

MISSOURI STATE BOARD OF EDUCATION AGENDA ITEM:**January 2014**

CONSIDERATION OF AN ORDER OF RULEMAKING TO ADOPT
 RULE 5 CSR 20-100.265, RELATING TO CHARTER SCHOOLS

STATUTORY AUTHORITY:

Sections 160.400.16(6) and 160.405.15, RSMo

Consent
ItemAction
ItemReport
Item**DEPARTMENT GOAL NO. 1:**

All Missouri students will graduate college and career ready.

SUMMARY:

Section 160.400.16(6), RSMo, indicates that charter sponsors develop policies and procedures to be implemented if a charter school should close. The Department of Elementary and Secondary Education (Department) developed and published a rule in the November 1, 2013, *Missouri Register* outlining key areas regarding activities that should be followed.

An order of rulemaking is attached which includes a summary of comments and responses.

This rule will provide guidance from the Department as well as accountability measures for the sponsors in their sponsorship capacity.

PRESENTER(S):

Dennis Cooper, Assistant Commissioner, Office of Quality Schools, and Mark VanZandt, General Counsel and Governmental Affairs, will participate in the presentation and discussion of this item.

RECOMMENDATION:

The Department recommends that the State Board authorize an order of rulemaking to adopt rule 5 CSR 20-100.265, relating to Charter Schools, in the *Missouri Register* and that the State Board finds this rule necessary to carry out the purposes of sections 160.400.16(6) and 160.405.15, RSMo.

Title 5 – DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Division 20 – Division of Learning Services
Chapter 100 – Office of Quality Schools

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 160.514, 160.526, and 167.131, RSMo 2000, and sections 160.518, 161.092, 162.081, and 168.081, RSMo Supp. 2011, the board adopts a rule as follows:

5 CSR 20-100.265 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 1, 2013 (38 MoReg 1758-1761). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The State Board of Education (board) received twenty-two (22) comments regarding the proposed rule.

COMMENT #1: The Department of Elementary and Secondary Education (department) received one (1) comment from Charles Smith, Missouri National Education Association, supporting the proposed rule and stating that charter sponsors are responsible for oversight.
RESPONSE: The board reviewed the comment and determines no change is needed.

COMMENT #2: The department received one (1) comment from Douglas Thaman, Missouri Charter Public Schools Association (MCPSA), stating that responsibility and costs for communication in the event of a charter school closure is given to the school. And, that in the proposed rule the sponsor coordination of communication is unnecessary.
RESPONSE: The board reviewed the comment and determines the charter sponsor does play a key role in the closure process.

COMMENT #3: One (1) comment from Deborah Carr, Director of the University of Missouri (MU) Office of Charter School Operations, requested in section (1) Communication, that stakeholder groups should be included.
RESPONSE AND EXPLANATION OF CHANGE: The board reviewed the comment and agrees to modify the wording in section (1) to include "all stakeholder groups," and to further clarify/ensure that students, families, staff, and community have the support needed for student transfer/transition.

COMMENT #4: One (1) comment from Deborah Carr, Missouri Charter School Sponsor Network (MCSSN), stating that the overall responsibility for closure needs to rest with the charter school administration(s) and their governing boards.
RESPONSE: The board reviewed the comment and determines charter sponsors are expected to clearly communicate expectations and closely monitor actions of charter schools regarding their duties in the event of closure.

COMMENT #5: One (1) comment from Douglas Thaman, MCPSA, stating that in section (2) sponsors of charter schools may be concerned that handling of student records might violate Family Educational Rights and Privacy Act (FERPA) as addressed in the proposed rule.

RESPONSE: The board reviewed the comment and determines no change is needed.

COMMENT #6: One (1) comment from Deborah Carr, Director of the MU Office of Charter School Operations, requested in section (2) that charter school applications be modified to include the expectation that immediately upon closure, complete records for all students be turned over to the proper school district office within a specific timeframe and format requirements.

RESPONSE: The board reviewed the comment and determines no change is needed.

COMMENT #7: Two (2) comments from Steve Sanchez and Martha McGeehon, St. Louis University, and from Deborah Carr, Director of the MU Office of Charter School Operations, stating that in section (2) the word coordinate be changed to "monitor." And that subsections (A)-(D) be reworded.

RESPONSE AND EXPLANATION OF CHANGE: The board reviewed the comment and agrees to change coordinate to monitor; however, subsections (A)-(D) were not reworded.

COMMENT #8: Two (2) comments from Douglas Thaman, MCPSA, and Deborah Carr, Director of the MU Office of Charter School Operations, stating that in section (4) the department has the right to withhold funding if final data/reports are not submitted.

RESPONSE: The board reviewed the comment and determines no change is needed.

COMMENT #9: Five (5) comments from Douglas Thaman, MCPSA; Victoria Hughes, University of Central Missouri; Steve Sanchez and Martha McGeehon, St. Louis University; and Deb Carr, MCSSN; and Deborah Carr, Director of the MU Office of Charter School Operations, stating that in subsection 5(A) that sponsors of charter schools should not be expected to utilize state funding secured under section 160.400.11, RSMo, to meet expenses associated with the closure and that in section (5) the paragraph was unclear.

RESPONSE AND EXPLANATION OF CHANGE: The board reviewed the comments and agrees to make changes to section (5) to change the wording to clarify the oversight expectations.

COMMENT #10: One (1) comment from Deborah Carr, Director of the MU Office of Charter School Operations, stating that in subsection (5)(B) the sponsor does not have the responsibility for unobligated assets or access to all information.

RESPONSE AND EXPLANATION OF CHANGE: The board reviewed the comment and agrees to clarify the expectations, including changing subsection (5)(B) and reformatting it in subsection (5)(A) and moving subsection (5)(A) to the position of subsection (5)(B).

COMMENT #11: Four (4) comments from Douglas Thaman, MCPSA; Steve Sanchez and Martha McGeehon, St. Louis University; and Deb Carr, MCSSN, and Deborah Carr, Director of the MU Office of Charter School Operations, stating that section (6) should be clarified so charter schools are held accountable for closure and sponsors for ensuring that processes/procedures are carried out.

RESPONSE AND EXPLANATION OF CHANGE: The board reviewed the comment and agrees to make changes to section (6) to clarify the monitoring responsibility of the sponsor.

COMMENT #12: One (1) comment from Deb Carr, MCSSN, stating that a definition of "coordinate," including specific responsibilities of the charter school administration, governing board, sponsor, and DESE is needed.

RESPONSE: The board reviewed the comment and determines no change is needed.

COMMENT #13: One (1) comment from Deborah Carr, Director of the MU Office of Charter School Operations, stating that the fiscal ramifications of the proposed rule has the potential of elevating the cost of sponsorship and the college's ability to provide charter school oversight. She suggests that state funding for sponsors be increased to three percent (3%) with the understanding that a percentage of those funds be held to assist with closure costs.

RESPONSE: The board reviewed the comment and determines that the sponsor funding should not be changed.

5 CSR 20-100.265 Charter School Closure

(1) Communication. The charter school sponsor (sponsor) will closely monitor the charter school's clear, adequate, and timely communication with parents, school staff, the community, and all stakeholder groups regarding the closing of a charter school to ensure that students, families, staff, and community have the support needed for student transfer/transition.

(2) Student records. The sponsor will closely monitor the charter school's transfer of all student records in accordance with privacy rules set forth in the Family Educational Rights and Privacy Act (FERPA) and any applicable state record retention schedules/policies/laws, including, but not limited to:

(A) Conducting a review to determine that all student records are complete and located in a secure location;

(B) Compiling student records into a format that is electronically transferable;

(C) Providing staff for purposes of transferring student records to other schools as the charter school closes; and

(D) Transferring, in a timely manner, all student-related records for retention and historical accessibility to the local school district as required under the Public School Records Retention Schedule (PSRRS) (section 109.255, RSMo 2000).

(5) Resolution of financial obligations. During the dissolution of a charter school, the sponsor shall coordinate efforts to ensure the meeting of financial obligations associated as required in section 160.415.12, RSMo.

(A) The sponsor is responsible for the oversight of unobligated assets of the charter school. The sponsor contractually requires—

1. Quarterly accountability reports on receipts and expenditures;
2. Quarterly bank statements for the closing charter school accounts;
3. Monitoring of all expenditures during and after school closure to ensure such expenditures are essential to the closing process; and
4. An independent audit be conducted for any remaining funds if more than three (3) months lapse from the official closure of the charter school.

(B) If the charter school does not have sufficient funds to close out the year, the sponsor is responsible for oversight and reporting as required in section 160.405.1(15)(a-f).

(6) Disposition of assets. Distribution of materials and equipment purchased with state funds will be determined by the charter school's plan/policy for disposition of assets. The sponsor will closely monitor the reallocation of equipment and materials from a closed charter school reasonably follows the students to their new school. For equipment and or material exceeding a total value of five thousand dollars (\$5,000) purchased with federal funds and in accordance with federal guidelines, the sponsor shall verify that—

(A) A physical verification that federally purchased equipment or electronic items is conducted;

(B) An inventory of available items is sent to all local educational agencies (LEA) and the district within the physical boundaries of the public school district within sixty (60) days of the school closure;

(C) An opportunity for LEAs/districts interested in acquiring inventory items to send a written request for equipment or materials to the school and sponsor; and

(D) Distribution of equipment or materials is based on—

1. Any equipment and material required for an Individual Education Plan (IEP) for a student with disabilities must follow the student to his/her new public school;
2. All equipment and materials purchased with federal IDEA Part B funds must be sent to a public special education program for use by students with disabilities;
3. All materials/equipment purchased with specific funding sources (Perkins, Title I, discretionary grants) must be sent to other LEAs participating in those programs;

4. The percentage of students transferring from the closed charter to the requesting LEAs/district; or

5. By lottery.