STATE OF NEW YORK

7593

2023-2024 Regular Sessions

IN ASSEMBLY

May 25, 2023

Introduced by M. of A. KELLES -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to approval of applications of charter schools

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions 3 and 4 of section 2851 of the education law, subdivision 3 as amended and paragraph (e) of subdivision 4 as added by chapter 101 of the laws of 2010 and subdivision 4 as added by chapter 4 of the laws of 1998, are amended to read as follows:

3. An applicant shall submit the application to a charter entity for approval**; provided, however, that such applicant shall first apply to the local board of education of the school district or the community district education council for approval**. For purposes of this article, a charter entity shall be:

(a) The board of education of a school district eligible for an apportionment of aid under subdivision four of section thirty-six hundred two of this chapter, provided that a board of education shall not approve an application for a school to be operated outside the school district's geographic boundaries and further provided that in a city having a population of one million or more, the chancellor of any such city school district shall be the charter entity established by this paragraph;

(b) The board of trustees of the state university of New York; or

(c) The board of regents.

The board of regents shall be the only entity authorized to issue a charter pursuant to this article. Notwithstanding any provision of this subdivision to the contrary, an application for the conversion of an existing public school to a charter school shall be submitted to, and may only be approved by, the charter entity set forth in paragraph (a) of this subdivision. Notwithstanding any law, rule or regulation to the contrary, any such application for conversion shall be consistent with

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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this section [~~but shall not be subject to the process pursuant to subdivision nine-a of section twenty-eight hundred fifty-two of this article~~], and the charter entity shall require that the parents or guardians of a majority of the students then enrolled in the existing public school vote in favor of converting the school to a charter school.

4. Charters may be renewed, upon application, for a term of up to five years in accordance with the provisions of this article for the issuance of such charters pursuant to section twenty-eight hundred fifty-two of this article; provided, however, that a **charter school application for renewal shall first apply to the local board of education of the school district or the community district education council for approval. A** renewal application shall include:

(a) A report of the progress of the charter school in achieving the educational objectives set forth in the charter.

(b) A detailed financial statement that discloses the cost of administration, instruction and other spending categories for the charter school that will allow a comparison of such costs to other schools, both public and private. Such statement shall be in a form prescribed by the board of regents.

(c) Copies of each of the annual reports of the charter school required by subdivision two of section twenty-eight hundred fifty-seven of this article, including the charter school report cards and the certified financial statements.

(d) Indications of parent and student satisfaction.

(e) The means by which the charter school will meet or exceed enrollment and retention targets as prescribed by the board of regents or the board of trustees of the state university of New York, as applicable, of students with disabilities, English language learners, and students who are eligible applicants for the free and reduced price lunch program which shall be considered by the charter entity prior to approving such charter school's application for renewal. When developing such targets, the board of regents and the board of trustees of the state university of New York shall ensure (1) that such enrollment targets are comparable to the enrollment figures of such categories of students attending the public schools within the school district, or in a city school district in a city having a population of one million or more inhabitants, the community school district, in which the charter school is located; and (2) that such retention targets are comparable to the rate of retention of such categories of students attending the public schools within the school district, or in a city school district in a city having a population of one million or more inhabitants, the community school district, in which the proposed charter school would be located.

Such renewal application shall be submitted to the charter entity no later than six months prior to the expiration of the charter; provided, however, that the charter entity may waive such deadline for good cause shown.

The application for renewal of a charter school shall be submitted to the local school board or the community district education council where the charter school is located for approval no later than two months prior to submission to the charter entity. The local school board or the community district education council where the charter school is located shall have forty-five calendar days to act from when an applicant submits the application for renewal of a charter school. Within seven days of approving such application, the local school board or the community district education council shall forward such renewal application to the appropriate charter entity along with a form to be developed by

the commissioner which states that the school board or the community district education council has acted to approve the charter renewal application. Within seven days of denying an application for renewal of a charter school, the local school board or the community district education council shall forward a notice of denial of such application to the board of regents, the board of trustees of the state university of New York, and the New York city department of education. Such notice shall be in writing and include factual findings, specific to the application and state the reasons for such denial. Notwithstanding any provision of law to the contrary, the denial of an application shall be considered final and shall not be eligible for reconsideration by any other charter entity. A charter entity shall not act on a charter renewal application unless the local school board or the community district education council where the charter school is located has approved such charter renewal application.

§ 2. Subdivisions 1, 3 and 7 of section 2852 of the education law, subdivision 1 as amended by chapter 101 of the laws of 2010, subdivision 3 as added by chapter 4 of the laws of 1998 and subdivision 7 as amended by section 2 of part D-2 of chapter 57 of the laws of 2007, are amended to read as follows:

1. A charter entity shall not act on an application unless the local school board of the school district where the charter school is to be located or the community district education council has voted and approved the charter application. Each school district or the community district education council that receives an application for approval of a charter school shall act on each request received prior to March first of a calendar year. Within seven days of approving a charter application, the local school board or the community district education council shall forward the application to the appropriate charter entity along with a form to be developed by the commissioner which states that the local school board or the community district education council has acted to approve the charter application. The denial of an application for a charter school by a local school board or the community district education council shall be in writing and include written factual findings, specific to the application and state the reasons for such denial. Notwithstanding any provision of law to the contrary, such denial is final and shall not be reviewable in any court or by any administrative body or charter entity. A charter entity that receives an application for approval of a charter school which has been approved by a local school board or the community district education council shall act on each [~~request~~] charter school application received from a school board or the community district education council prior to July first of a calendar year on or before January first of the succeeding calendar year, and a proposed charter between the applicant and the charter entity resulting from such application and the local school board or the community district education council shall be executed on or before February first of such succeeding year. Nothing in this subdivision shall be construed to prevent a charter entity from receiving or acting upon an application at any time[~~. This subdivision shall not apply to applications that are submitted pursuant to subdivision nine-a of this section~~]; provided, however, that such application shall have the approval of the local school board where the charter school is to be located or the community district education council.

3. A charter entity is not required to approve a charter and may require an applicant to modify or supplement an application as a condition of approval. Any modification or supplement shall first be approved

by the local school board or the community district education council before the charter entity may act on the charter school application. An existing private school shall not be eligible to convert to a charter school. In determining whether an application involves the conversion of an existing private school, the charter entity and the board of regents shall consider such factors as: (a) whether the charter school would have the same or substantially the same board of trustees and/or officers as an existing private school; (b) whether a substantial proportion of employees of the charter school would be drawn from such existing private school; (c) whether a substantial portion of the assets and property of such existing private school would be transferred to the charter school; (d) whether the charter school would be located at the same site as such existing private school; (e) upon renewal only, whether such private school closed within one year of establishment of the charter school; and (f) upon renewal only, whether a substantial portion of the charter school's students were drawn from such existing private school.

7. (a) A revision of a charter shall be made only upon the approval of the local school board of the school district where the charter school is to be located or the community district education council, charter entity and the board of regents in accordance with the provisions of subdivisions five-a and five-b of this section.

(b) When a revision of a charter involves the relocation of a charter school to a different school district, the proposed new school district shall be given at least forty-five days notice of the proposed relocation. In addition, the applicant shall provide an analysis of the community support for such relocation and of the projected programmatic and fiscal impact of the charter school on the proposed new school district of location and other public and nonpublic schools in the area. The approval of the local board of education of the school district where the charter school is relocating or the community district education council shall be required pursuant to the provisions of subdivision one of this section.

§ 3. This act shall take effect immediately.