

State Board of Education Policy CHTR-006

FINANCIAL AND GOVERNANCE NONCOMPLIANCE POLICY FOR CHARTER SCHOOLS

The following policy represents the North Carolina Department of Public Instruction's internal operating procedures and does not preclude the State Board of Education from taking any action with regards to a Charter School, if so warranted, regardless of the charter school's financial and governance noncompliance status.

I. IMPACT OF FINANCIAL NONCOMPLIANCE

There are three stages of financial noncompliance under which a charter school may be placed: Cautionary, Probationary, and Disciplinary. A charter school may be placed in each stage of noncompliance based on any one of the following financial conditions:

- A. If the charter school fails to report required, Uniform Education Reporting System (UERS), data within 10 days of the required or agreed-upon reporting date or does not submit accurate data due to incorrectly utilizing UERS approved materials or software within the next reporting cycle;
- B. If the charter school fails to respond to a specific financial, personnel, or student information request for information/data by the required reporting date;
- C. If the charter school fails to timely submit the required audited financial statements to the North Carolina Department of State Treasurer's Local Government Commission, as prescribed by North Carolina General Statute § 115C-218.30. Accountability; reporting requirements to State Board of Education.
- D. If the charter school shows signs of financial insolvency or weakness, including a decline in student membership;
- E. If the Office of State Treasurer receives a "non-sufficient funds (NSF)" notification during the course of cash certification processing;
- F. If the charter school receives a material audit finding in their annual independent financial statement audit which indicates a violation of State law or State Board of Education Policy, a violation of any of the conditions or procedures set forth in their Charter, a failure to meet generally accepted accounting practices and principles, including sound fiscal management in accordance with G.S.115C-238.29G and remains unresolved; and/or
- G. If the charter school's staff fails to attend required financial training.

NOTE: For warning conditions A) through G), funds may be frozen (i.e. the school's access to the cash management system is revoked) until the exception is corrected. Any combination of the above violations may immediately move the charter school to Financial Disciplinary Status without the benefit of being first held in either the Cautionary or Probationary status. Should a charter school have repeated violations of the same or similar non-compliance condition, the charter school may be moved to Financial Disciplinary Status.

This policy does not preclude the State Board of Education from taking any action with regards to a charter school if so warranted, regardless of the charter school's financial noncompliance status.

The stages of financial noncompliance are as follows:

Level 1: Financial Cautionary Status

A charter school may receive a notification of Financial Cautionary Status for any of the above conditions. The school shall remain in cautionary status for a minimum of 30 calendar days from the date of notification, and during that time must correct the exception(s) that caused the financial warning(s) if applicable. When the exception(s) is corrected as prescribed in the notification of noncompliance by NCDPI, the school will be notified of removal from cautionary status.

Level 2: Financial Probationary Status

A charter school may receive a notification of Financial Probationary Status for any of the above conditions. The school will be placed in Financial Probationary Status, if the school fails to correct the exception(s) during the 30 calendar days cautionary period, unless otherwise stated in the initial notification of noncompliance. The school remains in probationary status for a minimum of 30 calendar days from the date of notification, and during that time must correct the exceptions that caused the financial warnings if applicable. When all of the exceptions have been corrected, the school will be notified of removal from probationary status. While in probationary status, state funds for the school may be allotted on a monthly basis until the exceptions that caused the financial warnings are corrected. Failure to resolve the exceptions may result in the school being placed on Financial Disciplinary Status, referred to the Charter School Advisory Board and/or to the State Board of Education for further action.

Level 3: Financial Disciplinary Status

The school will be placed in Financial Disciplinary Status, if the school fails to correct all of the exceptions during the established timeframe. Any of the financial conditions noted in this policy, or combination thereof, may immediately result in the charter school being placed on Financial Noncompliance Disciplinary status without the benefit of being first held in either the Cautionary or Probationary status. Also, should a charter school have repeat violations of the same or similar non-compliance condition, the charter school may be moved to Financial Disciplinary Status without the benefit of completing either the Cautionary or Probationary status periods.

When in Disciplinary status, the school is expected to immediately address all of the exceptions that caused the financial noncompliance within ten (10) business days from the date of notification or otherwise stated. State funds for the school may be allotted on a monthly basis until the exceptions causing the noncompliance are corrected. When all of the exceptions have been corrected, the school will be notified of removal from disciplinary status. Failure to resolve the exceptions will result in the school being referred to the Charter School Advisory Board and/or to the State Board of Education for further action.

This policy does not preclude the State Board of Education from taking any action with regards to a charter school if so warranted, regardless of the charter school's financial noncompliance status.

II. IMPACT OF GOVERNANCE NONCOMPLIANCE

There are three (3) stages of Governance Noncompliance: Governance Cautionary Status, Governance Probationary Status, and Governance Disciplinary Status. A charter school may earn placement within a status based on any one of the following governance warning conditions:

- A. Failure to have a functioning board in place, including failure to conduct regular meetings (8 times per year) of the board and failure to adopt policies regarding the operation of the charter school. Such policies would include a minimum of Personnel, Disciplinary, and Parental Grievance policies.
- B. Inability to show progress towards the educational and organizational goals described in the charter school application.
- C. Failure to maintain student enrollment. (i.e., Required minimum of 80 students, or as otherwise stated in the charter application or approved waiver to operate under the minimum of 80 students.)
- D. Bylaws violations including, but not limited to, following the Open Meetings Law, maintaining Public Records, implementing a Conflict of Interest Policy, adhering to basic rules of Parliamentary Procedure.
- E. Charter Agreement violations including, but not limited to, following State/Federal Regulations, ensuring Health & Safety Standards, making adequate academic progress, meeting Testing and Reporting requirements, and supplying all reports and documentation as requested by the Office of Charter Schools to ensure legal compliance with General Statute, State Board of Education Policy, and the Charter Agreement.
- F. Substantiated complaints indicating that the Board is not acting as a representative of the school community to ensure that the needs of all students, parents, and teachers will be addressed.
- G. Failure to maintain certification of at least fifty percent (50%) of teachers in all grades pursuant to G.S.115C-218.90. Charter schools shall maintain compliance with this law from December 31 of each year through the end of the school calendar year. Failure to do so will be seen as noncompliance with the statutory requirement.

NOTE: This policy does not preclude the State Board of Education from taking any action with regards to a charter school if so warranted, regardless of the charter school's governance noncompliance status.

The stages of noncompliance are as follows:

Level 1: Governance Cautionary Status: Upon receiving a Governance Warning for any of the above conditions, the charter school will be placed on Governance Cautionary Status. The school remains in cautionary status for 30 calendar days and during that time must correct the exception that caused the warning. When the 30 calendar days have ended and the exception is corrected, the governance warning will be removed and the school will be removed from cautionary status. Failure to correct the exception during the 30 calendar days cautionary period constitutes a second warning and the school will be placed on Governance Probationary Status.

Level 2: Governance Probationary Status: The school remains on Governance Probationary Status for 30 calendar days and during that time must correct the exceptions that caused all of the governance warnings.

When the 30 calendar days have ended and the exception is corrected, the governance warning will be removed and the school will be removed from probationary status. Failure to correct the exception during the 30 calendar days probationary period constitutes a third warning and the school will be placed on Governance Noncompliance Status.

Level 3: Governance Noncompliance Status: The school remains on Governance Noncompliance Status for 10 calendar days. When in Noncompliance Status, the school is expected to immediately address all of the exceptions that caused the governance warnings. State funds for the school may be allotted on a monthly basis until the exceptions that caused all of the governance warnings are corrected. A School placed in Governance Noncompliance Status may be referred to the Charter Schools Advisory Board for appropriate inquiry and action as determined by the State Board of Education.

This policy does not preclude the State Board of Education from making any recommendations with regards to a charter school if so warranted, regardless of the charter school's governance compliance status.

III. IMPACT OF REVOCATION

Recommendation for Revocation

Should a public charter school be recommended to the State Board of Education (SBE) for revocation, the following policy, in addition to the provisions for revocation already contained in the Charter Agreement, shall be followed:

1. The allotment for State funds for the school may be adjusted and allotted on a monthly basis from the point of recommendation through the review and appeal period. Ten percent (10%) of the remaining funds available from the adjusted allotment may be held in reserve, pending the results of any review or appeal process.
2. Access to State and Federal funding may be revoked.

Revocation

Should the State Board of Education (SBE) vote to revoke a public charter school's charter the policies outlined in the Charter Agreement, in conjunction with the steps outlined below, will be followed:

1. The charter school's financial activity with regards to State, Federal and Local District Funding must be discontinued upon the effective date of revocation, or "closing period"*. The charter school must transmit final financial information at that time. The "closing period" is the length of time given the school to successfully close their business with regards to State, Federal, and Local District funding, which should be the end of the month that the revocation becomes effective.
2. The charter school's access to State and Federal funding via the NC DPI Cash Management System will be discontinued.
3. In the event that the revocation occurs before the end of the fiscal year, the allotments for State and Federal funds for the school will be adjusted to reflect a prorata share of the school year that the school was open. Ten percent (10%) of the remaining funds available from the adjusted allotment may be held in reserve, pending the results of any review or appeal process, should the school's Charter be revoked by the SBE these funds will be held in reserve, pending the results of the "closing audit".

4. After the final allotment adjustment, the charter school may request, in writing, any remaining State and Federal funds through the NC DPIs School Business Division. The request must include adequate documentation to support any requested funds during the closing period. Should the final allotment adjustment indicate that the charter school has overdrawn any State or Federal funds a refund may be due to NC DPI. NC DPI will verify the potential refund amount upon the receipt of the final closing audit and the charter school will be notified, in writing, of any refunds due to NC DPI and given 20 business days to issue the refund.
5. The charter school must transmit final financial information through the last day of the month that the revocation becomes effective.
6. NC DPI will designate and pay a CPA firm to do a "closing audit" of the charter school. The school will be notified when this audit shall occur. Each officer, employee, and agent of the charter school having custody of public money or responsibility for keeping records of public financial or fiscal affairs shall produce all books and records requested by the auditor and shall divulge such information to fiscal affairs as the auditor may request.
7. All net assets as of the effective date of revocation, purchased with public funds, shall be deemed the property of the appropriate local education agency. A record of all asset disposition to the appropriate local education agency should be provided to the auditor conducting the closing audit.
8. The independent auditor in conjunction with NC DPI will ensure that the student information management access has been disabled to ensure the integrity of the school's student data and transcripts.
9. If, upon review by NC DPI, the results of the final closing audit disclose any misuse of funds, violations of state law or SBE policy, or any other indiscretion deemed material, the SBE and/or NC DPI will take the necessary action as indicated per each finding. This would include, but is not exclusive to, requiring refunds of state or federal funds.
10. The charter school and the SBE will be notified, in writing, when the NC DPI has determined that the school has been effectively closed.