

## **ORGANIZATION, PHILOSOPHY, AND GOALS**

### **Local School Organization and Administration**

#### **Charter Schools**

This regulation supersedes Regulation 1400.

#### **I. PURPOSE**

To establish procedures as stated in Chapter 13, Title 22.1, Article 1.2, as amended, of the Code of Virginia that requires Virginia public school divisions to create procedures to review and consider approval of charter school applications brought by parents and other independent sponsoring groups. This regulation specifies procedures consistent with state direction to be used by Fairfax County Public Schools (FCPS) in considering charter applications.

#### **II. OBJECTIVES**

##### **A. State and School Division Objectives**

Virginia has authorized charter schools as one avenue for parents, teachers, and community members to provide for the education of children as part of the public school system. A charter school is a public, nonsectarian, nonreligious, and nonhome-based alternative school operated independently as part of Fairfax County Public Schools. No charter school shall be established through the conversion of a private school or a nonpublic home-based education program.

As adopted by the General Assembly (Virginia Code §22.1-212.5 through 22.1-212.16), the purposes of the charter school legislation are to: (i) stimulate the development of innovative programs; (ii) provide opportunities for innovative instruction and student assessment; (iii) provide parents and students with more options within the school division; (iv) provide teachers with a vehicle for establishing schools with alternative innovative instruction and school scheduling; (v) encourage performance-based educational programs; (vi) establish and maintain high standards for teachers and administrators; and (vii) develop models for replication in other public schools.

Charter schools shall also seek to fulfill objectives consistent with current School Board targets.

##### **B. Charter Schools Serving At-Risk Students**

The School Board shall give priority consideration to proposals designed to increase the educational opportunities for students identified as “educationally at-risk” according to Virginia Board of Education criteria, particularly those students currently served by schools not fully accredited. At-risk students are defined by the Virginia Board of Education as having physical, emotional, intellectual, socioeconomic, or

cultural risk factors that research indicates may negatively influence educational success.

### III. CHARTER APPLICATION AND AGREEMENT

#### A. Charter Application Documentation

1. The deputy superintendent or the assistant superintendent for the appropriate cluster will be available to respond to questions from the charter applicant in preparation of the application proposal narrative and its summary cover sheet.
2. An original, completed application proposal and summary, plus 15 copies, must be submitted to the deputy superintendent.
3. The deputy superintendent must receive applications, in final format, by July 1 of the year preceding the anticipated opening of the charter school. An application fee of \$2,000 must be submitted with the completed application.
4. Prior to submitting an application to FCPS, charter school applicants may seek comment on their proposal from the Virginia Board of Education as specified in Code of Virginia Section 22.1-212.9. The state's current criteria for review of the local charter school applications are available from the FCPS deputy superintendent. Any comment received from the state must be included in the application submitted to the Fairfax County School Board.

#### B. Evaluation Criteria

Detailed charter application submission requirements and approval criteria are available from the deputy superintendent.

#### C. Application Narrative

Each application shall include the following components:

1. goal statement
2. general outline or summary of the strategy
3. description of program's curriculum and staff development
4. description of the proposed implementation process
5. description of the evaluation process to be used
6. a detailed budget reflecting all anticipated costs
7. sources and amounts of all anticipated revenues

8. disclosure of any members of the governing body, administrators, and other personnel proposed to serve in a charter school who have any financial interest in the renovation, lending, granting, or leasing of facilities to the public charter school, and/or in any other aspect of the charter school
9. any comment received by the applicant resulting from a Virginia Board of Education review, in addition to other elements specified below and elsewhere in the regulation.

The applicant must also provide assurances that the school is nonsectarian and does not charge tuition.

#### **D. Demonstration of Community Support**

The applicant must demonstrate community support through:

1. Evidence of adequate support from Fairfax County residents, parents, teachers, and/or pupils, including any such individuals who live, work, or attend school in the geographic area of the proposed charter school or who might otherwise be affected.
2. Statement of community need.

#### **E. Demonstration of Educational Ability**

The applicant must demonstrate educational ability through:

1. A statement of educational need, including characteristics of the population to be served.
2. Research-based innovative programs, instruction, assessment, school scheduling, management, pupil evaluation, and/or structure.
3. A mission statement consistent with the Standards of Quality.
4. Goals and objectives that meet or exceed the Standards of Learning and support the division's current strategic targets.
5. A description of the educational program, pupil performance standards, and curriculum, which must meet or exceed the Standards of Quality.
6. Plans for assessing and reporting the progress of individual students and the school as a whole toward meeting charter objectives, federal and state educational standards, and division targets.
7. Plans for identifying and implementing required corrective actions when appropriate progress toward charter objectives and state requirements is not being made.

**F. Demonstration of Management Capability**

The applicant must demonstrate management capability through:

1. A management committee composed of parents, teachers and administrators, and sponsors.
2. A sound financial plan, budget, and provision for annual audit.
3. A reasonable time line for starting the school.
4. A workable transportation plan.
5. A lottery-based admissions process, wait-list, and other application procedures.
6. Facilities plans that comply with federal, state, and local construction codes, as well as other applicable state and local standards, except as provided in approved waivers.
7. Plans for the reassignment of pupils and employees if all or part of an existing school is converted, or upon termination or revocation of the charter.
8. A description of the management and operation of the school.
9. Plans for the health, safety, and security of students, staff members, and guests that are consistent with school division policy, regulation, and practice, including a plan for coordinating—with the school division—responses to any significant emergencies.
10. Plans for recruiting, hiring, and supervising staff members, including an explanation of the relationship with employees, and evidence that the terms and conditions of employment have been addressed with any affected employees already employed by the division and will be addressed with those not yet hired.
11. A proposal for allocation of liability and insurance coverage.

**G. Waivers of School Board Policy and State Regulation**

1. A charter school may be authorized in the charter agreement to operate free from specific Fairfax County School Board policies and state regulations, except the Standards of Quality, the Standards of Accreditation, and the Standards of Learning.
2. The charter proposal must specify, in detail, all waivers of school division and state policy, regulation, standard, and/or practice requested by the charter school. The charter agreement between the charter school and the Fairfax County School Board shall reflect all approved waivers.

## **H. Renewals of the Charter Contract**

An application for renewal shall contain the following:

1. The current charter agreement, revised to reflect proposed adjustments in objectives, methods, waivers, support arrangements, or other features of the charter agreement (proposed revisions shall be highlighted, or a summary of the proposed changes shall be provided as part of the renewal application).
2. A report on the progress of the charter school in achieving the goals, objectives, program and performance standards for students, and other conditions and terms the Fairfax County School Board required in the charter.
3. A financial statement, on forms acceptable to the FCPS chief financial officer, which discloses the charter school's costs of administration, instruction, and other spending in clear terms that will enable the School Board and public to compare costs with other charter and conventional schools in the division.
4. Other information the Fairfax County School Board or review committee may require.

## **I. Charter Contract and Revisions**

Division staff members will advise qualified applicants in modifying the charter application as necessary to produce a final version. The final version of the charter application, if approved by the School Board, shall constitute the charter agreement to be signed by authorized representatives of the charter's management committee, the School Board's chairman, and the school division's Superintendent. The School Board's decision to grant, modify, or deny an application, or to renew, modify, revoke, or decline to renew a charter agreement, shall be final.

Revisions to the charter agreement shall be in writing and approved by the School Board and the charter school. Concurrent with approval of the charter school application, the School Board may direct the charter school management committee and division staff members to modify the charter application by converting it into contract form. The contract shall address any remaining educational, operational, legal, and other issues and may be approved by the School Board before the charter school begins operation.

## **J. Charter Term and Timing of Approval**

A charter agreement, whether new or renewed, normally will be for a three-year period. School Board approval of the final charter agreement is required by December 1 of the year prior to the desired opening date.

#### **IV. APPLICATION REVIEW AND APPROVAL**

##### **A. Establishment of a Review Committee**

Prior to consideration by the Fairfax County School Board, a review committee shall examine all charter school applications. The review committee will be chaired by the deputy superintendent. Membership will include the assistant superintendent for the appropriate cluster according to the school's location, the division counsel, and all other assistant superintendents or their designee(s).

##### **B. Review of Charter Applications**

1. The review committee will meet to review charter school applications using established criteria.
2. The review committee will make copies of the applications available as needed for review and written comment by employee organizations, parent-teacher associations, and any other interested persons.
3. After reviewing each application, the review committee may schedule an interview with each applicant. To the extent practicable, any such interview shall be held within 60 days of the final application deadline.
4. The review committee will provide a written recommendation to the School Board, based on the results of its review.

##### **C. School Board Review and Notice of Action**

After a minimum of two weeks' public notice, a public hearing on each proposed charter school application will be conducted.

The Board may take any of the following actions with each application:

1. Accept without conditions
2. Accept with conditions
3. Reject
4. Place on a waiting list
5. Return with suggested modifications
6. Defer action
7. Return with request for additional information

Written notice of the Fairfax County School Board's decision shall be sent to the applicant. If an application is rejected, the Fairfax County School Board shall communicate its decision and reasons for denial to the applicant.

**D. Revocation or Failure of a Charter**

A charter may be revoked or not renewed if the charter school:

1. Violates the conditions, standards, or procedures established in the charter school application.
2. Fails to meet or make reasonable progress toward achievement of the content standards or student performance standards identified in the charter application.
3. Fails to meet generally accepted standards of fiscal management.
4. Violates any provision of state or local law, regulation, or standard from which the charter school was not specifically exempted.

A school's charter may also be revoked or not renewed if the Fairfax County School Board determines, at its sole discretion, that it is not in the public interest or in the interest of student welfare within the Fairfax County school division to continue the operation of the school.

**E. Reassignment of Students**

In the event that a charter school fails or discontinues operations for any reason, its students shall be returned to their respective base schools, unless alternative arrangements have been approved by the School Board.

**V. CHARTER OPERATION**

**A. Legal Limitations**

All charter schools shall be subject to federal, Virginia, and Fairfax County constitutions, statutes, ordinances, and regulations prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, marital status, need for special education services, or any other protected category. Charter schools must comply with the Standards of Quality, the Standards of Learning, the Standards of Accreditation, and any other applicable local, state, or federal educationally related law, regulation and/or standard, including Fairfax County school division policies and regulations, unless the charter school's request for a waiver is explicitly approved. Charter schools are subject to all other applicable federal, state, and local laws and regulations.

**B. Charter Students**

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Enrollment shall be by lottery on a space-available basis to any child who lives within the Fairfax County school division and meets the charter school's definition of the student population to be served subject to applicable nondiscrimination requirements.

Except for any provisions waived in the charter agreement, charter school students must abide by all school division rules, regulations, and standards of conduct.

Charter school students are subject to the same disciplinary process and have the same hearing and appeals rights as do all school division students. Charter schools will reimburse the school division for the cost of the hearing, appeals, and alternate placement process.

**C. Charter School Management**

A charter school shall be administered and operated by a management committee composed of parents of students enrolled in the school, teachers and administrators working in the school, and representatives of any community sponsors. Prior to any charter school's approval, members of its proposed management committee shall be subject to the same criminal and financial background checks as are school division employees and volunteers.

Once a charter school is approved, the school shall be responsible for its own operation, including, but not limited to, budget preparation, contracts for services, personnel matters, operation and maintenance of the school, and conduct of school activities as are specified in the charter agreement. A charter school may negotiate and contract with the School Board or a third party for the provision of necessary services, subject to the restrictions of paragraph G. below.

**D. Charter School Facilities and Rent**

A charter school shall be required to provide facilities that are safe, sanitary, reasonably attractive, and comfortable. The facilities shall be capable of properly accommodating the planned administration, faculty, student enrollment, and program of studies, including the standard FCPS art, music, athletic, co- and extracurricular activities, unless a waiver of the specific content, mode of delivery, facility, and/or equipment requirement has been granted. A charter school may be accommodated by conversion of all or part of an existing public school facility or by utilizing facilities not previously operated by the school division. A charter school shall not be required to pay rent for space deemed by the school division to be available within the Fairfax County school division. Members of the governing body, administrators, and other personnel serving in a charter school proposed to, or approved by, the Fairfax County School Board shall have a continuing obligation to disclose any financial interest in the renovation, lending, granting, or leasing of facilities to the public charter school, and/or in any other aspect of the charter school.

**E. Employment of Professional, Licensed Personnel**

Charter school personnel shall be employees of the Fairfax County school division and subject to the division's policies and regulations unless waived under the charter agreement. The charter school's management committee is responsible for recruiting, selecting, and managing the staff of the school consistent with FCPS human resources policies, guidelines, standards, and procedures. Current employees of the school division may volunteer for assignment to a charter school and may be assigned to a charter school for one contract year (renewable) with the approval of the charter school's management committee. Employees assigned to a charter school shall receive the same employment compensation and benefits as those received by employees assigned to noncharter schools.

The management committee will make recommendations at the end of each school year regarding the charter school staff members' employment status, including retention at the charter or transfer. Personnel who request reassignment to a noncharter school within the school division, or who are not recommended for retention in the charter school, shall be guaranteed reassignment to a noncharter school in the school division. This guarantee does not apply to employees recommended for nonrenewal of contract or dismissal. The School Board has the final authority to assign all personnel to charter or other schools within the Fairfax County school division.

#### **F. Funding and Costs**

Funding and service agreements between the School Board and its charter schools shall not provide a financial incentive or disincentive to the establishment of public charter schools, including any regional charter schools. Charter schools shall be funded by the school division on a per-pupil basis as are other schools in the division. Such funding shall include the proportionate share of money and personnel allocated to schools serving students eligible for aid under federal and state categorical programs, including special education programs.

The management committee of a public charter school is authorized to accept gifts, donations, or grants of any kind and to spend such funds in accordance with the conditions prescribed by the donor, provided that those conditions are not contrary to law or to the terms of the charter agreement. The charter application shall specify the sources and amounts of any funding other than that provided by and through the school division.

#### **G. Contracting**

Charter schools may provide services with their own staff members, or they may contract with third parties or the school division for the provision of services. Charter schools must use school division services for standardized student testing, new employee orientation, administration of major student discipline concerns, and other functions that the division may from time to time specify by published notice.

Charter schools must reimburse the school division's costs for all division-provided services. The fees for any services provided by the school division shall not exceed the division's costs to provide such services.

All contracts entered into by the charter school shall prominently state that the contract is not binding upon the School Board unless it is signed by the School Board chair, the Division Superintendent, or his or her designee.

#### **H. Liability of Charter School**

Under no circumstances will the Fairfax County School Board assume responsibility for any liabilities of the charter school except as specifically provided in the charter agreement. In authorizing a charter school, the School Board assumes no long-term capital obligation other than that already accruing to facilities the School Board directly owns or otherwise controls and operates. Assurances that the School Board

and its agents and employees will be defended, held harmless, and indemnified against any claim, action, loss, damage, injury, liability, cost, or expense of any kind as a result of the charter school or actions by its agents, employees, invitees, or contractors must be provided as part of the charter school application process.

Public charter schools shall be immune from liability to the same extent as are other public schools in Virginia. Employees and volunteers in a public charter school are immune to liability to the same extent as are the employees and volunteers in a public school. At minimum, the charter school must carry liability as well as errors and omissions insurance covering the School Board and its members, agents, and employees, in addition to the charter school management committee and its employees. The amount of coverage must be specified as part of the charter school application and be appropriate to the size and nature of the charter school. The charter school shall provide a copy of all insurance policies with the application or as soon thereafter as such policies can be obtained.

#### **I. Charter School Evaluation and Reporting**

The charter school will report to the school division by August 1 of each year as follows:

1. The results of a certified, independent audit of the financial and administrative operations of the public charter school, including any services provided by the school division.
2. The school's accomplishments to date and during the reporting interval according to the assessment and reporting plan included in the charter school agreement.

More frequent reporting may be required at the discretion of the School Board or the Superintendent or if questions arise concerning the charter school's performance or continuing viability. The charter school shall assure in the charter school proposal and during operation that its reporting categories, methods, formats, and any supporting technology are consistent with corresponding school division reporting elements, are timely, and are responsive to direction from the Superintendent and the School Board.

Legal References: Code of Virginia §22.1-212.5 through 22.1-212.16