WEST VIRGINIA CODE: §18-5G-10

§18-5G-10. Charter contract renewal; performance report by authorizer and renewal guidance; renewal application; renewal term; nonrenewal; closure and dissolution.

(a) No later than June 30 of a public charter school's fourth year of operation under each five-year term of a charter contract, the authorizer shall issue a performance report on the public charter school. The performance report shall summarize the public charter school's performance record to date, based on the data collected under the statutory requirements of this act and the charter contract, and shall provide notice of any weaknesses or concerns perceived by the authorizer concerning the school that may jeopardize its position in seeking renewal if not timely rectified. The school and the authorizer shall mutually agree to a reasonable time period for the public charter school to respond to the performance report and submit any corrections for the report.

(b) No later than June 30 of the school year before a public charter school's final year of operation under terms of a charter contract, the authorizer shall issue contract renewal application guidance to the school. The renewal application guidance required by this subsection shall include or refer explicitly to the criteria and standards that will guide the authorizer's renewal decisions as it pertains to the named public charter school. These criteria and standards shall be based on the statutory requirements of this act and the charter contract. The renewal application guidance shall, at a minimum, require and provide an opportunity for the public charter school to:

(1) Present additional evidence, beyond the data contained in the performance report, supporting its case for charter renewal;

(2) Describe improvements undertaken or planned for the school; and

(3) Detail the school's plans for the next charter term.

(c) No later than September 30 of a public charter school's final authorized year of operation under a term of a charter contract, the governing board of the public charter school seeking renewal shall submit a renewal application to the authorizer pursuant to the renewal application guidance offered by the authorizer under subsection (b) of this section. The authorizer shall rule in a public meeting and by resolution on the renewal application no later than 45 days after the filing of the renewal application. In making charter renewal decisions, the authorizer shall:

(1) Ground its decisions on a thorough analysis of evidence of the school's performance over the term of the charter contract in accordance with the terms set forth in the charter contract, annual performance reports, and any required financial audits;

(2) Ensure that data used in making renewal decisions are available to the public charter

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school and the public;

(3) Provide a public report summarizing the evidence basis for each decision; and

(4) Include one of the following rulings:

(A) Renew the charter contract for another term of up to five years based on the school's performance data and demonstrated capacities of the public charter school; or

(B) Decline to renew the charter contract. The authorizer shall clearly state in a resolution the reasons for the nonrenewal. The governing board of the school shall be granted 30 days to respond in writing to the decision and public report before that decision becomes final. The governing board shall be allowed to provide the authorizer with such arguments and supporting information as it sees fit, and shall be granted an opportunity for a recorded public hearing, at the request of the governing board. The governing board may be represented by counsel at the hearing and may call witnesses to testify. The authorizer shall consider the governing board's response, testimony, and documentation, as well as the recorded public hearing, prior to rendering a final decision on the renewal of the charter contract. The authorizer shall render its final determination within 10 days of the close of the 30-day period. Any nonrenewal of a charter contract may be appealed to the state board pursuant to §18-5G-13 of this code.

(d) The failure of the authorizer to act on a renewal application within the designated time frames shall be deemed an approval of the renewal application.

(e) Within 10 days of taking final action to renew or not renew a charter under this section, the authorizer shall report the action taken and reasons for the decision to the school's governing board and the state board or affected county board, as applicable. A copy of the report shall be submitted at the same time to the state superintendent.

(f) Renewal of a charter contract may be denied if the authorizer determines that the health and safety of students attending the public charter school is threatened or, at such time following the process set forth in this section, if the public charter school has:

(A) Failed to substantially comply with the provisions of this article:

(B) Committed a material violation of any of the terms, conditions, standards, or procedures required under this chapter or the charter contract;

(C) Failed to substantially meet the performance expectations set forth in the charter contract;

(D) Failed to substantially meet generally accepted standards of fiscal management; or

(E) Violated any provision of law from which the school was not exempted.

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(g) If an authorizer revokes or does not renew a charter contract, the authorizer shall close the school: *Provided*, That when the charter is revoked or not renewed for a school that began as a conversion public charter school or program conversion public charter school, the county board of the district in which the school is located may return it to noncharter public school status.

(h) A charter contract may be revoked at any time if the authorizer determines that the health and safety of students attending the public charter school is threatened, if an administrator employed by or member of the governing board over the charter school is convicted of fraud or misappropriation of funds, if there is a failure to meet generally accepted standards of financial management, if there is a material breach of the charter contract, there is a substantial violation of any provision of law from which the public charter school is not exempted, or if there are dire and chronic academic deficiencies.

(i) In the event of a public charter school closure for any reason, the authorizer shall oversee and work with the closing school to ensure a smooth and orderly closure and transition for students and parents, as guided by the closure protocol established by the state board including, but not limited to, the following:

(1) Overseeing and working with the closing public charter school to ensure timely notification to parents, orderly transition of students and student records to new schools and proper disposition of school funds, property, and assets in accordance with the requirements of this chapter; and

(2) Distributing the assets of the public charter school first to satisfy outstanding payroll obligations to and required payments to retirement systems on behalf of employees of the public charter school and then to creditors of the public charter school. Any remaining funds shall be paid to the county board. If the assets of the public charter school are insufficient to pay all parties to whom the public charter school owes compensation, the prioritization of distribution of assets may be determined by decree of a court of law.

(j) If a public charter school is subject to closure or transition, following exhaustion of any appeal allowed under §18-5G-13 of this code, an authorizer may remove at will at any time any or all of the members of the board of directors of the public charter school in connection with ensuring a smooth and orderly closure or transition. If the authorizer removes members of the board of directors such that the board of directors can no longer function, the authorizer shall be empowered to take any further necessary and proper acts connected with closure or transition of the public charter school in the name and interest of the public charter school.

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