

AGENDA ITEM EXECUTIVE SUMMARY: Proposed Revisions to the Amendment Process

Issue

Consideration of revisions to the amendment process to include:

- Changes to certain requirements for the Charter Holder Status request, and
- The staff recommendation criteria used for expansion amendment requests.

Background

Changes to certain requirements for the Charter Holder Status request

A Charter Holder Status request is used to change the entity name, change the legal status, or change the ownership of the charter holder. Upon review of this request, Board staff identified areas that can be improved and streamlined.

A Charter Holder Status request to change the ownership of the charter holder mostly includes elements that are substantive in nature but lack certain details on the rationale for this change and an understanding of the operational capacity of the charter holder receiving the charter contract. In other amendments, like the New School request, charter holders are required to submit information on the rationale and address a plan for staffing, reaching their intended enrollment targets and school resources to ensure the charter holder has thought through the execution of an expansion to its charter. The addition of certain details provides the charter holders the opportunity to demonstrate their capacity to operate schools and reduces the amount of time spent clarifying this type of change.

Additionally, the charter holder receiving the charter contract may add or remove board members and/or form a different entity to hold the charter contract. In order to ensure consistency between the receiving charter holder and the new entity, it is necessary to adapt an element from the transfer charter application that confirms the new entity has the characteristics of an Associated Charter.

In June 2017, the Board approved eliminating two submittal requirements for two distinct amendment requests: Charter Holder Governance and Charter Representative Requests. Both the Background Information Sheets and Verification of Coursework/Degree requirements have been removed because the information is already included in other documents provided in those requests. Currently the Charter Holder Status request includes these requirements and eliminating them would reduce unnecessary tasks for both Board staff and charter holders.

Board Staff Recommendation

Board staff recommends the following:

- Asking for information critical to a charter holder's operational capacity to operate schools.
(See Appendix A: Charter Holder Status – Change in Ownership)
- Adding a statement of consistency that the new entity has the characteristics of an Associated Charter.
- Eliminating the Background Information Sheets and Verification of Coursework/Degree (transcripts) for the Charter Holder Status request.

Changes to Staff Recommendation Criteria

The Board approved staff recommendation criteria for the following expansions at its August 2016 meeting:

- To increase the grade levels served at a charter (Grade Level Change to Charter)
- To increase the enrollment cap of a charter (Enrollment Cap)
- To add a new school to a charter (New School)

If a charter holder receives a staff recommendation, the request is placed on the Board's consent agenda.

Recently, the Board approved revised eligibility criteria for expansions at its October 2017 meeting and Board staff has been working on updating all relevant processes and identified that elements of the staff recommendation criteria should be updated to better align with the eligibility criteria. Additionally, feedback from the charter community also fueled the need to review the criteria to ensure transparency and consistency.

The table below describes the proposed changes to the criteria and lists the corresponding amendments.

| REQUEST | Current Criteria | Proposed |
|---------------------------------------|---|--|
| ALL | Charter Holder has been in operation for three years | No change |
| ALL | Rating of "Meets Operational Standard" in the most recent Fiscal Year | <p>"Meets the Board's Operational Performance Expectations" based on the dashboards for the recent two prior years and the current year</p> <p><i>Rationale: This criterion requires that a charter holder meet the "Expectations" based on three years of data, which is a higher standard from only meeting the "Standard" based on one year of data. See Appendix B: Financial and Operational Performance, a table outlining the differences among the criteria.</i></p> |
| ALL | Rating of "Meets Financial Performance Standard" in the most recent Fiscal Year | <p>"Meets the Board's Financial Performance Expectations" based on the most recent dashboard</p> <p><i>Rationale: This criterion requires that a charter holder meet the "Expectations" based on two years of data, which is a higher standard from only meeting the "Standard" based on one year of data. See Appendix B: Financial and Operational Performance, a table outlining the differences among the criteria.</i></p> |
| Enrollment Cap | Past enrollment trends indicate need for increase within three years | <p>Past enrollment trends indicate the charter will exceed its enrollment cap within the next three years</p> <p><i>Rationale: The criterion now clarifies that to "indicate need" means the enrollment trends should indicate a charter will exceed its cap within the next three years.</i></p> |
| Enrollment Cap and Grade Level Change | ADM is within 85% of current enrollment cap | No change |
| Enrollment Cap and Grade Level Change | <p>Each school operated by the Charter Holder:</p> <p>Performs at or above the average performance of a majority of schools within a five-mile radius of the school's location</p> <p>OR</p> <p>Offers a unique program of instruction within a five-mile radius of the school's location.</p> | No change |
| New School | <p>Each school operated by the charter holder performs at or above the average performance of a majority of schools within a five-mile radius of the target area,</p> <p>OR</p> <p>Proposed school offers a unique program of instruction within a five-mile radius of the target area.</p> | <p>Each school operated by the Charter Holder:</p> <p>Performs at or above the average performance of a majority of schools within a five-mile radius of the school's current location or offers a unique program of instruction within a five-mile radius of its current location.</p> <p>AND</p> |



| | | |
|--------------------|---|--|
| | | <p>Performs at or above the average performance of a majority of schools within a five-mile radius of the proposed school's location <u>or</u> offers a unique program of instruction within a five-mile radius of its proposed location.</p> <p><i>Rationale: Each statement compares the academic performance of each school, within a five-mile radius of its current and proposed location, to ensure the charter holder is providing and will provide a quality education in the community it serves.</i></p> |
| Grade Level Change | Previous grade level cohort(s) is/are at capacity and/or could fill enrollment for new grade(s) requested | <p>Previous grade level cohort(s) is/are at capacity and/or could fill enrollment for new grade(s) requested,</p> <p>OR</p> <p><u>If the new grades requested do not have prior grade level cohorts, ADM is within 85% of current enrollment cap.</u></p> <p><i>Rationale: The underlined statement evaluates a charter holder requesting grades lower than the ones currently served at the charter, which was not possible under the current recommendation criteria.</i></p> |

Board Staff Recommendation:

Board staff recommends using the proposed staff recommendation criteria to ensure a high quality of standard for charter holders requesting expansions.



Appendix A

Charter Holder Status Change in Ownership

Charter Holder Status Amendment Request: Change in Ownership

Purpose

The *Charter Holder Status Amendment Request* is used to change the ownership of the requesting charter holder to an existing charter holder with a different dashboard. A change in ownership of the charter holder is not effective until approved by the Board.

*Before submitting this request, **ensure the charter holder is in compliance per the Board's policy**. If a charter holder is not in compliance, the request may be deemed incomplete and the non-compliance may be recorded on the charter holder's operational dashboard.*

Determining Eligibility

To determine whether your charter is eligible to change the ownership of the charter holder to an existing charter holder with a different dashboard, only the receiving charter holder (the existing charter holder with a different dashboard) must meet eligibility criteria based on its performance on the academic, financial, and operational dashboards.

Both charter holders must be in compliance per the Board's policy.

The criteria are found in the "Eligibility Criteria" in [The Guide](#).

Board Consideration

A substantively complete amendment request submitted by a charter holder to change the ownership that meets the eligibility criteria shall be placed on the agenda of a regular Board meeting.

If the requesting charter holder and the receiving charter holder are eligible to submit a request to change the ownership, they must maintain eligibility prior to Board consideration. For information on maintaining eligibility, review the section on "Maintaining Eligibility" in [The Guide](#).

A finding that either charter holder is not in compliance in one or more operational areas may result in a delay in consideration of the request.

Instructions for the Request

Work through the form, filling in all required fields and uploads (denoted by "*"). Follow the instructions for each upload field. Be sure to save your work, even if you aren't prepared to submit your form, so that you do not lose your data.

If you have additional questions about the type of change requested or the requirements of your request, contact your Education Program Manager ("EPM") for assistance. To find your EPM, view the filterable list of [EPM assignments](#).

Form Fields for Change in ownership

| Field | Instructions |
|---|--|
| Type of Status Change* | Check the box "Change in ownership of the Charter Holder". |
| Change From* | Describe the current status of the Charter Holder, in relation to what is proposed to change with this request. |
| Change To* | Describe the status that will be in effect should this request be approved. |
| Will the charter contract be held by the entity of the receiving charter holder? | <p>Select the button that accurately represents the entity that will hold the charter contract:</p> <p><input type="checkbox"/> Yes, the entity of the receiving charter holder will hold the charter contract.</p> <p><input type="checkbox"/> No, a new entity will hold the charter contract and will have the characteristics of an Associated Charter.</p> |
| New Officers, Directors, Members, or Partners (repeat this process for each individual added) | <p>Click the blue "Add Officer, Director, Member, or Partner" link. When the window pops up, enter the last 4 Digits of the new individual's Social Security Number and the individual's Date of Birth. Then, click the "Add Officer, Director, Member, or Partner" button.</p> <p>The window will expand. When that happens, complete the following:</p> <p>First Name: Enter the new individual's first name.</p> <p>Last Name: Enter the new individual's last name.</p> <p>Email Address: Enter the new individual's email address.</p> <p>Fingerprint Clearance Card: Click "Choose File" and upload a PDF of a copy of the front and back of the individual's valid FCC issued by DPS.</p> <p>Background Information Sheet: Click "Choose File" and upload a PDF of both pages of the completed form.</p> <p>Verification of Coursework/Degree: Click "Choose File" and upload a PDF of the individual's transcripts from the postsecondary institution or an official, watermarked report from the National Student Clearinghouse. If no postsecondary degree is noted, or the individual cannot retrieve his or her transcripts, the No Postsecondary Transcript Form is required.</p> <p>Affidavit: Click "Choose File" and upload a PDF of a completed, signed, and notarized Affidavit, Disclosure, and Consent for Background and Credit Check form.</p> <p>Résumé: Click "Choose File" and upload a PDF of the individual's résumé.</p> <p>Repeat this process for each individual being added.</p> |
| Remove Officers, Directors, Members, or Partners | <p>From the "Choose a Member" drop down, select the member to be removed.</p> <p>Click the "Remove Member" button.</p> |

Attachments

For further information regarding specific documentation requirements, see [The Guide](#) (*Attachment Guidelines*) and the checklist below.

Board Minutes or Board Resolutions*

Board minutes or board resolutions approving or addressing the change in ownership of the charter holder.

Narrative*

Upload a narrative that responds to the following prompts:

- Describe the rationale for the request.
- Discuss the operational capacity of the receiving charter holder to open and operate schools successfully, including:
 - Lessons learned from past expansion; and
 - A plan to avoid or minimize challenges for the schools acquired through the change in ownership.
- Summarize the plan of the receiving charter holder to support the schools being transferred from the requesting charter holder as it pertains to:
 - The quality and long-term academic success of the schools;
 - The quality and long-term operational success of the schools; and
 - The financial viability of the schools.

Copy of Amendment to the Articles of Incorporation*

Provide a copy of the Amendment to the Articles of Incorporation that demonstrates the change. This must be an amendment on file with the Arizona Corporation Commission.

Declaration of Payment, Benefit, or Consideration*

Provide information regarding any payment, benefit, or consideration received or to be received by any party in the transition.

Additional Supporting Materials*

Upload additional supporting materials, as identified below.

| Change in the Ownership | |
|--|---|
| The requesting charter holder transfers the charter contract to an existing charter holder with a different dashboard. | |
| <input type="checkbox"/> | Indicate on the Form whether the non-profit corporation is an Arizona Not for Profit or a 501(c)3. If the corporation is, or will be, a 501(c)3 please submit a copy of the approval letter from the I.R.S. or a copy of the application. |
| <input type="checkbox"/> | Copy of the minutes/resolutions of the existing board authorizing the assignment of the charter contract to the board of the receiving charter holder. |
| <input type="checkbox"/> | Copy of the minutes/resolutions of the entity of the receiving charter holder accepting the assignment of the charter contract from the existing board. |
| <input type="checkbox"/> | Articles of Incorporation of the entity of the receiving charter holder (stamped and filed with the Arizona Corporation Commission) |
| <input type="checkbox"/> | Bylaws of the entity of the receiving charter holder |
| <input type="checkbox"/> | Governance Structure narrative includes: a. Description of and differentiation between the school's governing body and the corporate board of the receiving charter holder b. Organizational Flow Chart |
| <input type="checkbox"/> | Transfer agreement between the two entities that at a minimum includes discussion of the: a. Transfer of student records b. Transfer of, or access to, appropriate financial records from the prior year(s) c. Responsibilities for Assets & Liabilities of the for-profit corporation |
| <input type="checkbox"/> | If the receiving charter holder does not meet the Board's financial performance expectations it is required to submit a Financial Performance Response as described in Appendix B of the Financial Performance Framework Guidance (FPFG) |
| Remember that all prior year academic, financial, and operational performance will transfer with the new corporate structure. | |

Administrative Completeness Review

An administratively complete request to change the ownership of the charter holder includes:

- Board Minutes
 - Approval to change in ownership has been approved or addressed by the charter holder (approving board);
 - Approving board aligns with what is currently on file with ASBCS; and
 - Board minutes comply with Open Meeting Law (if applicable); or
 - Board resolution is signed by all current board members if the approving board is not subject to Open Meeting Law.
- Narrative, addressing all prompts
- Copy of Amendment to the Articles of Incorporation
- Declaration of Payment, Benefit, or Consideration
- Fingerprint Clearance Card, completed and signed Background Information Sheet, verification of coursework/ degree, notarized Affidavit, and resume for each new Officer, Director, Member, or Partner

- Additional Supporting Materials
- All required forms are submitted on the approved ASBCS template

Appendix B

Financial and Operational Performance

The following tables provide a breakdown of the criteria for eligibility to submit an expansion request, and descriptions for meeting the standard and meeting the expectations as it relates to the Board's Financial and Operational Performance Frameworks.

FINANCIAL PERFORMANCE

| Criteria for Eligibility to Submit | A charter holder has no measure rated "Falls Far Below Standard" for the most recent fiscal year presented on the charter holder's dashboard. | | | | | | | | | | | | |
|--|--|----------------|-------------------|-------|--------------------------------------|--------------------------------------|-----|--|--------------------------------------|-----|--------------------------------------|--|-----|
| Meeting the Standard | A charter holder must receive no "Falls Far Below Standard" ratings and no more than one "Does Not Meet Standard" rating using the most recent annual audit. | | | | | | | | | | | | |
| Meeting the Expectations | <p>A charter holder's financial performance for the most recent audited fiscal year and the prior audited fiscal year are used to determine whether the charter holder meets the Board's financial performance expectations. A charter holder meets the expectations as shown in the table below.</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="background-color: #8B4513; color: white;">Previous Audit</th> <th style="background-color: #8B4513; color: white;">Most Recent Audit</th> <th style="background-color: #8B4513; color: white;">MEETS</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">MEETS financial performance standard</td> <td style="text-align: center;">MEETS financial performance standard</td> <td style="text-align: center;">Yes</td> </tr> <tr> <td style="text-align: center;">DOES NOT MEET financial performance standard</td> <td style="text-align: center;">MEETS financial performance standard</td> <td style="text-align: center;">Yes</td> </tr> <tr> <td style="text-align: center;">MEETS financial performance standard</td> <td style="text-align: center;">DOES NOT MEET financial performance standard, no measure receives "Falls Far Below Standard"</td> <td style="text-align: center;">Yes</td> </tr> </tbody> </table> | Previous Audit | Most Recent Audit | MEETS | MEETS financial performance standard | MEETS financial performance standard | Yes | DOES NOT MEET financial performance standard | MEETS financial performance standard | Yes | MEETS financial performance standard | DOES NOT MEET financial performance standard, no measure receives "Falls Far Below Standard" | Yes |
| Previous Audit | Most Recent Audit | MEETS | | | | | | | | | | | |
| MEETS financial performance standard | MEETS financial performance standard | Yes | | | | | | | | | | | |
| DOES NOT MEET financial performance standard | MEETS financial performance standard | Yes | | | | | | | | | | | |
| MEETS financial performance standard | DOES NOT MEET financial performance standard, no measure receives "Falls Far Below Standard" | Yes | | | | | | | | | | | |

OPERATIONAL PERFORMANCE

| | |
|------------------------------------|---|
| Criteria for Eligibility to Submit | A charter holder meets the operational performance standard for the most recent completed fiscal year and the current evaluated year. |
| Meeting the Standard | A charter holder meets the operational performance standard if it receives zero "Falls Far Below Standard" ratings and no more than five "Does Not Meet Standard" ratings across the nine measures for the current evaluated year. |
| Meeting the Expectations | A charter holder "Meets the Board's Operational Performance Expectations" when it has an overall rating of "Meets the Board's Operational Performance Standard" for the most recent two prior years for which an overall rating was calculated and has no measure that receives a "Falls Far Below Standard" rating and no more than five "Does Not Meet Standard" ratings in the current evaluated year. |

