school year.

3. If the parent or legal custodian neither owns nor rents a residence and is therefore living with another individual, the parent or legal custodian must provide a notarized affidavit of residency signed by the parent or legal custodian of the student as well as the individual with whom the parent or legal custodian is living. The affidavit of residency must attest to the following:

- a. student's name;
- b. name of parent or legal custodian;

- c. address of parent or legal custodian;
- d. name of the person with whom the parent or legal custodian is living;
- e. a statement of attestation by the parent or legal custodian that the student is living with him at the address recorded on the affidavit and that the student has no other residence or domicile; and
- f. a statement of attestation by the person with whom the parent or legal custodian is living that these persons in fact live with the individual listed.

4. The person with whom the parent or legal custodian and student are living (who has signed the notarized affidavit) must provide three forms of evidence of residency from the acceptable list of documents outlined above.

5. If parents are separated, divorced or if the legal custodian is other than the biological parents, legal custody documents, signed by a judge with a docket number, indicating the legal custodian or domiciliary parent must be provided.

6. Nothing in this policy shall prohibit the admission or readmission to school of a student who meets the definition of homeless under the federal McKinney-Vento Act (42 U.S.C. 11431 et seq.).

B. Type 4 Charter Schools. Only students who would be eligible to attend a traditional public school operated by the local school board holding the type 4 charter or students from the same areas as those permitted to attend the preexisting school, if a conversion charter, are eligible to attend a type 4 charter school, unless an agreement with another city, parish, or other local school board is reached to allow students to attend the charter school.

C. Type 5 Charter School Transferred Pursuant to R.S. 17:10.5. Students eligible to attend a type 5 charter school transferred to the jurisdiction of the Recovery School District pursuant to R.S. 17:10.5 include those students who would have been eligible to enroll in or attend the pre-existing school under the jurisdiction of the city, parish, or other local public school board or other public school entity prior to its transfer to the recovery school district. In addition, if capacity exists, any students who are eligible to participate in a school choice program established by the prior system shall be permitted to enroll in such type 5 charter schools which have capacity for another student in the appropriate grade.

D. Each type 4 or 5 elementary and middle charter school, may request from and be granted by BESE the authority to give preference in its enrollment procedures to students residing within the neighborhood immediately surrounding the school. The geographic boundaries of the neighborhood immediately surrounding such school shall be determined by BESE. The recovery school district may grant or assign preference in its unified enrollment process, described in §2709 of this bulletin, to students residing within geographic boundaries immediately surrounding each school, as determined by the recovery school district. Type 5

charter schools shall not reserve more than 50 percent of spots in each grade level served for such enrollment preference.

E. Notwithstanding the residency eligibility and verification requirements above, upon approval of the state superintendent, a charter school may enroll a student without such documentation who has been displaced due to a federally-declared disaster in Louisiana or surrounding states. As a condition of enrollment, the parent or legal custodian must provide a form signed by the parent or legal custodian of the student that must attest to the following:

1. student's name;
2. name of parent or legal custodian;
3. current address of parent or legal custodian;
4. statement indicating that the student is displaced from another school due to a federally-declared disaster; and
5. name of the school in which the student was previously enrolled prior to the federally-declared disaster.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, R.S. 17:3981, R.S. 17:10.5, R.S. 17:10.7, and R.S. 17:1990.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1373 (July 2008), amended LR 37:875 (March 2011), LR 37:2390 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 42:1018 (July 2016), LR 43:309 (February 2017), LR 44:242 (February 2018).

**§2703. Enrollment Capacity for BESE-Authorized Charter Schools**

A. A charter school shall not enroll more than 120 percent of the total number of students that it is authorized to enroll pursuant to its approved charter contract unless approved to do so pursuant to §1902 of this bulletin.

B. In determining the enrollment permitted in each school year, a charter school shall determine the enrollment authorized in its approved charter with respect to the individual school year. Charter schools are not authorized to a cumulative 20 percent increase in each year of its approved charter.

C. For type 5 charter schools participating in a unified enrollment system administered by the recovery school district, the charter contract may permit the maximum number of enrolled students per grade to be determined each year in accordance with procedures and timelines established by the RSD.

D. In the event of a federally-declared disaster in Louisiana or surrounding states, the state superintendent may approve a charter school to exceed 120 percent of the total number of students that it is authorized to enroll pursuant to its approved charter solely for the purpose of enrolling students who have been displaced from their homes or are unable to attend the school in which they were previously enrolled or zoned to attend. The state superintendent shall provide a report to BESE at its next regularly scheduled meeting outlining each charter school

granted an increase in its enrollment capacity pursuant to this Paragraph. Students enrolled pursuant to this Paragraph shall be permitted to remain enrolled in the charter school for the remainder of the school year. Parents or legal custodians found to have misrepresented their displacement status shall be required to return to the school in which the student was previously enrolled or zoned to attend.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008), amended LR 43:310 (February 2017), LR 44:242 (February 2018).

#### **§2705. Admission Requirements for BESE-Authorized Charter Schools**

A. A charter school may have admission requirements that are consistent with the school's role, scope, and mission.

B. Admission requirements imposed by a school must be set forth in the charter school's approved charter contract and shall be specific and shall include a system for admission decisions which precludes exclusion of pupils based on race, religion, gender, ethnicity, national origin, intelligence level as ascertained by an intelligence quotient examination, or identification as a child with an exceptionality as defined in R.S. 17:1942(B). Such admission requirements may include, however, specific requirements related to a school's mission such as auditions for schools with a performing arts mission or proficiency in a foreign language for schools with a language immersion mission. Any charter school which began operation prior to July 1, 2012, and which incorporated achievement of a certain academic record as part of its admissions requirements may continue to utilize such admission requirements. No charter school beginning operation on or after July 1, 2012 may incorporate the achievement of a certain academic record as part of its admission requirements.

C. Admission requirements must be approved by BESE, either through the approval of the initial charter proposal, or through material amendment to an existing charter contract, as provided for in §1903 of this bulletin.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008), amended LR 37:875 (March 2011), LR 38:3120 (December 2012), LR 44:243 (February 2018).

#### **§2707. Application Period for BESE-Authorized Charter Schools**

A. Prior to each school year, a charter school shall establish a designated student application period.

B. A student application period shall not be less than one month nor more than three months.

C. Type 5 charter schools shall comply with any unified application period set by the recovery school district, as approved by BESE.

D. An application shall be considered timely if it is submitted during the charter school's designated application period.

E. In the event of a federally-declared disaster, a charter school may accept applications for students displaced due to the disaster outside of the designated student application period.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008), amended LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 43:310 (February 2017).

#### **§2709. Enrollment of Students, Lottery, and Waitlist in BESE-Authorized Schools**

A. Each student submitting a timely application and meeting all residency requirements and admission requirements, as applicable, shall be considered eligible to enroll in a charter school. Additionally, students displaced as a result of a federally-declared disaster who submit an application and the form specified in §2701.F of this Bulletin shall be considered eligible to enroll in a charter school.

B. A charter school shall enroll all eligible students unless the total number of eligible applicants exceeds the capacity of a program, class, grade level, or school.

C. A charter school shall admit no student during the school's designated application period, but shall wait until the period has ended.

D. At the conclusion of a charter school's designated application period, it shall determine if fewer eligible applicants have applied than the maximum number of students that the school can admit.

1. If fewer eligible applicants have applied than the maximum number of students that the school can admit to a program, a grade level, or the school, all eligible students shall be admitted.

2. If the total number of eligible students exceed the capacity of a program, a grade level, or the school, applicants shall be admitted based on an admissions lottery from among the total number of eligible applicants.

a. A charter school shall use a lottery for the selection of students in order to reach its maximum capacity and to determine the order in which students will be placed on a waitlist.

b. If a charter school's enrollment capacity is increased for the purpose of enrolling students displaced due to a federally-declared disaster and the charter school's designated application period has passed, the charter school may enroll students displaced due to a federally-declared disaster on a first come, first served basis until the enrollment capacity is reached.

E. Following the admission of applicants after a determination that the number of applicants did not exceed the capacity of a program, a class, or the school, the charter

school may continue to accept applications and admit eligible students in the order in which applications are received until maximum capacity is reached.

F. A charter school lottery and continued admission of applicants, following a determination that a lottery is not required at the conclusion of the student application period, shall be performed in such a fashion that assures compliance with student population requirements detailed in §2713 of this bulletin. Nothing herein shall preclude the implementation of a weighted lottery to ensure such student population requirements are met.

G. Any charter school not participating in the recovery school district's unified enrollment system in Paragraph J of this Section shall maintain a waitlist of applicants not admitted to the charter school as a result of capacity being reached in a program, a grade, or the school.

1. Applicants shall be placed on the waitlist in the order in which they were selected in the charter school's lottery or in the order in which they applied if the application was submitted following the school's application period.

2. If an opening occurs at a charter school, selection from the waitlist shall begin with the first applicant on the waitlist.

H. A charter school shall maintain its waitlist throughout each school year. Any student admitted to the school must be an applicant on the waitlist, if a waitlist exists for the respective program, grade or school.

I. The charter school shall repeat the student admission process described in this Section each year.

J. Type 5 charter schools transferred to the RSD pursuant to R.S. 17:10.5 or R.S. 17:10.7 and type 3B charter schools shall comply with any unified enrollment system established by the RSD for the parish or region where the charter school is located. The RSD may create any policies and procedures to implement a unified enrollment system not prohibited by this Chapter, and may conduct one or more central lotteries to enroll students at participating schools, and enroll students applying or requesting transfers after the application period has ended throughout the year, manage student transfers, and student expulsions.

K. Upon request of a charter operator, the department may approve an enrollment preference for students matriculating into eighth grade or below between two BESE-authorized charter schools operated by the same charter operator.

L. All BESE-authorized charter schools (type 2, type 4, and type 5 charter schools) physically located in Orleans Parish shall participate in the unified enrollment system and expulsion process established by the recovery school district for Orleans Parish, with the exception of virtual charter schools, and shall continue to participate in the unified enrollment system and expulsion process upon the management of its transfer to the Orleans Parish School Board pursuant to 17:10.7.1. The department of education shall have discretion to determine on an individual basis

whether to require virtual charter schools physically located in Orleans Parish to participate in the unified enrollment system and expulsion process. BESE-authorized charter schools participating in the unified enrollment system and expulsion process may retain admission requirements, geographic preferences, sibling preferences, and disciplinary regulations unrelated to expulsions, if authorized by law or BESE policy. BESE shall retain authority over the approval of amendments to charter contracts for such type 2 and type 4 charter schools for adjustments to grade levels served and enrollment projections. Schools participating in the unified enrollment and expulsion process shall not be permitted to maintain student waitlists.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008), amended LR 38:753 (March 2012), repromulgated LR 38:1395 (June 2012), amended LR 38:3120 (December 2012), LR 39:1021 (April 2013), LR 39:1437 (June 2013), LR 39:3252 (December 2013), LR 41:1265 (July 2015), LR 43:310 (February 2017), LR 43:2478 (December 2017), LR 44:243 (February 2018).

#### **§2711. Enrollment Preferences for BESE-Authorized Charter Schools**

A. Students seeking enrollment to a charter school that was created through the conversion, merger, or turnaround of a pre-existing school who were enrolled at the pre-existing school shall be given preference over all other applicants and the applications procedure shall be established in a fashion that provides ample opportunity for such students to exercise the right to preferential admission.

B. Students previously enrolled in the charter school shall be given preference over all other applicants, and shall maintain enrollment or be automatically admitted following the charter school's application period. Students attending a pre-kindergarten or early childhood program operated by a charter school may be considered to have been previously enrolled at the charter school for the purpose of this Subsection. Requests by charter schools to give preference for students who attend a publicly-funded program at no cost to the student shall be automatically approved by the department for BESE-authorized charter schools, or the charter school's authorizer for other types of charter schools. For a charter school that requests to apply this preference for students who were admitted to a pre-kindergarten or early childhood program that utilizes admission requirements and/or charges tuition for some or all of its students, the use of the preference shall be subject to the approval of the department for BESE-authorized charter schools, or the charter school's authorizer for other types of charter schools. In such a case, the department or the charter school's authorizer, as applicable, shall require the charter school to set enrollment targets that ensure the charter school provides equity of access for economically disadvantaged applicants to its kindergarten classes.

C. Students seeking enrollment to a type 5 charter school that is assigned a facility formerly occupied by a pre-existing public school may be given preference and may be

automatically admitted following the charter school's application period, if authorized by the department.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), 17:3981, and 17:3991.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 34:1375 (July 2008), amended LR 37:875 (March 2011), LR 39:1022 (April 2013), LR 44:243 (February 2018), LR 44:2131 (December 2018).

### §2713. Required Student Enrollment Percentages

A. Charter schools shall maintain required student enrollment percentages as provided in this Section, based on the demographic information collected in the October 1 pupil membership.

B. The following definitions shall apply in this Section.

*Economically Disadvantaged*—any one of the following characteristics of a student:

- a. is eligible for the Louisiana food assistance program for low-income families;
- b. is eligible for the Louisiana disaster food assistance program;
- c. is eligible for the Louisiana program for assistance to needy families with children to assist parents to becoming self-sufficient;
- d. is eligible for the Louisiana healthcare program for families and individuals with limited financial resources;
- e. is eligible for reduced price meals based on the latest available data;
- f. is an English language learner;
- g. is identified as homeless or migrant pursuant to the McKinney-Vento Homeless Children and Youth Assistance Act and the Migrant Education Program within the Elementary and Secondary Education Act;
- h. is incarcerated with the office of juvenile justice or in an adult facility; and/or
- i. has been placed into the custody of the state.

*Students with Exceptionalities*—students identified as having one or more exceptionalities, as defined in R.S. 17:1942, not including gifted and talented.

C. Unless otherwise explicitly stated in the charter school's contract, or otherwise provided by charter law, each charter school created as the result of a conversion during or prior to the 2011-2012 school year shall maintain the following student enrollment percentages:

1. the charter school percentage of economically disadvantaged students shall be greater than or equal to the percentage of economically disadvantaged students enrolled at the school in the school year prior to the establishment of the charter school; and
2. the charter school percentage of students with exceptionalities shall be greater than or equal to the percentage of students with exceptionalities enrolled at the

school in the school year prior to the establishment of the charter school.

D. Except as otherwise provided by charter law, each charter school created as a new school and each charter school created as a result of a conversion after the 2011-2012 school year shall maintain the following student enrollment percentages:

1. the charter school percentage of economically disadvantaged students shall be greater than or equal to 85 percent of the percentage of economically disadvantaged students from the local public school districts from which the charter school enrolls; and
2. the charter school percentage of students with exceptionalities shall be greater than or equal to 85 percent of the percentage of students with exceptionalities from the local public school districts from which the charter school enrolls.

E. For the purpose of Subsection D of this Section, the department shall determine the percentages of economically disadvantaged students and students with exceptionalities from local public school districts as follows.

1. For charter schools in operation prior to July 1, 2016, the student enrollment percentages shall be based on the October 1, 2015 pupil membership count and shall remain fixed until the charter school's contract is renewed, unless otherwise provided for in existing charter contracts.
2. For charter schools beginning an initial or renewal charter contract term on or after July 1, 2016, the student enrollment percentages shall be based on the pupil membership counts from the school year immediately preceding the beginning of the charter contract term and shall remain fixed during the charter contract term.

F. The department shall perform all calculations necessary to implement this Section.

G. Annually, the department shall make a report to BESE on the student enrollment percentages detailed in this Section for all public schools and local education agencies.

H. Each charter authorizer shall hold its authorized charter schools accountable for meeting the required student enrollment percentages in this Section in accordance with state law by taking the following actions for each charter school that fails to meet required enrollment percentages:

1. conducting an inquiry to determine all actions taken by the charter school to attempt to meet the requirements and the reasons for such failure; and
2. providing a written notice to the charter school that provides a process or actions to address the deficiencies and adequately meet the needs of students.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10) R.S. 17:3973, R.S. 17:3981, and R.S. 17:3991.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:1375 (July 2008), amended LR 37:875 (March 2011). LR 40:1325 (July 2014), LR



42:550 (April 2016), LR 43:310 (February 2017), LR 43:2478 (December 2017).

## Chapter 28. Transportation

### §2801. Transportation Requirements for BESE-Authorized Charter Schools

A. Each operator of a BESE authorized charter school shall offer free daily transportation to and from school to any student meeting both of the following conditions:

1. the student resides more than one mile from the school where the student is enrolled;
2. the student resides within the parish or local school district in which the school is physically located.

B. Free daily transportation shall include, at a minimum:

1. whatever transportation is necessary to implement any individualized education plan (IEP) for a child with an identified exceptionality;
2. transportation by a vehicle approved for student transportation in accordance with BESE *Bulletin 119—Louisiana School Transportation Specifications and Procedures* or public transportation payments and/or reimbursements;
3. bus stops or pick-up points no further than one mile from the place of residency of each child residing within the parish, unless the school is located in a large rural parish, in which case the state superintendent may grant a waiver for this requirement; and
4. procedures to ensure compliance with R.S. 14:93.2.1 for children under the age of 10.

C. Charter operators shall submit school transportation plans to the department to ensure compliance with applicable laws and policies. The state superintendent shall set forth the process for transportation plan submission.

D. Charter operators having BESE authorized charter schools in operation during the 2015-2016 school year shall offer transportation to all eligible students no later than the beginning of the 2018-2019 school year. Charter operators having BESE authorized charter schools that begin operation in the 2016-2017 school year shall offer transportation upon opening.

E. The department shall develop a waiver process to exempt from this requirement any type 2 charter schools having a unique mission to serve students with exceptionalities, virtual schools, or other schools upon which this requirement would create a substantial financial burden. Such process shall be set forth the state superintendent, who shall update the board on any waivers granted.

F. No later than the beginning of the 2016-2017 school year, each type 5 charter school located in Orleans Parish shall provide free transportation services for all students enrolled in the charter school who reside within Orleans Parish and more than 1 mile from the charter school's location, which shall include, at a minimum:

1. whatever transportation is necessary to implement any individualized education plan (IEP) for a child with an identified exceptionality, without regard to how far the child resides from the charter school;

2. free transportation by a vehicle approved for student transportation in accordance with BESE *Bulletin 119—Louisiana School Transportation Specifications and Procedures*, for students enrolled in grade 6 or below who reside more than 1 mile from the charter school; and

3. free transportation, free public transportation payments and/or reimbursements for all other students not included in Paragraphs 1 and 2 of this Subsection who reside more than 1 mile from the school.

G. Each charter school operator shall adopt policies and procedures or shall make provision in its bus transportation service agreement to do all of the following:

1. prohibit a school bus operator from loading or unloading students at school while the bus is in a traffic lane of any type of street as defined in R.S. 32:1 and require that students be loaded or unloaded on a shoulder, in a school parking lot, or at other appropriate off-road location at the school as determined by the school governing authority. The requirements of this Paragraph shall not apply if the shoulder of a municipal road is the only available alternative and the municipality has not made the shoulder available by designating that area for loading and unloading students during designated school zone hours;

2. prohibit a school bus operator from loading or unloading students at or near their homes while the bus is in a traffic lane of any type of street as defined in R.S. 32:1 and require that students be loaded or unloaded on a shoulder unless the governing authority determines that loading or unloading on a shoulder is less safe for the student. However, if there is no shoulder or if the shoulder is determined to be less safe, a school bus operator may load and unload a student while the bus is in a lane of traffic but only if the bus is in the lane farthest to the right side of the road so that there is not a lane of traffic between the bus and the right-side curb or other edge of the road;

3. prohibit a school bus operator from loading or unloading a student in a location on a divided highway such that a student, in order to walk between the bus and his home or school, would be required to cross a roadway of the highway on which traffic is not controlled by the visual signals on the school bus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:158, R.S. 17:3981, and 17:3996(B)(37).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:1266 (July 2015), amended LR 42:551 (April 2016), LR 43:2479 (December 2017), LR 44:244 (February 2018).

### §2803. Corporal Punishment

A. A charter school shall have discretion with respect to the use of corporal punishment; however, no form of corporal punishment shall be administered to a student with an exceptionality, excluding gifted and talented, as defined

in R.S. 17:1942, or to a student who has been determined to be eligible for services under section 504 of the Rehabilitation Act of 1973 and has an individual accommodation plan.

B. *Corporal Punishment*—using physical force to discipline a student, with or without an object, and includes hitting, paddling, striking, spanking, slapping, or any other physical force that causes pain or physical discomfort.

C. Corporal punishment does not include:

1. the use of reasonable and necessary physical restraint of a student to protect the student or others, from bodily harm or to obtain possession of a weapon or other dangerous object from a student; or

2. the use of seclusion and restraint as provided in R.S. 17:416.21.

D. Should a charter school permit corporal punishment, the school shall adopt such rules and regulations necessary to implement and control such punishment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:416.1, R.S. R.S. 17:3981, and 17:3996(B)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:2479 (December 2017).

#### **§2805. Parent Volunteers at BESE-Authorized Charter Schools**

A. The charter school shall not require, nor condition the enrollment, continued enrollment, or receipt of grades on the commitment of the student's parents to provide any number of volunteer hours or on otherwise donating volunteer hours to the charter school. Any request for parents to commit to volunteer hours shall be accompanied by a statement that such hours are voluntary and not required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 44:244 (February 2018).

## **Chapter 29. Charter School Staff**

#### **§2901. Employment of Staff at BESE-Authorized Charter Schools**

A. Each charter operator may employ faculty and staff members as it deems necessary. Each member of the instructional staff of each charter school shall have at least a baccalaureate degree. For the purposes of this section, "instructional staff" refers to any individual teaching a course in a charter school for which he or she would otherwise be required to be certified under Bulletin 746, except for those individuals who would otherwise be eligible for ancillary certification as defined in Bulletin 746.

B. All potential charter school employees shall be notified of the specific benefits they will be offered, as specified in the charter operator's charter.

C. The charter operator shall have exclusive authority over all employment decisions at the charter school, unless delegated to a for-profit management organization, as authorized in law and which must be specifically provided for in a service provider agreement. Employment practices shall be in accordance with all applicable law, including, but not limited to, the Louisiana Code of Governmental Ethics.

D. The provisions of any collective bargaining agreement entered into by the local school board in whose jurisdiction the charter school is located shall apply to a Type 2 or Type 4 charter operator unless its approved charter provides otherwise. A charter operator may select to not be subject to such a collective bargaining agreement in its charter.

E. A Type 5 charter operator may bargain and enter into a collectively bargained contract on behalf of all or any group of its employees.

F. The employees in Type 4 charter schools are in all respects employees of the local school board entering into the charter.

G. The charter operator shall not employ members of the immediate family of a charter board member or the chief executive officer or leader of the non-profit organization's school, or schools, in the case of a non-profit organization that operates more than one charter school, unless:

1. the family member was employed for one year prior to their family member becoming a charter board member or chief executive officer or leader of the charter school's non-profit organization; or

2. the family member is employed as a school teacher and certified to teach or is temporarily authorized to teach while pursuing certification and annual disclosure of such employee is made as provided for in the Louisiana Code of Governmental Ethics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) R.S. 17:3973, R.S. 17:3981, and R.S. 17:3997.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1375 (July 2008), amended LR 38:3120 (December 2012), LR 44:245 (February 2018).

#### **§2903. Teaching Authorizations**

A. This Section provides for the rules and regulations in accordance with the Administrative Procedure Act to establish a process for issuing a teaching authorization to anyone seeking employment as an administrator, teacher, or substitute teacher in any school, including a public or nonpublic school that does not require a Louisiana teaching certificate for the employment of a teacher.

B. Teaching authorizations shall be issued in accordance with LAC 28:CLXXII, Bulletin 745.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:2134 (December 2018), repromulgated LR 45:39 (January 2019).

**§2905. Criminal History Review**

A. Each charter operator shall request in writing that the Louisiana Bureau of Criminal Identification (LBCI) and Information supply information to ascertain whether an applicant for employment as a teacher, substitute teacher, school bus operator, substitute school bus operator, janitor, or any other school employee who might reasonably be expected to be placed in a position of supervisory or disciplinary authority over school children, has been convicted of, or pled *nolo contendere* to, any one or more of the crimes enumerated in R.S. 15:5871.1.

1. The request must be on a form prepared by the bureau and signed by a responsible officer or official of the charter operator making the request.

2. The form must include a statement signed by the person about whom the request is made which gives his or her permission for such information to be released and must include the person's fingerprints in a form acceptable to the LBCI.

B. No person who has been convicted of or has pled *nolo contendere* to a crime listed in R.S. 15:587.1 shall be hired by a public elementary or secondary school as a teacher, substitute teacher, school bus operator, substitute school bus operator, janitor, or as any school employee who might reasonably be expected to be placed in a position of supervisory or disciplinary authority over school children unless approved in writing by a district judge of the parish and the parish district attorney.

1. This statement of approval shall be kept on file at all times by the school and shall be produced upon request to any law enforcement officer.

C. The charter operator shall dismiss any teacher or any other school employee having supervisory or disciplinary authority over school children, if such teacher or other employee is convicted of, or pled *nolo contendere* to, any crime listed in R.S. 15:587.1(c) except R.S. 14:74.

D. A charter operator may reemploy a teacher or other school employee who has been convicted of, or pled *nolo contendere* to, a crime listed in R.S. 15:587.1(c), except R.S. 14:74, only upon written approval of the district judge and the district attorney of the parish or upon written documentation from the court in which the conviction occurred stating that the conviction has been reversed, set aside, or vacated.

1. Any such statement of approval of the judge and the district attorney and any such written documentation from the court shall be kept on file at all times by the school and shall be produced upon request to any law enforcement officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:3981, and 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1375 (July 2008), amended LR 37:875 (March 2011), LR 39:3068 (November 2013), LR 44:245 (February 2018), LR 44:2134 (December 2018).

**§2909. Employee Benefits**

A. All potential charter school employees shall be notified of the specific benefits they will be offered, as specified in the charter operator's charter.

B. Charter school employees shall be eligible for participation in any or all benefits which would otherwise accrue to employees in any other elementary or secondary school including, but not limited to, the school employees' and teachers' retirement systems, subject to the school's approved charter, which must provide for such participation.

C. With regard to participation in the public retirement systems:

1. the compensation that the teacher or school employee would have received if employed by the local public school system shall be used to determine employee and employer contribution levels of the respective retirement systems;

2. any compensation paid to a teacher or school employee which exceeds the salary that would have been received if employed by the local school system shall not be deemed as compensation solely for the purpose of the calculation of future retirement benefits.

D. As employees of the local school board holding the charter, the employees in Type 4 charter schools shall be entitled to the benefits, and be subject to conditions of employment, as prescribed by the local school board within the charter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3997.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1376 (July 2008), amended LR 40:1325 (July 2014).

**§2911. Evaluation and Assessment for BESE-Authorized Charter Schools**

A. Each charter operator shall annually evaluate every teacher and administrator employed at its charter schools using the value-added assessment model and measures of student growth as determined BESE pursuant to R.S. 17:3902(B)(5) and comply with all other such requirements specified in R.S. 17: 3997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3997.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1377 (July 2008), amended LR 39:3068 (November 2013), LR 44:245 (February 2018).

**Chapter 31. Notification Requirements for BESE-Authorized Charter Schools**

**§3101. Required Notifications for BESE-Authorized Charter Schools**

A. The charter operator shall notify the Department of Education in a timely manner of any conditions that may

cause it to vary from the terms of its charter, state law, or BESE policy.

B. The charter operator shall notify the Department of Education of any circumstance requiring the closure of the charter school including, but not limited to:

1. a natural disaster, such as a hurricane, tornado, storm, flood or other weather related event;
2. other extraordinary emergency; or
3. destruction of or damage to the school facility.

C. The charter operator shall notify the Department of Education of the arrest of any members of the charter school's board of directors, employees, contractors, subcontractors, or any person directly or indirectly employed by the charter operator for a crime listed in R.S. 15:587.1(C) or any crime related to the misappropriation of funds or theft.

D. The charter operator shall notify the Department of Education of a default on any obligation, which shall include debts for which payments are past due by 60 days or more.

E. The charter operator shall notify the Department of Education of any change in its standing with the office of the Louisiana Secretary of State.

F. The charter operator shall notify the Department of Education no later than the end of the calendar month if its enrollment decreases by 10 percent or more compared to the most recent pupil count submitted to the Department of Education and/or BESE.

G. If the charter operator has contracted with a management organization and such contract is terminated or not renewed, it shall provide written notification to the Department of Education within two business days stating the reasons for the termination of the relationship.

1. For a type 5 charter school, the charter operator shall submit a formal plan for the continued operation of the school to the state superintendent of education within 10 days of written notification of the contract's termination. If no plan is received or the plan received is deemed inadequate by the state superintendent of education, the recovery school district shall have interim authority to operate the school until the charter operator resubmits a plan deemed acceptable by the superintendent.

2. Failure of the board to notify the Department of Education about loss of the management organization within two business days may result in BESE rendering the charter operator or a majority of its board members ineligible to operate a charter school for up to five years.

H. The charter operator shall notify the Department of Education should the charter operator's chief executive officer or president of the charter school's governing board change. Such notification shall be made within two business days of the official board action taken on this matter.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:1377 (July 2008), amended LR 37:876 (March 2011), LR 39:3068 (November 2013), LR 44:245 (February 2018).

## Chapter 33. Complaint Procedures

### §3301. Charter Operator Complaint Procedures for BESE-Authorized Charter Schools

A. Each charter operator shall maintain a complaint procedure through which parents, guardians, or other individuals or groups can appeal to the nonprofit corporation board of directors to address any issues or problems such individuals seek redress to.

B. Charter operator complaint procedures should, at a minimum, address any forms that must be completed by a complainant, the progression of a complaint, and the timeframes for consideration and action.

C. The department may investigate a parent complaint it receives about a charter school authorized by BESE, and the charter operator shall provide information requested by the department to aid in such investigation.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education in LR 34:1377 (July 2008), amended LR 44:245 (February 2018).

## Chapter 37. Virtual Charter Schools

### §3701. Application of this Bulletin

A. All rules, requirements, and regulations established in this *Bulletin 126—Charter Schools* shall apply to the authorization and operation of any virtual charter school, except as specifically set forth in *Bulletin 741—Louisiana Handbook for School Administrators*, Section 907, Secondary—Class Times and Carnegie Credit.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10).

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 38:39 (January 2012).

### §3703. Curriculum in Virtual Charter School

A. The virtual charter school shall ensure that all course content is being used under an appropriate and valid license and shall defend, indemnify and hold harmless BESE, the department, and the students and parents for any claims of non-compliance.

B. The virtual charter school shall make courses available to all students by complying with web accessibility guidelines and standards (W3C, section 508, and Louisiana and institutional guidelines) to the maximum extent reasonably possible.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10).

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 38:39 (January 2012), amended LR 44:246 (February 2018).

### **§3705. Technical Requirements for Virtual Charter Schools**

A. The following technical specifications are required for all virtual charter schools:

1. enrolled students will have access to appropriate technical access;
2. provide each student enrolled in the program with all the necessary instructional materials;
3. provide each full-time student enrolled in the program who qualifies for free or reduced-price school lunches under the National School Lunch Act, is considered economically disadvantaged for the purpose of calculating funding through the Minimum Foundation Program, or does not have a computer or internet access in his or her home with:
  - a. all equipment necessary for participants in the virtual instruction program, including, but not limited to, a computer, computer monitor, and printer, if a printer is necessary to participate in the program; and
  - b. access to or reimbursement for all Internet services necessary for online delivery of instruction;
4. the virtual charter school will have the appropriate license to allow student/teacher usage of the proprietary technology through a license agreement with the owner of the technology;
5. timely and appropriate technical support, as described in the charter operator's application;
6. course technical requirements will be provided prior to enrollment;
7. the appropriate technical infrastructure to support their course offerings for effective course delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:39 (January 2012), amended LR 44:2131 (December 2018).

### **§3707. Virtual Charter School Funding**

A. For purposes of funding, each Type 2 virtual charter school shall be funded in accordance with the provisions of §2301 of this bulletin, except that the local portion of the per pupil amount received pursuant to the Minimum Foundation Program formula adopted each year shall be reduced by 10 percent, with such amount being distributed to the city, parish, or other local school system within which the Type 2 virtual charter school is located.

B. Any Type 1, 3, 4 or 5 virtual charter school shall be funded in accordance with the provisions of §2301 of this bulletin with no exceptions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:39 (January 2012).

### **§3709. Virtual Charter School Attendance**

A. State-authorized virtual charter schools are required to enforce student attendance and address cases of student truancy and unexcused absences.

B. Virtual charter school operators must annually submit attendance policies to the department for approval to ensure compliance with applicable laws and regulations. The state superintendent will set forth the process for attendance policy submission.

C. Attendance policies for virtual schools must include:

1. a definition of the method in which attendance is measured for students enrolled at the school including, but not limited to, minimum expectations regarding active class participation, time spent connected online, and/or completion and submission of assignments;
2. a plan regarding the method in which student attendance will be recorded and enforced; and
3. a plan for providing orientation including the school attendance policy to enrolled students and parents or legal custodians, with such orientation occurring upon enrollment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and 17:233.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:788 (June 2020).

## **Chapter 39. Corporate Partnerships**

### **§3901. Corporate Partnerships and Enrollment**

A. Notwithstanding geographic or other requirements for enrollment contained in this bulletin, a charter agreement may provide, initially or by amendment, for the enrollment of and an enrollment preference for dependent children of permanent employees of a corporate partner.

B. Up to 50 percent of the school's maximum enrollment may be reserved for the enrollment of such children.

C. The charter agreement shall specify both the school's maximum enrollment and the maximum proportion set aside for implementation of this enrollment preference.

D. An enrollment preference established as part of the corporate partnership defined in this Chapter shall not be implemented in a way that displaces children enrolled at the school at the time the charter agreement or amendment providing for the preference is authorized.

E. Enrollment at the school shall otherwise be as provided by this Chapter except that the requirement of R.S. 17:3991(B)(1)(a)(i) shall apply to and be based upon only students who are not dependent children of permanent employees of a corporate partner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:753 (March 2012), re-promulgated LR 38:1395 (June 2012).

**§3903. Requirements for Corporate Partnerships**

A. A corporate partner is any legal entity, whether for profit or not for profit, registered with the secretary of state, except a corporation identified in R.S. 18:1505.2(L)(3), that has, acting individually or as part of a consortium of corporations, donated one or more of the following to the school:

1. the land on which the school is built;
2. the school building or the space the school occupies. If the corporate partner is leasing the building or space to the school, the enrollment preference or board membership may only be provided in the charter agreement if the lease provides that the building or space is made available without cost and if the term of the lease is not less than the duration of the charter agreement;
3. major renovations to the existing school building or other capital improvements including major investments in technology.

B. For purposes of this Chapter, a major renovation to the existing school building means changes that provide significant opportunities for substantial improvement including but not limited to:

1. a structural change to the foundation, roof, floor, or interior or exterior walls or extension of an existing facility to increase its floor area;
2. an extensive alteration of an existing facility, such as a change in its function or purpose, even if such renovation does not include any structural change to the facility.

C. A major investment in technology includes but is not limited to a donation of:

1. hardware;
2. software;
3. internet access;
4. internet hardware;
5. enterprise systems;
6. software licenses;
7. smart board technology; or
8. audiovisual equipment.

D. The value of a major renovation or of an investment of technology shall be equal to at least 50 percent of the per pupil allocation of state funds by the minimum foundation program formula for that year for the parish in which the school is located multiplied by the school's enrollment as defined in the charter agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:753 (March 2012), repromulgated LR 38:1395 (June 2012).

**§3905. Corporate Partner Representation on Charter Boards**

A. A charter agreement may provide, initially or by amendment, for a corporate partner to have representation on its governing or management board; however, such representation may not constitute a majority of the board. Such membership is subject to all other provisions of law except any contrary provision in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:753 (March 2012), repromulgated LR 38:1395 (June 2012).

**Chapter 40. Charter School  
Autonomy****§4001. Applicability of State and Local Rules and Regulations**

A. Notwithstanding any state law, rule, or regulation to the contrary and except as may be otherwise specifically provided for in an approved charter, a charter school established and operated in accordance with the provisions of this Chapter and its approved charter and the school's officers and employees shall be exempt from all rules and regulations of BESE and those of any local school board that are applicable to public schools and to public school officers and employees except for the following rules and regulations otherwise applicable to public schools regarding:

1. building maintenance;
2. facility accessibility;
3. asbestos detection and abatement;
4. the sanitary code;
5. pesticide use and safety;
6. fire safety;
7. safe work environments;
8. the possession and safe use of weapons and hazardous materials;
9. adolescent health initiatives and school health centers;
10. hearing and vision screenings;
11. immunizations and health records;
12. communicable disease prevention;
13. drug use prevention;
14. eye safety and the use of protective goggles;
15. missing children identification procedures;
16. school and district accountability system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3996.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 44:246 (February 2018).

#### §4003. Applicability of State Laws

A. Notwithstanding any state law, rule, or regulation to the contrary and except as may be otherwise specifically provided for in an approved charter, a charter school established and operated in accordance with the provisions of this Chapter and its approved charter and the school's officers and employees shall be exempt from all statutory mandates or other statutory requirements that are applicable to public schools and to public school officers and employees except for the following laws otherwise applicable to public schools with the same grades:

1. school entrance age, R.S. 17:222;
2. corporal punishment, R.S. 17:416.1(B), and suspension of students, R.S. 17:223;
3. expulsion of students, R.S. 17:224;
4. attendance reporting, R.S. 17:232;
5. admission of home study students, R.S. 17:236.2;
6. unauthorized use of electronic communication devices, R.S. 17:239;
7. smoking, R.S. 17:240;
8. open meetings, R.S. 42:11 et seq.;
9. public records, R.S. 44:1 et seq.;
10. teaching regarding the United States Constitution, R.S. 17:261;
11. teaching regarding the Federalist Papers and the Declaration of Independence, R.S. 17:268;
12. in-service training regarding suicide prevention, R.S. 17:437.1;
13. teaching regarding civics and free enterprise, R.S. 17:274.1;
14. teaching regarding sex, R.S. 17:281;
15. religious liberty of students, R.S. 17:2115 et seq.;
16. pupil assessment, R.S. 17:24.4;
17. any school and district accountability system required by law of a public school of similar grade or type;
18. public bids for the erection, construction, alteration, improvement, or repair of a public facility or immovable property, Part II of Chapter 10 of Title 38 of the *Louisiana Revised Statutes* of 1950;
19. *Code of Governmental Ethics*, R.S. 42:1101 et seq., with the exception of R.S. 42:1119 as it applies to any person employed by a charter school prior to August 15, 2003;
20. electronic communication by an employee at a school to a student enrolled at that school, R.S. 17:81(Q);
21. teaching regarding the state's Safe Haven Law, R.S. 17:81(R);
22. inspection and operation of fire safety and prevention equipment, R.S. 17:81(S);
23. teaching regarding dating violence, R.S. 17:81(T);
24. reporting by a school bus operator employed by the governing authority of a public elementary or secondary school of his arrest for one or more of the specified offenses relative to operating a vehicle, R.S. 17:491.3;
25. school master plans for supporting student behavior and discipline, R.S. 17:252;
26. data collection system, R.S. 17:3911;
27. reporting by a school employee employed by the governing authority of a public elementary or secondary school of his arrest for one or more of the specified offenses relative to sexual morality affecting minors, R.S. 17:16, any of the crimes provided in R.S. 15:587.1, or any justified complaint of child abuse or neglect on file in the central registry pursuant to Article 615 of the Children's Code;
28. seclusion and physical restraint of students with exceptionalities, R.S. 17:416.21;
29. teaching regarding Internet and cell phone safety, R.S. 17:280;
30. instruction on the founding principles of the United States of America in American history and civics courses, R.S. 17:265;
31. procedures on bullying pursuant to R.S. 17:416.13;
32. school crisis management and response plans, R.S. 17:416.16;
33. instruction relative to cardiopulmonary resuscitation and the use of automatic external defibrillators, R.S. 17:81(X);
34. instruction and hotline number posting requirements relative to child assault awareness and prevention, R.S. 17:81(Y);
35. deferred compensation plans, R.S. 17:81(Z);
36. school bus loading and unloading provisions, R.S. 17:158(J);
37. student information, R.S. 17:3913 and 3914;
38. notification of homework assistance services, R.S. 17:182.1;
39. prohibits suspension or expulsion of students in grades prekindergarten through five, R.S. 17:416(J);
40. deaf child's bill of rights, R.S. 17:1960;
41. instruction in cursive writing, R.S. 17:266;
42. Louisiana Expectant and Parenting Students Act, R.S. 17:221.7;

43. instruction in litter prevention and awareness, R.S. 17:267;

44. administration of medication and exceptions thereto, R.S. 17:436.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3996.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 44:246 (February 2018).

#### **§4005. Other Statutory Requirements**

A. A charter school shall comply with state and federal laws and regulations otherwise applicable to public schools with respect to civil rights and individuals with disabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3996.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 44:247 (February 2018).

## **Chapter 41. Reopening School Facilities for the 2020-2021 School Year**

#### **§4101. Purpose and Background**

A. This Chapter provides minimum health and safety standards regarding the reopening of school facilities for the 2020-2021 school year in response to the coronavirus disease (COVID-19) pandemic in order to ensure that students, faculty, staff, and others on school property are protected to the maximum extent possible and practical. These minimum standards regarding the reopening of schools for the 2021-2021 school year expire on June 30, 2021. Any future requirements for schools related to a statewide pandemic will be communicated as needed.

B. The requirements contained within this Chapter were developed by the LDE in coordination with the LDH using guidance provided by the Centers for Disease Control (CDC) regarding school settings, defined as a setting in which educational services are provided to children. As research and information about COVID-19 is updated or if the LDH or CDC revise guidance regarding school settings, the LDE will review the standards contained within this Chapter and, as appropriate and necessary, propose revisions of this Chapter to BESE.

C. While the requirements outlined in this Chapter are designed to mitigate the spread of COVID-19 and to create a safe and healthy environment for students, faculty, staff, and others on school property, no requirement or plan guarantees that individuals will not contract COVID-19.

D. By executive proclamation, the governor establishes the statewide phase(s) of reopening (phase 1, phase 2, or phase 3). If the local governing authority of a parish or other municipality has established a more restrictive phase of reopening, the LEA located within that parish or municipality must conform to the more restrictive requirements.

1. Subsequent to the reopening of school facilities for the 2020-2021 school year and in coordination with requirements outlined in 168 JBE 2020, LEAs may continue to follow the Phase 3 minimum requirements for reopening school facilities as set forth in this Chapter.

E. In the event the governor orders, via executive proclamation, a reversion or progression from one phase of the state reopening plan to another, BESE shall immediately communicate the substance of such executive proclamation to each LEA, including the impact of the executive proclamation on the roles, responsibilities, and requirements of each LEA in the state.

1. If necessary, as a result of such executive proclamation, BESE may:

a. consider revisions to regulations pertaining to the phased reopening of school facilities for the 2020-2021 school year; or

b. authorize the LDE to issue detailed guidance to each LEA in the state to include the roles, responsibilities, and requirements of each LEA in the state in response to the executive proclamation.

F. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

G. For the purposes of this Chapter, the following definition will apply.

*Physical Distance*—the act of an individual maintaining a space of at least three feet from another individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1670 (December 2020), amended LR 47:454 (April 2021), amended LR 47:1292 (September 2021).

#### **§4103. Minimum Requirements for Reopening and Operating School Facilities**

##### **A. Group Sizes**

1. The maximum group size that may convene indoors in a single room, irrespective of room size, or outdoors at any given time are as follows:

- a. phase 1—10 individuals;
- b. phase 2—25 individuals; and
- c. phase 3—50 individuals.

##### **2. Group Composition**

a. Younger students who are unable to wear face coverings or maintain a physical distance from other students or adults should be assigned static groups. This must include, at a minimum, students in grades 2 or lower. The static group composition should be maintained for as long as possible over the course of the 2020-2021 school year.



b. The group composition may change if students are able to maintain physical distance from other students and adults. In this case, students must maintain physical distance, in accordance with current Louisiana Department of Health Guidelines as informed by the Centers for Disease Control and Prevention (CDC), from other students and adults in any classroom or indoor setting to the maximum extent possible.

#### B. Physical Standards for the use of School Facilities

1. If a group convenes indoors, it must convene in a room enclosed by a wall or partition. This includes large rooms, such as a gymnasium or auditorium, which may include more than one group if each group is separated by a wall or partition.

2. If groups convene outdoors, a physical barrier is not required, but each group must remain separated.

3. To the greatest extent possible, schools must limit crowding at entry and exit points and maintain maximum group sizes and physical distance recommendations.

4. If a room is used by more than one group in a single day, high-touch surfaces contained in that room must be cleaned before and after use by each group.

#### C. Monitoring Students and Adults for Symptoms of COVID-19

1. Each school must establish an area used to isolate anyone showing signs of being sick. The isolation area must be cleaned after it is occupied by any sick student or adult.

2. Upon arriving at the school facility, each adult and student must be assessed for symptoms of COVID-19, as defined by the CDC. This includes an initial temperature check.

#### D. Environmental Cleaning and Personal Hygiene

1. High-touch surfaces must be cleaned multiple times per day, including bathrooms.

2. Students must wash or sanitize hands upon arrival at the school, at least every two hours, before and after eating, before and after using outdoor play equipment, and before exiting the school facility.

#### E. Face Coverings

1. BESE minimum reopening standards, pertaining to face coverings, are superseded by any statewide or district specific mandate issued by the governor. If there is a statewide or district specific mandate in place, the lifting of the mask requirement will be determined by an executive order or proclamation of the governor. If there is no statewide or district mandate in place, the lifting of this requirement will be determined by the Local Education Agency (LEA) at the appropriate time, based on the recommendation issued of the LDH.

a. While inside the school facility, all adults and students in grades 3 through 12 must wear a face covering to the greatest extent possible and practical within the local community context.

b. While inside the school facility, students in grades prekindergarten through 2 may wear a face covering.

c. While inside the school facility, children under two years old and individuals with breathing difficulties.

#### F. Hygienic Supplies

1. School employees must be provided adequate access to hygienic supplies, including soap, hand sanitizer with at least 60 percent alcohol, disinfectant wipes or spray, paper towels, and tissues. Face coverings should also be provided when needed.

2. The quantity of hygienic supplies must be appropriately provided to the school employee, according to the role and the number and age of students or adults served by that employee.

#### G. Transportation

1. School buses used to transport students must not exceed the following maximum capacity requirements:

a. phase 1—25 percent, including adults, of the school bus manufacturer capacity;

b. phase 2—50 percent, including adults, of the school bus manufacturer capacity; and

c. phase 3—75 percent, including adults, of the school bus manufacturer capacity.

2. Passengers on a school bus must be spaced to the greatest extent possible as follows:

a. phase 1—passengers must ride one per seat. Every other seat must remain empty. Members of the same household may sit in the same seat or adjacent seats; and

b. phase 2 and 3—passengers must be dispersed throughout the bus to the greatest extent possible.

#### H. Student Programming Determinations

1. Student placement determinations in a distance or in-person education program should be made in consultation with the parent or custodian.

2. Student placement determinations should take into consideration a student's unique academic, social, emotional, familial, and medical needs of a student, as identified by the student's parent or custodian.

#### I. Essential Visitors to School Facilities

1. Essential visitors are individuals who must enter schools or early learning centers in order to conduct visits in accordance with Louisiana law or policy. Essential visitors include, but are not limited to, individuals who:

a. conduct *CLASS*<sup>®</sup> observations;

b. observe teacher candidates as part of the teacher preparation quality rating system; or

c. provide essential supports and services including, but not limited to, early intervention services, special education services, or mental health consultation.

J. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1670 (December 2020).

**§4105. Local Education Agency (LEA) Reopening Policies and Plans**

A. Prior to the beginning of the 2020-2021 school year, each local school board must adopt policies in accordance with the standards outlined in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1671 (December 2020), amended LR 47:1293 (September 2021).