

THE ROLE OF THE LOCAL BOARD IN REVIEWING CHARTER SCHOOL PETITIONS

The number and types of charter schools in Georgia continue to expand. Conversion charters are existing local schools that seek the flexibility that the charter law provides often to implement a specialized program or curriculum. Startup local charters are proposed by a private corporation, sometimes initiated by a local group and other times initiated by a national management company, to form a brand new local school. Charter systems involve a decision by the Local Board of Education to enter into a single charter binding all of the schools within its district and, thus far the rarest of all, cluster charters involve an attempt within a certain community to form a partial charter system centered around a high school and the middle and elementary schools that feed into it. In each case, it is the Local Board of Education which bears the initial responsibility for determining whether the charter petition should be approved and a charter school created.

Of course, a final type of charter school is the state commissioned charter school where the Local Board is not a party to the contract creating the new school, but even there the Local Board of Education, in many cases, must be given an opportunity to review the charter and determine whether it should be granted as a local startup before it can be submitted as a state startup. While the State Board of Education must also approve any locally granted charter, the purpose of this article is to focus on the role of the Local Board of Education and relevant criteria to be considered in reviewing and evaluating any petition.

Obviously, there are somewhat different requirements for each type of charter school or system. Thus the first step for the Local Board of Education reviewing a petition is for the superintendent and relevant members of the administrative staff to become thoroughly familiar with not only the statutory requirements, but the requirements set forth in the State Board of Education Rule and the State Department of Education guidelines. Not only is it a requirement that any charter school petition comply with the basic statutory and regulatory criteria, but the detail provided in the State Department of Education guidelines especially provides significant information that will assist the Local Board in determining whether or not the new school is viable and has a sound operational plan. Starting a new school from scratch is a daunting and complex proposition and the first responsibility of the Local Board of Education is to ensure that the plan for the new school is well thought out, financially sound, and ready for implementation.

Compliance with all of the statutory requirements and the State Department checklist is a minimal requirement for approval of any charter school petition, but it is not the end of the inquiry for the Local Board of Education. The statute itself, in defining the review to be conducted by the board of education, requires that the Local Board must determine whether the charter school petition complies with the state statute and “is in the public interest.” O.C.G.A. § 20-2-2064. Similarly, the State Board is also to consider the “public interest” in acting on a submission that gets to it. O.C.G.A. § 20-2-2064.1.

What questions should a Local Board of Education ask in an effort to determine what is in the best interest of the school system?

What role would this new school play in the community? Does it offer an option not currently available to parents and students? Does it propose to serve a segment of the community in a unique way or draw students not currently being served into the school district?

Does the petition indicate strong ties with the community, including those involved in drafting the petition, those nominated to serve on an initial board and the administrative leadership of the new school?

Does the petition indicate that there is a sufficient interest among parents to support the new school?

Some charters, including conversion and cluster charters, must obtain a certain percentage of faculty and parental support. Was this done in a way that provides confidence to the Local Board that the faculty and parents, as a whole, have truly been heard and had an opportunity to express themselves?

Does the creation of the new school proposed by the petition have the potential of dividing the community in an adverse way, racially, by national origin, by neighborhood?

What financial effect will the creation of a new school have on the rest of the school district and the students that will be served by the remaining schools in the district? What budgetary changes will have to be made in the school district to account for the loss of funding? Is it offset by the corresponding loss of students?

Although it is clear that private and religious schools cannot form charters, does it appear that those seeking the petition are actually acting on behalf of such a private school that appears likely to close and have its students transfer to the charter if approved?

Local Board members will immediately recognize that evaluating whether or not the new school is in the best interest of the system is equally important to evaluating whether or not it meets the requirements of the law. In fact, it can easily be argued that the primary function of the Local Board of Education is to make this very assessment. The State Department is certainly in a position to determine whether or not the charter petition meets the requirements of some checklist, but only the elected board of education, charged with the management and control of the school district, can represent the community in determining the value or detriment that a new school may bring to the community.

Of course, there is an additional consideration at play as it relates to startup charters because of the 2012 constitutional amendment and the creation of the State Charter Schools Commission. Now Local Boards, in determining whether to approve a local startup charter petition, must contemplate whether the petition will be approved by the state even if rejected by the Local Board. Of course, the Local Board is responsible for detailing all of the reasons that it rejected the charter in writing within 60 days of its decision. This written document becomes critical not only to explain to the charter petitioners why their application was denied, but as exhibit "A" in the attempt to persuade the State Charter Schools Commission that the petition

would not be in the “best interest” of the community. If a Local Board had a crystal ball and could predict the final decision of the State Charter Schools Commission, it would be able to assess whether or not it preferred approving the new school as a local startup where it maintained some degree of control or at least supervision, or whether it preferred having the new school as a state school for which it bore no responsibility. Unfortunately, it is forced to guess at such issues on most occasions.

There are certainly those within the charter school community and perhaps within state government that believe that any charter petition that meets the basic requirements of state law and the rules and regulations of the State Board of Education should be approved. In fact, state law places an additional responsibility on the Local Board that only it can exercise. Hopefully this brief outline provides some guidance in these areas and at least provides an opportunity for a Local Board to develop additional questions of its own as it assesses what is best for the education of all the students within the community that it serves.