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**KENTUCKY DEPARTMENT OF EDUCATION**  
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Honorable Members of the General Assembly  
700 Capital Ave.  
Annex Room 367C  
Frankfort, KY 40601

Dear Honorable Members of the General Assembly:

I am writing to you today to provide recommendations for improvements to House Bill 9 (HB 9), an act relating to charter schools. The recommendations put forth here do not attempt to answer or sway legislators on whether or not Kentucky should have charter schools. Rather, I have provided these recommendations understanding that bringing charter schools to Kentucky is a priority for the General Assembly and we all wish them to be of high quality and to provide positive experiences for their students.

Recommendation 1 - Strengthen the Process of Authorization, Application and Support

- While the major barrier to getting charter applications in Kentucky has been the lack of a stable funding mechanism for them, another is the complexity of the application process. The General Assembly can charge the Kentucky Board of Education with revisiting their regulations relating to charter schools with the goal of streamlining and simplifying the process while not reducing the standard of quality.
- Require charter school applicants to collect at least 100 validated “letters of interest” from prospective students as part of their application to ensure that a prospective school has a requisite level of initial interest for a successful opening.
- Provide sufficient resources to the Kentucky Department of Education (KDE) to provide supportive technical assistance to authorizers and charter school applicants directly through KDE staff hired for this purpose and contracting with outside entities with this expertise.

Recommendation 2 - Make Charter Schools Prioritize Serving the Most At-Risk Students

- While the current language indicates that charter schools *may* prioritize low-income students and should not discriminate in enrolling students with disabilities, the historical experience of charter schools operating in other states reveals a pattern of them enrolling largely advantaged students, which discourages the enrollment of students with disabilities. Require charter school applications and contracts to include plans to *prioritize* the enrollment of low-income students and students with disabilities through mechanisms such as weighted lotteries, specifically held slots for such students or geographically representative enrollment systems.
- Remove the ability for charter schools to hold spots open for students who are children of members of the school’s board of directors. Failure to do so sets up the potential for fraud and abuse where

individuals may join boards for the sole purpose of having their students evade the school's fair enrollment systems.

- Empower the local authorizer of charter schools with the ability to revoke a charter based on evidence of systematic and intentional efforts to limit the enrollment of students who are low income, minority or who have disabilities, or if there is evidence of a charter counseling such students to disenroll.

#### Recommendation 3 - Establish a Better Funding Model

- The funding model proposed in HB 9 may have constitutional challenges that will be litigated related to directing the transfer of tax revenues levied by local boards of education. To avoid these constitutional challenges, the General Assembly should establish a separate fund for charter schools where they are funded at the equivalent per-pupil amount as a student enrolled in the district in which the charter school operates. Such a mechanism alleviates questions around the control and transfer of local funds.
- If the General Assembly does not establish a separate fund for charter schools, all local school boards should have the absolute authority to reject a charter school application within its district. Local school boards must not be compelled to pay locally raised school revenue to a charter school it does not approve, which would help alleviate the constitutional concerns.
- The General Assembly should devise a mechanism for charter schools to gain access to start-up grants to facilitate their successful opening.
- The General Assembly should devise a mechanism to provide charter schools access to facilities funding in a manner equitable with other public schools in the state.
- Require authorizing districts and their charter schools to indicate in their charter which "purchased services" the charter school will use from the district and the per-student and aggregate costs of those services. These may include (but are not limited to) food service, transportation, special education and related services, school safety and security, legal services, human resources, payroll functions, IT services, insurance coverages, instructional/assessment services, and other administrative supports.
- Should the charter school choose to provide transportation services (for students who are not on IEPs), then the General Assembly should appropriate proportional funding to the charter school to provide transportation, or to purchase it from its authorizing district or other provider. Students with disabilities are entitled under IDEA to transportation services as indicated on their IEP whether they attend a public school or a charter school.

#### Recommendation 4 - Remove Different Chartering Processes for Districts Over 7,500

- The process of charter authorization and local board involvement should not be different in larger versus smaller districts. If the MOU requirement for a charter applicant to apply is required in smaller districts, then it should be required in larger ones as well. The involvement of their community and boards of education is equally important.
- As an additional benefit of making this change, we (KDE) believe this strengthens the constitutionality of the locally based funding model proposed in HB 9, as the district would effectively be agreeing to send a proportionate share of its locally raised funding to a charter school operating within the district.

#### Recommendation 5 - Significantly Revise and Support the Pilot Program

- Charter schools in Kentucky will need to offer a number of services which can be prohibitively expensive at a small scale, and they must provide technical and detailed data and information as part of state and federally required collections. While I understand the desire to operate these initial pilots outside of school districts, if these pilot programs are really to yield any information that can then be generalized across the rest of the state, then their authorizer should be school districts, as that is the model of authorization laid out in HB 9 and the existing state charter school statute and accompanying regulations.

- Authorizing school districts are best suited to have the capacity to support a charter school with food services and transportation, as well as supports for students with disabilities and students learning English. In addition, a school district is already going to have the capacity necessary to support a charter school with all the required data submissions which schools must provide.
- For these reasons, I recommend Jefferson County Public Schools (JCPS) and a district in northern Kentucky (to be determined) be incentivized through a grant from the General Assembly and administered by KDE to respectively run a successful “request for proposal” process during the 2022-2023 school year for a charter school to open in the 2023-2024 school year.
- JCPS and any district in the targeted area identified in northern Kentucky would be provided a grant to support structuring their applications, advertising and outreach, soliciting applications, reviewing and vetting applicants, and selecting a charter school operator. In addition, upon successful award of a five-year initial RFP, the district would be awarded additional funding to support start-up costs associated with opening the new school to be provided to the charter operator, and proportional per pupil and transportation funding for the initial five-year term (paid annually), including the 3% withheld by the authorizer for costs associated with authorization and ongoing support.
- The funding for this pilot project should be established separately by the General Assembly to sufficiently fund the operation of these schools for the term of a five-year initial charter and also should include funds to be made available to the charter for start-up costs, which may include items such as a building lease, furniture, fixtures and equipment.
- An objective third party evaluation of the pilot project should be conducted and paid for by the General Assembly. This report would provide annual and summative findings on outcomes from the pilot and how they might be generalized across the state.

Recommendation 6 - Commission a Study to Evaluate the Market and Authorization Environment for Charter Schools in Kentucky

- It is clear the General Assembly wishes charter schools to exist in Kentucky. In spite of having a path by which charter schools can come into being in the state since 2017, Kentucky still has no charter schools.
- While there are any number of opinions and theories about why this has occurred, clear information is needed on the reasons why there are no charter applications moving in Kentucky and why none have been authorized to this point.
- The General Assembly should appropriate the resources and direct KDE to contract for an independent outside study on these questions, including specific recommendations for the General Assembly to consider in creating an environment conducive to quality charter schools, providing information to the General Assembly before the next legislative session.

Kind regards,



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