



TO: The P-12 Education Committee

FROM: Angelique Johnson-Dingle *Angelique Johnson-Dingle*

SUBJECT: Proposed Amendment of Section 3.16 of the Rules of the Board of Regents Relating to Updates to Delegation of Authority Regarding Charter Revisions

DATE: November 2, 2023

AUTHORIZATION(S):

SUMMARY

Issue for Discussion

Should the Board of Regents adopt the proposed amendments of section 3.16 of the Rules of the Board of Regents relating to updates to delegation of authority regarding charter revisions?

Reason for Consideration

Review of policy.

Proposed Handling

The proposed amendment is presented to the P-12 Education Committee for discussion at the November 2023 Regents meeting. A copy of the proposed amendment is attached (Attachment A).

Procedural History

A Notice of Proposed Rule Making will be published in the State Register on November 29, 2023, for a 60-day public comment period. Supporting materials are available upon request from the Secretary to the Board of Regents.

Background Information

Section 3.16 of the Rules of the Board of Regents provides that the Board may delegate certain authority to the Commissioner with respect to charter schools. Subdivision (c) provides that the Board delegates the Commissioner the authority to approve, on behalf of the Board of Regents, proposed revisions of a charter pursuant to Education Law §2852(7), except for proposed revisions relating to (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.

Since these regulations were last amended nearly 15 years ago, the policies and practices of the Board of Regents and Department have evolved. The purposes of the proposed amendments are to: (1) conform additional provisions in section 3.16 to current best practices; (2) ensure that the Board of Regents is not burdened with approving minor, inconsequential charter school revisions; and (3) ensure timely monitoring and oversight of charter schools by allowing the Commissioner, on behalf of the Board of Regents, to make minor necessary charter revisions.

Requiring the Board of Regents to personally consider certain minor applications—such as changes to organizational charts, the hiring or termination of a management company, and changes to mission statements—is not an efficient use of resources given the Regents’ broad policymaking mission, the limited number of times that the Regents meet during the year, and individual Regents’ time demands. This practice results in the Regents spending a considerable amount of time throughout the year on charter school matters. Delegating the authority to approve minor charter revisions to the Commissioner, with certain specified exceptions, will provide for the most efficient and expeditious means to approve and issue charter revisions.

The Board of Regents will continue to approve major charter school items, such as (1) new school and renewal applications, (2) requests to change key design programmatic elements of a school’s charter, and requests for relocation to a new school district (or, in New York City, a new borough); (3) changes in location, if such revision results in relocation to another school district (or, in New York City, a new borough); (4) changes in maximum enrollment that results in a total increase of more than 15% above currently authorized enrollment, and any enrollment decrease, as set forth in the current charter during the charter term; and (5) grades served, as set forth in the current charter.

Related Regents Items

June 2010: [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](https://www.regents.nysed.gov/sites/regents/files/documents/meetings/2010Meetings/June2010/0610emscd3.pdf)

(<https://www.regents.nysed.gov/sites/regents/files/documents/meetings/2010Meetings/June2010/0610emscd3.pdf>)

Recommendation

Not applicable.

Timetable for Implementation

It is anticipated that the proposed rule will be presented for permanent adoption at the March 2024 Regents meeting, after publication of the proposed amendment in the State Register and expiration of the 60-day public comment period required under the State Administrative Procedure Act. If adopted at the March 2024 meeting, the proposed amendment will become effective on March 27, 2024.

AMENDMENT OF THE RULES OF THE BOARD OF REGENTS

Pursuant to sections 101, 206, 207, 305, and 2852 of the Education Law.

Subdivision (c) of section 3.16 of the Rules of the Board of Regents is amended to read as follows:

(c) Charter revisions.

(1) The Board of Regents delegates 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] key 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)] (ii) location, if such revision results in relocation to another school district, or in the case of the city school district of the city of New York, if such revision results in relocation to another borough;

[(vii)] (iii) changes in maximum enrollment that results in a total increase of more than 15% above currently authorized enrollment, and any enrollment decrease, as set forth in the current charter during the charter term; and/or

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

(2) Notwithstanding the provisions of paragraph (1) of this subdivision, revisions relating to subparagraphs (1)(i) through (iii) of this subdivision that are determined by

the commissioner not to be significant may be approved by the commissioner pursuant to this delegation of authority.