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**TO:** Members of the State Board of Education

**FROM:** Karen B. Salmon, Ph.D.

**DATE:** July 26, 2016

**SUBJECT:** Implementation of 2015 Amendments to Maryland Charter School Law  
Regarding Eligibility for Flexibility Provisions

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**PURPOSE:**

The purpose of this agenda item is to provide a proposal for implementation of certain provisions of Maryland's Charter School Law, § 9-101 *et seq* of the Education Article, Annotated Code of Maryland which was revised in the 2015 Session of the Maryland General Assembly. Specifically, the proposal addresses Education Article § 9-104.1 which directs the Maryland State Board of Education (State Board) to develop standards and criteria by which an eligible public charter schools shall be assessed by local boards of education. Eligible charter schools would then be granted flexibility in operations.

**BACKGROUND/OVERVIEW:**

The Maryland Public Charter School Program was enacted in 2003 to enable public school staff, parents of public school students, nonsectarian nonprofit entities, and nonsectarian institutions of higher education to apply to a county board of education to establish a public charter school. The program as enacted in 2003, had to be nonsectarian and open to all students in the local school system on a space-available basis. Under State law, public charter schools may not charge tuition; instead, they receive public funds on a per pupil basis commensurate with the amount of funds disbursed to other public schools in the local school system in which the public charter school operates. Public charter schools must comply with the laws, regulations, and policies that govern traditional public schools, although waivers from some rules may be requested through an appeal to the State Board.

In Maryland, local boards of education have chartering authority. An application to establish a public charter school must be submitted to the local board of education in the jurisdiction in which the public charter school will be located. If the local board of education denies the application, the applicant may appeal the decision to the State Board.

Other key provisions of Maryland's Charter School law include:

- Public charter school teachers and staff are employees of the local school system and are represented by local collective bargaining agreements.
- Per pupil funding must be commensurate with the amount of funding expended on behalf of all public school students.
- Admission is by lottery.

The Maryland Public Charter School Program has grown from serving 3,363 students during the 2005-2006 school year, the first year in which public charter schools were operational in accordance with the law, to serving over 19,000 students during the 2015-2016 school year. The number of public charter schools has grown from 15 public charter schools during the 2005-2006 school year to 49 public charter schools during the 2015-2016 school year. Although nine different counties have had at least one public charter school at some point over the last 10 years, the majority of public charter schools are located in Baltimore City (33 public charter schools) and Prince George's County (10 public charter schools).

In 2015, the Maryland General Assembly amended the Maryland Public Charter School Program (Chapter 311, Acts of 2015 (Act)). The Act created a pathway for additional operational flexibility for public charter schools that meet eligibility criteria based on performance and sound management. The public charter school, determined to be eligible by the local board, is exempt from policies of the local board regarding textbooks, instructional program, professional development, requirements to have a school community council, and class size ratios. The flexibility provisions also include development of a communication and supervision process by mutual agreement of the charter school and the local board. Further an eligible school may not be assigned a principal without the consent of the charter operator and the local board will assign teachers to the public charter school when the teacher and the public charter school agree to the assignment.

The Maryland State Department of Education reviewed the requirements in the law; gathered information on current practice for renewal and for operational flexibility; and sought input from stakeholders. A meeting held in October 2015 included representatives of local school systems with operating charter schools (Anne Arundel County, Baltimore City, Frederick County, Prince George's County), a charter support organization, the Public School Superintendents Association of Maryland (PSSAM), members of the State Board, and staff of the Department. A list of options for eligibility criteria was reviewed by the school system charter liaisons and presented to the state meeting of assistant superintendents for academics.

At the stakeholder meeting representatives of local school systems with charter schools confirmed that the items listed in § 9-104.1 (e), (1) through (5), listed on page 4 of the attached proposal, are operational autonomies that the state's charter schools are already provided. These aspects of school operations are included in the application and reviewed with the local school system before the application is approved.

Members of the State Board of Education

July 26, 2016

Page 3

For the personnel provisions, § 9-104.1 (g), local school systems and charter school operators report collaboration on principal and teacher staffing. However, the superintendent retains final authority on principal and teacher hiring. The new provisions would prevent a charter school from having a principal placed if it had no input into the hire; and could facilitate a teacher's transfer to a charter school. In both cases, the local collective bargaining agreement would take precedence if teacher and principal assignment are negotiated as part of the contract.

**EXECUTIVE SUMMARY:**

The State Board of Education is charged with developing standards and criteria by which an eligible public charter school shall be assessed by the local board. The standards will include requiring evidence of sound fiscal management, and student achievement. Public charter schools determined eligible by local boards will have the flexibility provisions listed in Education Article § 9-104.1.

**ACTION:**

I request that the State Board of Education approve the proposed eligibility standards and criteria and process.

Attachments

# Maryland State Department of Education

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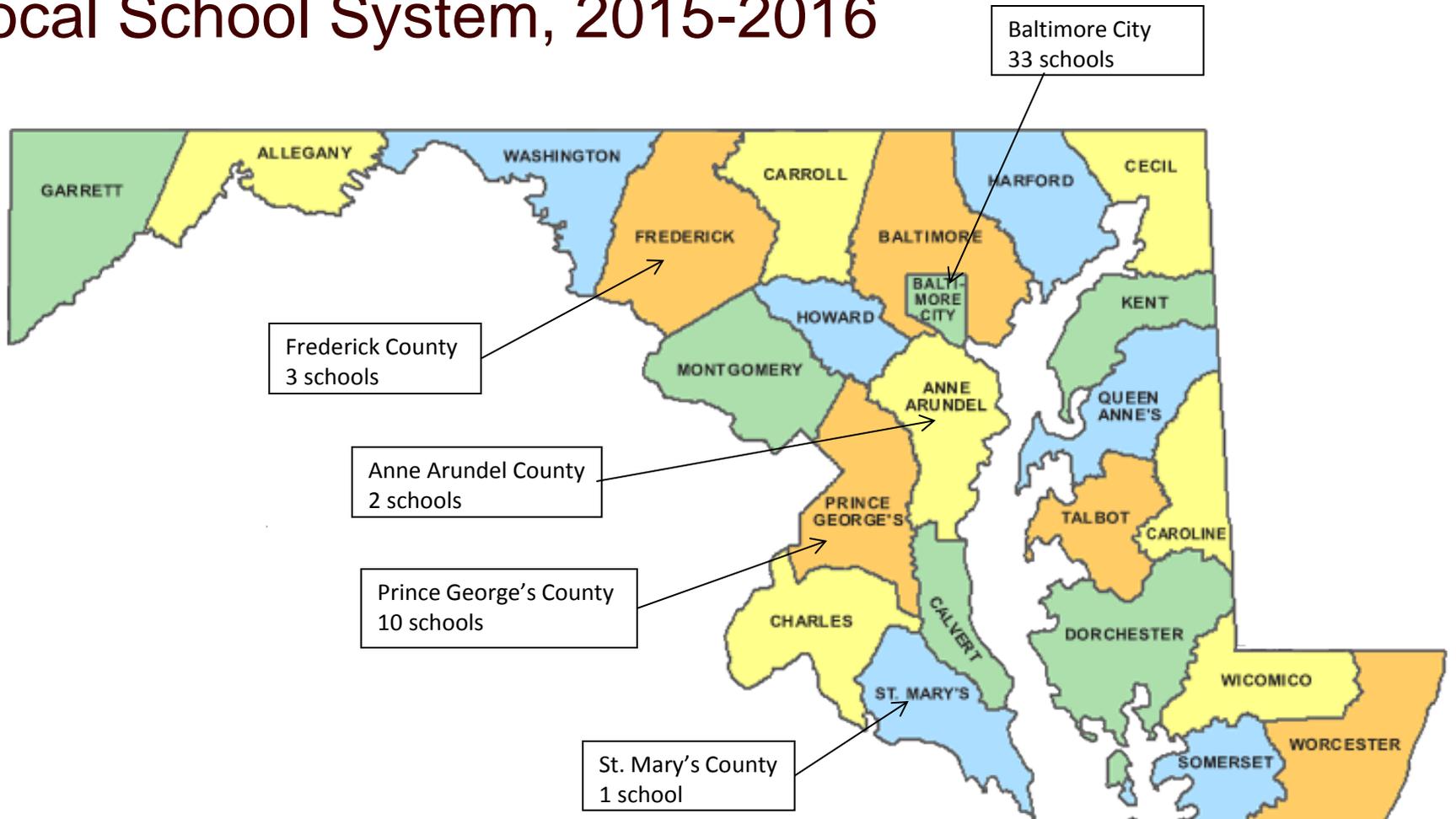
## Maryland Public Charter Schools - Implementation of Eligibility/Flexibility Provisions of Education Article § 9-104.1

Presentation to  
Maryland State Board of Education  
July 2016

Carol Beck,  
Office of School Innovations

Kristina Kyles-Smith, CAGS,  
Assistant State Superintendent  
Division of Student, Family and School Support

# Maryland's Public Charter Schools by Local School System, 2015-2016



# Amendment to Maryland Charter Law, 2015

- An “eligible” charter school may apply to the public chartering authority (local school board) for exemption from specific policies including:
  - Textbook, instructional program, curriculum, professional development and scheduling
  - School community council
  - School improvement plan (except as required by Title I)
  - Class size, except for pre-Kindergarten
  - The charter school may not be assigned a principal without consent of the charter school operator.
  - Staff members shall be assigned to the charter school, when the staff member wants the assignment and the charter school agrees.

# Amendment to Maryland Charter Law, 2015

- ❑ The State Board shall develop standards and criteria by which an eligible charter school shall be assessed by a public chartering authority.
  - Criteria will include:
    - Operating at least 5 years
    - Sound fiscal management
    - Student achievement exceeding the average of the local school system
    - Other measures developed by the State Board

# Standards and Criteria

Statute	Recommendation
<p>Student Achievement that exceeds the average in the local school system in which the public charter school is located on:</p> <p>(i) Statewide assessments; [§ 9-104.1(a)(2)]</p>	<p>Proficiency in Reading and Math exceeds that of the local school system for all students in same grade band (elementary, middle, high) in the most recent year for which data is available.</p> <p>For schools with high school grades, cohort graduation rates that exceed that of the local school system for all students, in the most recent year for which data is available.</p>

# Standards and Criteria

Statute	Recommendation
(ii) Other measures developed by the State Board [§ 9-104.1(a)(2)(ii)]	Evidence that the school does not meet the criteria as a Focus School – (lowest 10% of schools based on gap between highest and lowest performing subgroup).  Absence of significant compliance issues in serving students with disabilities as reported by the local board and confirmed by the Division of Special Education.
Sound fiscal management [§ 9-104.1(a)(1)]	Evidence that the local board has reviewed the annual independent financial audit, confirmed no management findings in the audit, and reviewed balance sheets that show the school operating within budget projections.

# Implementation

revised 7/21/16

- The local board notifies the State Board of Education by letter that the Charter School has applied for and meets the requirements of eligibility, including documentation.
  - Guidance from MSDE will establish a timeline of March through June, so that most determinations are made in conjunction with renewal decisions.
- Appropriate MSDE staff review the documentation and confirm the determination that the charter school has or has not met the eligibility standards and criteria.
- The State Superintendent will inform the State Board annually of the number of charter schools that have requested to be determined eligible and the outcomes. MSDE maintains records of all requests from charter schools and the decisions of the local boards of education.

**Implementation of  
Flexibility Provisions of Maryland Charter Law:  
Education Article Title 9-104.1**

**Maryland State Department of Education  
July 26, 2016**

**Larry Hogan  
Governor**

**Karen B. Salmon, Ph.D.  
State Superintendent of  
Schools**



**CONTENTS**

**Introduction..... 3**

**Background ..... 3**

**Flexibility and Eligibility Provisions ..... 4**

    Eligibility Criteria ..... 4

    Flexibility Provisions (§ 9-104.1) for eligible public charter schools..... 4

**Proposal for Eligibility Criteria..... 5**

**Implementation Process ..... 6**

## Introduction

Revisions made to the Maryland Charter Law (Education Article § 9-101, *et seq*) direct the Maryland State Board of Education (MSBE) to ‘develop standards and criteria’ by which a Maryland charter school meets ‘eligibility’ to implement certain flexibility provisions of the Maryland Charter Law. This summary provides a recommendation to the MSBE for establishing the criteria and describes the flexibility provisions.

## Background

The Maryland General Assembly established the Maryland Charter School program in 2003, and amended it in 2015, “to establish an alternative means within the existing public school system in order to provide innovative learning opportunities and creative educational approaches to improve the education of students.” [§ 9-101 (b)].

The key provisions of the Maryland Charter School Law include:

- Local School Boards are the authorizers of public charter schools.
- Public charter schools comply with all State and local education laws and policies, unless waived.
- Employees of public charter schools are employees of the local school system.
- Charter schools receive an amount of public funding that is commensurate with the amount of funding expended on behalf of all public school students.
- Charter schools are open to all students. Admission is by lottery.

The Maryland State Board of Education’s policy states that the purposes of Maryland’s charter school program include:

- Close achievement gaps;
- Increase high quality educational opportunities;
- Allow, through chartering, public school freedom and flexibility in exchange for exceptional levels of results-driven accountability; and
- Encourage the replication of successful public charter schools.

The first public charter schools approved under the law opened in the 2005-2006 school year. In the 2015-2016 school year, 49 public charter schools are serving over 19,000 students in Maryland in five jurisdictions.

In the 2015 session of the Maryland General Assembly, the Legislature added provisions that empowered local school boards to approve proposals which would give greater weight in a lottery to disadvantaged students in some circumstances. In addition, under the revisions to the statute, the Maryland State Board of Education would establish criteria by which the local school board will assess charter schools to be eligible for additional operational autonomy.

## Flexibility and Eligibility Provisions

### Eligibility Criteria

Revisions made to the Maryland Charter Law (Education Article § 9-101, *et seq*) direct the Maryland State Board of Education (MSBE) to develop standards and criteria by which the Maryland charter school meets ‘eligibility’ to implement certain flexibility provisions of the Maryland Charter Law.

The law states that an, “eligible public charter school” means a public charter school that has been in existence for at least 5 years and demonstrates to the public chartering authority a history of:

- (1) Sound fiscal management; and
- (2) Student Achievement that exceeds the average in the local school system in which the public charter school is located on:
  - (i) Statewide assessments; and
  - (ii) Other measures developed by the State Board.”

The law directs the State Board to “develop standards and criteria by which an eligible public charter school shall be assessed by a public chartering authority.”

### Flexibility Provisions (§ 9-104.1) for eligible public charter schools

The law provides that the eligible charter school is exempt from local school system policies that include,

Pursuant to § 9-104.1 (e):

- 1) Textbook, instructional program, curriculum, professional development, and scheduling requirements;
- 2) A requirement to establish a school community council;
- 3) Except for Title I schools, a requirement to establish a school improvement plan;
- 4) Except for schools with a school activity fund, a requirement to provide school activity fund disclosure statements; and
- 5) Except for Prekindergarten classes, class size or staffing ratios.

Pursuant to § 9-104.1 (g):

- 1) An eligible public charter school may not be assigned a principal without the written consent of the operator of the eligible public charter school.
- 2) (i) Staff members shall be assigned or transferred to an eligible public charter school if the staff member expresses in writing that the staff member wants to work in that eligible public charter school and the eligible public charter school requests in writing that the staff member be assigned or transferred to the eligible public charter school, provided there is an existing vacancy.  
(ii) A transfer authorized under subparagraph (i) of this paragraph shall take place as designated by the agreement of the local bargaining unit in the local school system.

For the provisions regarding principal assignment and staff transfer, the local collective bargaining agreement takes precedence.

## Proposal for Eligibility Criteria

The following is a draft recommendation aligned with the requirements of Education Article §9-104.1.

The Local School Board will use the following benchmarks to determine if a charter school is ‘eligible’:

<b>State Charter Law</b> § 9-104.1	<b>Recommendation for State Board:</b>
(a) “eligible public charter school” means a public charter school that has been in existence for at least 5 years and demonstrates to the public chartering authority a history of:	<ul style="list-style-type: none"> <li>• Charter Schools with at least 5 years of operations.</li> </ul>
(2) Student Achievement that exceeds the average in the local school system in which the public charter school is located on:  (i) Statewide assessments; and	<ul style="list-style-type: none"> <li>• Proficiency in Reading and Math exceeds that of the local school system for all students in same grade band (elementary, middle, high), in the most recent year for which data is available.</li> <li>• For Schools with high school grades, cohort graduation rates that exceed that of the local school system for all students, in the most recent year for which data is available.</li> </ul>
(ii) Other measures developed by the State Board.	<ul style="list-style-type: none"> <li>• Evidence that the school does not meet the criteria for a Focus School – the 10% of schools with largest gaps between highest and lowest performing subgroups.</li> <li>• Note: The State Board will issue revised guidance that aligns with state accountability standards and includes a growth measure. These standards are under revision due to the transition to ESSA (Every Student Succeeds Act, 2015)</li> <li>• Absence of significant compliance issues in serving students with disabilities as reported by the local board and confirmed by the Division of Special Education.</li> </ul>
(1) Sound fiscal management;	<p>Evidence that the local board has,</p> <ul style="list-style-type: none"> <li>• reviewed the annual independent financial audit;</li> </ul>

<b>State Charter Law</b> § 9-104.1	<b>Recommendation for State Board:</b>
	<ul style="list-style-type: none"> <li>• confirmed no management findings in the audit; and</li> <li>• reviewed balance sheets that show the school operating within budget projections and with no evidence of misappropriation of funds.</li> </ul>

## Implementation Process

Proposed process:

- The local board notifies the State Board of Education by letter that the Charter School meets the requirements of ‘eligibility’, including documentation.
- Appropriate MSDE Staff review the documentation and make a determination that the Charter School has or has not met the eligibility standards.
- The State Superintendent advises the State Board on the outcome of the staff review and makes the recommendation to the Board.
- Local School Systems and Charter Schools are notified of the State Board’s decision.
- MSDE maintains records of each Charter School request for eligibility and the outcomes.

**TITLE 9. MARYLAND PUBLIC CHARTER SCHOOL PROGRAM**  
**Md. EDUCATION Code Ann.**

**§ 9-101. Maryland Public Charter School Program**

- (a) Established. -- There is a Maryland Public Charter School Program.
- (b) Purpose. -- The general purpose of the Program is to establish an alternative means within the existing public school system in order to provide innovative learning opportunities and creative educational approaches to improve the education of students.

**§ 9-102. Public school charter, defined**

In this title, "public charter school" means a public school that:

- (1) Is nonsectarian in all its programs, policies, and operations;
- (2) Is a school to which parents choose to send their children;
- (3) Except as provided in §§9-102.1, [9-102.2](#), and [9-102.3](#) of this title, is open to all students on a space-available basis and admits students on a lottery basis if more students apply than can be accommodated;
- (4) Is a new public school or a conversion of an existing public school;
- (5) Provides a program of elementary or secondary education or both;
- (6) Operates in pursuit of a specific set of educational objectives;
- (7) Is tuition-free;
- (8) Is subject to federal and State laws prohibiting discrimination;
- (9) Is in compliance with all applicable health and safety laws;
- (10) Is in compliance with § 9-107 of this title;
- (11) Operates under the supervision of the public chartering authority from which its charter is granted and in accordance with its charter and, except as provided in §§ [9-104.1](#) and [9-106](#) of this title, the provisions of law and regulation governing other public schools;
- (12) Requires students to be physically present on school premises for a period of time substantially similar to that which other public school students spend on school premises; and
- (13) Is created in accordance with this title and the appropriate county board policy.

**§ 9-102.1. Waiver from § 9-102(3)**

(a) Grounds. --The State Board may grant a waiver from § 9-102(3) of this title to a public charter school if the public charter school:

- (1) Is located on property within a federal military base in the State; and
- (2) Will admit students with parents who are not assigned to the base to at least 35% of its total available space, [as part of the initial cohort of students in a grade.](#)

(b) Admission of students on lottery basis. -- If a public charter school is granted a waiver under subsection (a) of this section, subject to the requirement set forth in subsection (a)(2) of this section, the public charter school shall:

- (1) admit all students on a lottery basis in accordance with § 9-102.2 of this title; and
- (2) take reasonable steps to maintain the 35% to 65% ratio intended as part of the initial cohort of students in a grade.

## § 9-102.2

(a) A public charter school may give greater weight to a student's lottery status as part of a lottery held under § 9-102(3) of this title and in accordance with an application submitted under § 9-104 of this title if the student is:

- (1) Eligible for Free or Reduced Price Meals;
- (2) A student with disabilities;
- (3) A student with limited English proficiency;
- (4) Homeless, as defined under the federal McKinney-Vento Homeless Assistance Act; or
- (5) A sibling of a student currently enrolled in the public charter school for which the sibling is applying.

(b) Notwithstanding § 9-102(3) of this title, a public charter school may give priority to the sibling of a student admitted through the lottery process or a currently enrolled student for any spaces in the school that become available throughout the school year.

(c)

(1) Subject to the approval of the public chartering authority and § 9-104 of this title, a public charter school may propose a geographic attendance area with a median income that is equal to or less than the median income of the county for the public charter school.

(2) Subject to paragraph (4) of this subsection, a public charter school may provide guaranteed placement through a lottery to students living within the geographic attendance area for up to 35% of the available space of the public charter school and approved by the public chartering authority, of the available space of the public charter school.

(3) Subject to paragraphs (2) and (4) of this subsection the public charter school shall:

- (i) Admit students on a lottery basis to its remaining available space; and
- (ii) Take reasonable steps to maintain the ration intended under paragraph (2) of this subsection as part of the initial cohort of students accepted through the lottery process.

(4) If a public charter school does not fill 100% of its available space under paragraphs (2) and (3) of this subsection, the public charter school may admit more than the percentage of students established under paragraph (2) of this subsection from the geographic attendance area established under this section.

(d)

(1) Subject to the approval of the public chartering authority, paragraph (2) of this subsection and § 9-104 of this title, a public charter school may provide guaranteed placement through a lottery of up to 35%, as proposed by the public charter school and approved by the public chartering authority, of the available space of the public

charter school to students who attended a public charter school during the previous school year that is operated by the same operator.

(2) A public charter school shall qualify under paragraph (1) of this subsection if:

(i) The operator operates two or more public charter schools in the county; and

(ii) When combined, the public charter schools operated by the operator form and integrated multiyear academic program.

(3) Subject to paragraph (1) of this subsection, the public charter school shall:

(i) Admit students on a lottery basis to its remaining available space; and

(ii) Take reasonable steps to maintain the ration intended under paragraph (1) of this subsection as part of the initial cohort of students accepted through the lottery process.

(4) If a public charter school does not fill 100% of its available space under paragraphs (1) and (3) of this subsection, the public charter school may admit more than the percentage of students established under paragraph (1) of this subsection.

### **§ 9-102.3.**

(a) In accordance with § 9-104 of this title, a county board may grant a waiver from § 9-102(3) of this title to:

(1) A converted public charter school that:

(i) Subject to subsection (b) of this section, provides guaranteed placement through a lottery to students who live within the geographic attendance area established by the county board;

(ii) is a low-performing school as identified by the county board;

(iii) Is above the county average rate for the percentage of students who are eligible for free and reduced price meals; and

(iv) Meets a strategic need of the local school system, as identified in the county board's public charter school policy developed under § 9-110 of this title, that shall include at least one of the following elements:

1. Serving a high-need population;
2. Increasing student performance;
3. Increasing enrollment; or
4. Increasing diversity; or

(2) A converted public charter school that is seeking renewal of an existing charter contract that was granted under item (1) of this subsection.

(b) If a public charter school does not fill 100% of its available space under subsection

(a)(1) of this section, the public charter school shall admit students on a lottery basis to its remaining available space.

### **§ 9-103. Public chartering authority**

(a) The public chartering authority for the granting of a charter shall be a county board of education.

### **§ 9-104. Public charter school – Application**

(a) In general. --

- (1) An application to establish a public charter school shall be submitted to the county board of the county in which the charter school will be located.
- (2) An application to establish a public charter school may be submitted to a county board by:
  - (i) The staff of a public school;
  - (ii) A parent or guardian of a student who attends a public school in the county;
  - (iii) A nonsectarian nonprofit entity;
  - (iv) A nonsectarian institution of higher education in the State; or
  - (v) Any combination of persons specified in items (i) through (iv) of this paragraph.
- (3) An application shall include:
  - (i) A plan to provide a rigorous program of instruction that includes an equivalent method for satisfying any requirements from which the public charter school operator intends to seek a waiver under § 9-106 of this title; and
  - (ii) A description of how a weighted lottery or the provision of guaranteed placement will be implemented under §§ 9-102.2 and 9-102.3 of this title.
- (4) A public chartering authority may not grant a charter under this title to:
  - (i) A private school;
  - (ii) A parochial school;
  - (iii) A home school; or
  - (iv) A school that operates fully online.
- (5)
  - (i) Except as provided in subparagraph (ii) of this paragraph, the county board shall review the application and render a decision within 120 days of receipt of the application, and in accordance with the application procedures adopted by the county board.
  - (ii) For a restructured school:
    1. The county board shall review the application and render a decision within 30 days of receipt of the application;
    2. The county board may apply to the State Board for an extension of up to 15 days from the time limit imposed under item 1 of this subparagraph;
    3. If an extension is not granted, and 30 days have elapsed, the decision may be appealed to the State Board in accordance with § 4-2015(c) of this article; and
    4. If an extension has been granted, and 45 days have elapsed, the decision may be appealed to the State Board in accordance with § 4-2015(c) of this article.
- (6)
  - (i) A public chartering authority may approve an application to operate a public charter school on a contingent basis subject to the conditions of subparagraph (ii) of this paragraph.

(ii) The contingent approval granted under subparagraph (i) of this paragraph may be contingent on:

1. A public charter school's ability to meet any timelines established by the public chartering authority for the securing of a facility; and
2. Final approval of the public chartering authority regarding the suitability of the facility secured by the public charter school.

(b)

(1) If an application to establish a public charter school includes a description of the implementation of a weighted lottery that gives priority to students in a specific geographic attendance area in accordance with § 9-102.2 or § 9-102.3 of this title, the public chartering authority may approve or reject this provision separately from the application as whole.

(2) A decision of a public chartering authority under paragraph (1) of this subsection may not be appealed to the State Board.

(c)

(1) An application to establish a public charter school may include a staffing model, including provisions for staff recruitment, training, evaluation, and professional development.

(2) A public charter school may submit a staffing model as provided in paragraph (1) of this subsection with a renewal application or with an amendment to an existing charter.

(d) Denial and appeal. --

(1) If the county board denies an application to establish a public charter school, the applicant may appeal the decision to the State Board, in accordance with § 4-205(c) of this article.

(2) The State Board shall render a decision within 120 days of the filing of an appeal under this subsection.

(3) If the county board denies an application to establish a public charter school and the State Board reverses the decision; the State Board shall remand the matter to the county board and may direct the county board to grant a charter and may, if necessary, mediate with the county board and the applicant to implement the charter.

### § 9-104.1

(a) In this section, "eligible public charter school" means a public charter school that has been in existence for at least 5 years and demonstrates to the public chartering authority a history of:

- (1) Sound fiscal management; and
- (2) Student Achievement that exceeds the average in the local school system in which the public charter school is located on:
  - (i) Statewide assessments; and
  - (ii) Other measures developed by the State Board.

(b) The State Board shall develop standards and criteria by which an eligible public charter school shall be assessed by a public chartering authority.

(c)

- (1) An eligible public charter school may submit to a public chartering authority:
  - (i) An application for renewal of an existing charter contract that incorporates the provisions of subsection (e) of this section; or
  - (ii) Subject to paragraph (2) of this subsection, an application for an addendum to an existing charter contract that incorporates the provisions of subsection (e) of this section.
- (2) An eligible public charter school may not submit an application under paragraph (1)(ii) of this subsection more than one time during the duration of an existing charter contract.
- (d) If the public chartering authority determines that a public charter school is not an eligible public charter school, the public charter school may appeal the decision to the State Board in accordance with § 4-205(c) of this article.
- (e) If an eligible public charter school and a public chartering authority mutually agree to an alternative means by which the eligible public charter school will satisfy the intent of the policies of the public chartering authority, an eligible public charter school is exempt from:
  - (1) Textbook, instructional program, curriculum, professional development, and scheduling requirements;
  - (2) A requirement to establish a school community council;
  - (3) Except for Title I schools, a requirement to establish a school improvement plan;
  - (4) Except for schools with a school activity fund, a requirement to provide school activity fund disclosure statements; and
  - (5) Except for Prekindergarten classes, class size or staffing ratios.
- (f) A public chartering authority and an eligible public charter school may jointly develop and mutually agree to a communication process and supervision methodology that flows among the county board, the operator, and the administration of the eligible public charter school.
- (g)
  - (1) An eligible public charter school may not be assigned a principal without the written consent of the operator of the eligible public charter school.
  - (2)
    - (i) Staff members shall be assigned or transferred to an eligible public charter school if the staff member expresses in writing that the staff member wants to work in that eligible public charter school and the eligible public charter school requests in writing that the staff member be assigned or transferred to the eligible public charter school, provided there is an existing vacancy.
    - (ii) A transfer authorized under subparagraph (i) of this paragraph shall take place as designated by the agreement of the local bargaining unit in the local school system.
- (h) Nothing in this section may be construed to take precedence over an agreement of a local bargaining unit in a local school system.
- (i) Except as otherwise provided in this section, an eligible public charter school is subject to the provisions of this title.

**§ 9-105. Public charter school -- Professional staff**

A member of the professional staff of a public charter school shall be subject to the same certification provisions established in regulations for the professional staff of other public schools.

### **§ 9-106. Public charter school -- Obligations and waiver**

- (a) In general. -- Subject to subsection (b) of this section, a public charter school shall comply with the provisions of law and regulation governing other public schools.
- (b) Waiver. -- Subject to subsection (d) of this section, a public charter school may seek a waiver of the requirements under subsection (a) of this section from:
- (1) A county board for policies that are the policies of the county board; and
  - (2) The State Board for polices that are policies of the State Board.
- (c) If a waiver is denied under this section, the county board or the State Board, as appropriate, shall provide the reason for the denial in writing to the public charter school.
- (d) Waiver -- Exceptions. -- A waiver may not be granted from provisions of law or regulation relating to:
- (1) Audit requirements;
  - (2) The measurement of student academic achievement, including all assessments required for other public schools and other assessments mutually agreed upon by the public chartering authority and the school; or
  - (3) The health, safety, or civil rights of a student or an employee of the public charter school.

### **§ 9-107. Responsibilities of public chartering authority**

- (a) Granting charters. -- A public chartering authority may not grant a charter to a public charter school whose operation would be inconsistent with any public policy initiative, court order, or federal improvement plan governing special education that is applicable to the State.
- (b) Authorizing process and application. -- A public chartering authority shall ensure that the authorizing process for a public charter school and the charter application address the roles and responsibilities of the county board and the applicants and operators of the public charter school with respect to children with disabilities.
- (c) Operators of school. -- The public chartering authority shall ensure that, prior to opening a public charter school, the operators of the school are informed of the human, fiscal and organizational capacity needed to fulfill the school's responsibilities related to children with disabilities.
- (d) Technical assistance. -- The State Board shall provide technical assistance to the operators of a public charter school to help the school meet the requirements of federal and State laws, including 20 U.S.C. § 1400, et seq. and § 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794.

### **§ 9-108. Rights of employees of a public charter school**

- (a) In general. -- Employees of a public charter school:

- (1) Are public school employees, as defined in §§ 6-401(d) and 6-501(f) of this article;
  - (2) Are employees of a public school employer, as defined in §§ 6-401(e) and 6-501(g) of this article, in the county in which the public charter school is located; and
  - (3) Shall have the rights granted under Title 6, Subtitles 4 and 5 of this article.
- (b) Collective bargaining agreement. -- If a collective bargaining agreement under Title 6, Subtitle 4 or Subtitle 5 of this article is already in existence in the county where a public charter school is located, the employee organization, **public school employer**, and the public charter school may mutually agree to negotiate amendments to the existing agreement to address the needs of the particular public charter school, **including amendments to work days, work hours, school year, procedures for transfers that are consistent with the instructional mission of the school, and extra duty assignments.**

### **§ 9-109. Disbursement of funds**

- (a) In general. -- A county board shall disburse to a public charter school an amount of county, State, and federal money for elementary, middle, and secondary students that is commensurate with the amount disbursed to other public schools in the local jurisdiction.
- (b) Surplus. -- The State Board or the county board may give surplus educational materials, supplies, furniture, and other equipment to a public charter school.

### **§ 9-110. Public charter school policy**

- (a) In general. --
- (1) Each county board shall develop a public charter school policy and **provide** it to the State Board.
  - (2) The policy required under paragraph (1) of this subsection shall include guidelines and procedures regarding:
    - (i) Evaluation of public charter schools;
    - (ii) Revocation of a charter;
    - (iii) Reporting requirements; and
    - (iv) Financial, programmatic, or compliance audits of public charter schools.
  - (3) **The policy required under paragraph (1) of this subsection, including any updates or amendments made to the policy shall be provided to the Department and made available on request and posted on the website of the county board.**
- (b) Contact person. --
- (1) The Department shall designate a staff person to function as a contact person for the Maryland Public Charter School Program.
  - (2) **The staff person designated as a contact person under paragraph (1) of this subsection shall:**
    - (i) **Provide technical assistance to the operator of a public charter school to help the school meet the requirements of federal and state laws, including 20 U.S.C. § 1400, et seq. and § 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; and**

(ii) Gather information from public charter schools in the State regarding innovative approaches to education and best practices taking place at public charter schools that may be shared with and disseminated to other public schools in the State.

(c) The Department shall report annually by December 1 to the General Assembly in accordance with § 2-1246 of the State Government Article regarding:

- (1) Any updates or amendments made to a public charter school policy under subsection (a) of this section; and
- (2) Implementation of this title.

### **§ 9-111. Use of school site or building for public charter school**

(a) In general. --

(1) If, with the approval of the State Superintendent, a county board determines that a school site or building no longer is needed for school purposes and after the county commissioners or county council have provided the required notice under § 4-115 of this article, the county board shall inform the public charter schools in the county that the school site or building is available for occupation and use by a public charter school on the terms determined by the county board.

(2) Each county board:

- (i) Shall establish a procedure to determine which public charter school may occupy and use an available school site or building if more than one public charter school notifies the county board of an interest in occupying and using a school site or building; and
- (ii) May consider the utilization rate of surrounding school sites and buildings when authorizing a public charter school to occupy a school site or building.

(b) Prohibition of sale or transfer of school site or building. -- A public charter school that occupies or uses a school site or building under subsection (a) of this section may not sell, dispose of, or otherwise transfer the school site or building.

### **§ 9-112. Tax exemption**

Any portion of a building or property occupied and used by a public charter school shall be exempt from property taxes under § 7-202 of the Tax - Property Article for the duration of the occupation and use of the building or property as a public charter school.

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## SECTION 2. AND BE IT FURTHER ENACTED, That:

(a)

(1) The State Department of Education, in consultation with the Department of Legislative Services, shall contract for a study of the amount of funding provided to public charter schools and other public schools by local school systems in the State.

(2) The primary purpose of the study is to calculate the average operating expenditures by each local school system for students enrolled in a public school

that is not a public charter school or stand-alone special education school, to be aggregated at the State level to serve as the baseline for determining commensurate funding for all public schools.

(b) The study shall include:

(1) a review of:

- (i) the operating expenditures made at the central office level by each county board of education, including expenditures for administration, overhead, systemwide planning and development, and compliance with local, State, and federal requirements including special education, nonpublic placements, separate public day schools, English language learner education, prekindergarten education, teacher pension and retiree health benefits, student transportation, and debt service;
- (ii) the aggregate operating expenditures made on behalf of individual schools by each county board of education;
- (iii) the amount of funding being provided to public charter schools and other public schools by local school systems;
- (iv) the value of services being provided to public charter schools and other public schools by local school systems, including central office expenditures;
- (v) the amount of funding provided by public charter schools to any third party, including a charter management organization;
- (vi) the availability of federal funding for public charter schools, including options for Maryland to access federal charter school program grants; and
- (vii) the potential availability of innovative financing for public charter school facilities that would not directly affect the State operating or capital budget; and

(2) an assessment of the need to collect central office and school level expenditure data on an ongoing basis.

(c)

(1) Local school systems and public charter schools shall provide data as requested by the State Department of Education to complete the study.

(2) If a local school system fails to comply with the requirements of paragraph (1) of this subsection, the State Superintendent of Schools, with the approval of the State Board of Education, may notify the Comptroller to withhold 10% of the next installment and each subsequent installment due to the local school system from the State until the State Superintendent notifies the Comptroller that the local school system is in full compliance with the requirements of this section.

(3) If a public charter school fails to comply with the requirements of paragraph (1) of this subsection, as determined by the State Superintendent of Schools, the State Superintendent may notify the local school system to withhold 10% of the next installment and each subsequent installment due to the public charter school from the school system until the State Superintendent notifies the school system that the public charter school is in full compliance with the requirements of this section.

(d) On or before October 31, 2016, the State Department of Education and the Department of Legislative Services shall submit a report on the study conducted under this section to the Governor and, in accordance with § 2-1246 of the State Government Article, the Senate

Education, Health, and Environmental Affairs Committee and the House Ways and Means Committee.

SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding § 9–102.3 of the Education Article, as enacted by Section 1 of this Act, a public charter school that was approved by a county board of education before May 31, 2015, to convert from a public school may provide guaranteed placement for students who live within the geographic attendance area established by the county board of education. A public charter school that is exempt from § 9–102.3 of the Education Article under this section is also exempt from § 9–102.3 of the Education Article on the renewal of its charter contract, subject to the approval of the county board of education in which the public charter school is located.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2015.