



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY,
NY 12234

TO: Full Board

FROM: John B. King, Jr.

SUBJECT: Proposed Amendment of Section 3.16 of the Rules of the Board of Regents, Relating to Delegation of Authority to the Commissioner to Approve Charter School Revisions

DATE: August 26, 2010

STRATEGIC GOAL: Goals 1 and 2

AUTHORIZATION(S):

SUMMARY

Issue for Decision (Consent Agenda)

Should the Board of Regents adopt the proposed amendment of section 3.16 of the Rules of the Board of Regents to delegate to the Commissioner of Education the authority to approve on behalf of the Board of Regents revisions to the charters of public charter schools, with certain specified exceptions?

Reason(s) for Consideration

Implementation of Regents Policy.

Proposed Handling

This question will be presented to the Full Board for action at the September 2010 Regents meeting.

Procedural History

The proposed amendment was discussed by the EMSC Committee at the June Regents meeting.

Background Information

Education Law section 2852(7) requires that a public charter school receive approval from the Board of Regents for any revision to its charter.

The proposed amendment will delegate authority to the Commissioner to approve, on behalf of the Board of Regents, revisions to a public charter school's charter with certain specified exceptions, so that revisions can be approved and issued expeditiously. Having the Board of Regents approve all revisions, including revisions that do not fundamentally affect the school's missions, organizational structure or educational program, and other such changes, is not the most appropriate and efficacious means to address these matters, considering the scope of duties of the Board, the limited number of times that the Board meets during the year, and the time demands placed on individual Board members. Delegation to the Commissioner of the Board's authority to approve charter revisions, with certain specified exceptions, will provide for the most efficient and expeditious means to approve and issue charter revisions.

Authority to approve revisions concerning the following would be retained by the Board of Regents and **not** delegated to the Commissioner:

1. educational philosophy, mission or vision*;
2. governance or leadership structure*;
3. the curriculum model or school design changes that are inconsistent with that approved in the current charter*;
4. hiring or termination of a management company;
5. school name;
6. location, if such revision results in relocation to another school district;
7. maximum enrollment, as set forth in the current charter; and/or
8. grades served, as set forth in the current charter.

However, the proposed amendment would authorize the Commissioner to approve revisions concerning items (1) through (3) above, if the revisions are determined by the Commissioner not to be significant.

A Notice of Proposed Rule Making was published in the State Register on July 7, 2010. Supporting materials are available upon request from the Secretary to the Board of Regents.

Recommendation

It is recommended that the Board of Regents take the following action:

VOTED: That section 3.16 of the Rules of the Board of Regents be amended, as submitted, effective October 6, 2010.

Timetable for Implementation

If adopted by the Board of Regents at the September Regents meeting, the proposed amendment will take effect on October 6, 2010.

Attachment

ATTACHMENT

AMENDMENT TO THE RULES OF THE BOARD OF REGENTS

Pursuant to sections 101, 206, 207, 305 and 2857 of the Education Law

Section 3.16 of the Rules of the Board of Regents is amended, effective October 6, 2010, as follows:

§3.16 Delegation of authority with respect to charter schools.

(a) Complaints against charter schools. The Board of Regents delegates to the Commissioner of Education the authority to receive, investigate and respond to complaints presented to the Board of Regents pursuant to Education Law section 2855(4), the authority to issue appropriate remedial orders pursuant to Education Law section 2855(4), and the authority to place a charter school on probationary status and to develop and impose a remedial action plan pursuant to Education Law section 2855(3).

(b) Hearings. The Board of Regents delegates to the Commissioner of Education the authority to conduct and hold public hearings to solicit comments from the community in connection with the issuance, revision or renewal of a charter pursuant to Education Law section 2857(1-a).

(c) Charter revisions.

(1) The Board of Regents delegates to the Commissioner of Education the authority to approve, on behalf of the Board of Regents, proposed revisions of a charter pursuant to Education Law section 2852(7), except for proposed revisions relating to:

(i) educational philosophy, mission or vision;

(ii) governance or leadership structure;

(iii) the curriculum model or school design changes that are inconsistent with that approved in the current charter;

(iv) hiring or termination of a management company;

(v) school name;

(vi) location, if such revision results in relocation to another school district;

(vii) maximum enrollment, as set forth in the current charter; and/or

(viii) grades served, as set forth in the current charter.

(2) Notwithstanding the provisions of paragraph (1) of this subdivision, revisions relating to subparagraphs (i) through (iii) of such paragraph that are determined by the commissioner not to be significant may be approved by the commissioner pursuant to this delegation of authority.