



## **THE LAW, POLICY, AND PROCEDURES FOR BESE-AUTHORIZED CHARTER SCHOOL EXTENSIONS, RENEWALS, AND REVOCATIONS**

August 2010

The quality of charter schools in a state or district is directly linked to the quality of the charter school authorizer and its policies for application, monitoring, and renewal or revocation of the charter. While quality practices in all of these areas are important, the decision an authorizer makes to renew or revoke a charter may be the most critical. Failing to revoke the charter of a school that continues to fail students has the potential to negatively impact a large number of students. Likewise, revoking the charter of a school that is serving its students well, whether for political or technical reasons, can deny students the right to a quality education if their only other options are low-performing traditional public schools. Both of these scenarios are counter to Louisiana's charter law mission of increasing access to quality education for students across the state.

This fall the Louisiana Board of Elementary and Secondary Education (BESE) will consider a significant number of the BESE-authorized schools for extension or renewal. Additionally, the number of charter schools authorized by BESE across the state continues to expand, and any of them can have their charters revoked at any time if they fail to meet certain standards. With BESE facing these critical decisions now and in the future, a thorough understanding of the laws and policies governing these decisions is vital for the board to act as quality authorizer. This brief by the Louisiana Department of Education's Charter Schools Office and the Cowen Institute for Public Education Initiatives summarizes Louisiana law and BESE and Louisiana Department of Education (LDE) Charter School Office (CSO) administrative procedure on the charter extension, renewal, and revocation processes.

### **Louisiana Charter Law on the Extension, Renewal, and Revocation Process**

While Louisiana's charter school law explicitly lays out rules in some areas (for example, who is allowed to apply for a charter and the make-up of governance boards), it is less specific on the procedures governing renewal, non-renewal, and revocation.<sup>1</sup> The law specifies the following:

- Charters are valid for five years contingent upon the school's submission of a comprehensive report at the end of the third year of operation. If the school is achieving its stated goals at the end of the third year, the charter is extended for an additional two years.
- The renewal process is the same as the initial approval process, with the charter school required to provide the authorizer with a written progress report each year following the charter's renewal. This annual progress report can be used as the basis for charter revocation if agreed-upon academic results are not met.
- An authorizer cannot renew the charter of a school that fails to demonstrate improvement in the standardized test scores of students over the term of the school's charter.
- Lastly, a charter can be revoked by a majority vote of the members of the authorizing body if the school, its officers, or employees did any of the following:
  - Committed a material violation of the terms laid out in the charter.

- Failed to meet educational or academic timelines or results laid out in the charter.
- Failed to meet generally accepted accounting practices and standards.
- Violated any applicable laws.

Additionally, a bill was recently signed into law that made two significant revisions to the provisions related to charter renewal.<sup>ii</sup> The first requires authorizers to notify charter schools in writing by January 31<sup>st</sup> of their fifth year of operation if their charters will not be renewed and include the reasons for the decision. More importantly, the bill adds a provision for automatic charter renewal after five years for “high-performing” schools. These schools are those that met or exceeded established school or district accountability benchmarks, demonstrated growth in achievement over the preceding three years, and had no significant audit findings over the term of the charter agreement.

The language of the Louisiana charter school law has broad standards in these areas. For example:

- It fails to define a “material violation”.
- It does not establish procedures to carry out the mandates regarding charter revocation.
- It does not specify what should be included in charter operators’ annual written progress reports or when those are due to the authorizer.

What is not included in the law is left to individual authorizers – local school boards and BESE – to establish. BESE has extensive written policy on extension, renewal, and revocation though it also delegates some of the procedural decisions to the Charter Schools Office (CSO) at the Louisiana Department of Education (LDE). In the following sections, we review BESE policies and procedures governing BESE-authorized charter schools’ Year Three extension, Year Five renewal or non-renewal, or charter revocation.

BESE, in its role, does not have the statutory authority to promulgate policy for charter schools authorized by local school boards. While local authorizers are required to follow state law, they are given wide latitude to design their own requirements, policies, and procedures in all phases of chartering. With such freedom, local school boards have the ability to use BESE’s policy as their own in whole or in part.

## **BESE Policy on the Year Three Review and Extension Process**

The charter law requires that each school submit a “comprehensive report” at the end of its third year of operation. If this report demonstrates that the school is achieving certain goals and objectives, it is given a two year extension to its charter. The type or amount of progress toward these goals and objectives that is required of BESE-authorized charter schools is elaborated on by BESE in Bulletin 126,<sup>iii</sup> the policy that governs charter schools.

BESE’s policy for Year Three extensions states that a school that meets the following standards by January of its third year of operation is automatically given an extension, contingent upon submission of its third year comprehensive report.

- All financial performance standards
- All legal and contractual standards

- Either a School Performance Score (SPS) or Assessment Index (AI)<sup>1</sup> of 60.0 or higher based on data from Year Two

If a school does not meet these requirements by January of its third year in operation, it is still eligible for extension if, by June, it meets all legal, financial, and contractual standards, has submitted its third year report, and meets one of the following student performance standards:

- The Assessment Index for Year Three is 60.0 or higher
- The Assessment Index has increased ten or more points over two years
- The school has met the “Required Growth” of ten points

Schools not meeting either the January or June requirements for a two year extension are still eligible for a one year probationary extension if by June they have:

- Submitted the third year comprehensive report;
- Met all financial, legal, and contractual standards and made at least five points in Assessment Index growth, if not the required ten; or
- Met at least one of the student performance standards and have had three or fewer financial, legal or contractual standards not met.

Those schools that receive a one year probationary extension must undergo a Year Four review to determine eligibility for an additional one year extension. The Year Four review has its own standards that are more stringent than the Year Three review. If a school cannot meet these standards, at either the Year Three or Year Four review, revocation of the charter will be recommended and the revocation hearing process will begin.

The Year Three extension process timeline can be simplified as follows:

- January of Year Three– The CSO makes the determination whether or not a school is eligible for a two-year extension. If it is, it is granted an extension contingent upon the submission of the third year comprehensive report at the end of the school year. If the school is not eligible for renewal, it will be reviewed again in June.
- June following Year Three – Schools which have already received this extension must turn in their comprehensive reports to ensure that extension. Schools that were not eligible for a two-year extension in January will have their new data reviewed which may or may not make them eligible for extension. They must also turn in a comprehensive report.
- June following Year Three – Schools which are not eligible for a two-year extension at either time may be put on probationary status and be eligible for a one-year extension.
- January of Year Four – Schools under probation and which have received a one-year extension will undergo a review to determine if they are eligible for an additional one year extension, through the end of the initial term. If they meet certain criteria, they are granted an extension.

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<sup>1</sup> School Performance Scores and Assessment Indices are indicators of a school’s performance calculated by the DOE and are based on measures such as a school’s student attendance, performance on state standardized tests, and dropout rate.

- June following Year Four – Schools that were not eligible for an extension in January are given one additional chance to be eligible for another one year extension. If they do not meet certain criteria at this time, they are denied an extension and the charter is revoked.

Local school boards are not given specific criteria in BESE policy for granting extensions and are therefore given wide latitude on their extension decisions.

## **BESE Policy on the Year Five Renewal or Non-Renewal Process**

Local authorizers have the authority to design their own standards for renewal. Yet BESE policy<sup>iv</sup> for Year Five charter review and renewal or non-renewal states that BESE-authorized schools must meet specific criteria in the areas of academic, financial, and legal and contractual performance in order to be considered for renewal. These are as follows:

### *Student Performance*

A school which receives an Academically Unacceptable (AUS) performance label based on data from its fourth year of operation is not eligible for renewal unless it meets one of the following conditions.

- The school serves a unique population and an alternate evaluation tool has been agreed upon by the operator and BESE;
- The school is AUS in its initial term but has either met its growth target or has a Growth Performance Score of 60.0 or higher;
- The school is AUS in its initial term but fewer than 30 percent of its enrolled grades are testable under the state accountability system; or
- In the judgment of the superintendent, the non-renewal of an AUS charter school would require many students to attend lower performing schools.

For BESE-authorized charter schools, the length of a charter’s renewal term is based on its student performance, with terms that are a minimum of three years and a maximum of ten years. Schools that are AUS can receive renewal terms between three and five years, depending on which condition of renewal they have met. Schools which are not AUS are given renewal terms based strictly upon their School Performance Scores (SPS). No school is allowed to be given more than two renewal terms of only three years.

### *Financial Performance*

Financial performance is judged according to standards schools must meet on six indicators in the table below.

<b>Indicator</b>	<b>Standard</b>
Prior and Current Year Budgets	Both budgets balanced using realistic and responsible assumptions
Annual Financial Report	Timely and sufficient filing
Financial Audit	Unqualified opinion; no major findings
Financial Obligations	All in good standing
Financial Reporting	Timely and sufficient filing of all LDOE-required financial reports
Student Count Audit	No major findings from LDOE audit staff

A finding is considered “major” if it indicates “a deliberate act of wrongdoing, reckless conduct, or causes the loss of confidence in the abilities or integrity of the school or seriously jeopardizes the continued

operation of the school.” Schools that fail to operate in a fiscally sound manner, demonstrated by adhering to these standards, will not have their charters renewed.

Even those charters that are renewed can have their terms reduced by a year (though no term can be less than three years) if the school meets any of the following conditions:

- Not current in all financial reporting at either the time of renewal application or the time of the LDE’s recommendation;
- Failed to submit at least half of its financial reports in a timely or sufficient manner in the twelve months prior to the LDE’s recommendation;
- A “major” finding in the most recent student count or financial audit; or
- A projection of a deficit in the most recent year end general fund budget.

### *Legal and Contract Performance*

Like financial performance, legal and contract performance is judged based on the following set of indicators, listed in the following below. The standard they must meet is that “pursuant to applicable law and regulation and contract provisions.

1. Special Education and ELL Program
2. Student Enrollment
3. Student Discipline
4. Health and Safety
5. Governance
6. Facilities

Standards for each indicator may vary by school based on the provisions of the charter itself. As with financial performance, a standard is considered not met if a violation indicated “a deliberate act of wrongdoing, reckless conduct, or causes the loss of confidence in the abilities or integrity of the school or seriously jeopardizes the continued operation of the school.” Schools must demonstrate that they have adhered to these standards over the term of their contracts.

In October of a school’s fifth year, it must submit a request for renewal. The following January, the CSO will make a recommendation to BESE based on a school’s performance on the above indicators during the first four years of the initial charter or the extent of the term of the charter in the case of subsequent renewals. The CSO can recommend one of three actions: renewal for the maximum terms allowed based on student performance, renewal for a shorter term due to deficiencies in financial, legal, or contractual performance, or non-renewal (which may also include a recommendation that another operator be allowed to take over the school).

## **BESE Policy on Charter Revocation**

BESE policy specifies seven conditions for charter revocation, which can occur anytime after the initial charter or renewal is granted.<sup>v</sup> Charter revocation can occur if a school, its officers, or employees do any of the following:

- Commit a material violation of any of the conditions, standards, or procedures provided for in the approved charter.

- Fail to meet or pursue within the agreed timelines any of the academic and other educational results specified in the approved charter.
- Fail to meet generally accepted accounting standards of fiscal management.
- Violate any provision of law or BESE policy applicable to a charter school, its officers, or employees.
- Threaten the health, safety, and welfare of students.
- Fail to meet the minimum standards for continued operation pursuant to R.S. 17:10.5, after four years of operation.
- Any other reasons for revocation listed as such in a charter school’s charter contract.

Unless the safety or welfare of students is at risk, the LDE must recommend to BESE that a charter be revoked at least one meeting in advance of the meeting at which BESE will consider the revocation. The LDE must also inform the charter operator of its recommendation of revocation and the reasons for this recommendation. However, BESE can initiate revocation proceedings on its own without a recommendation from the LDE.

Before BESE makes its decision, the charter operator is entitled to a hearing. Hearings are heard by either the Legal Due Process or the Board Administration Committees of BESE, with the LDE and the CSO acting as prosecutors, presenting evidence in favor of revocation. A hearing officer appointed by BESE presides over the hearing but makes no determination as to whether or not a charter will be revoked. Charter operators are provided notice of the hearing date, other scheduling information, and the statutes, rules and contracts involved in the hearing at least 15 calendar days in advance.

After the hearing (should one be requested by the charter operator), if BESE decides to pursue revocation of a charter, it requires an affirmative vote of six members. BESE’s vote to revoke a charter is considered a final decision and must be in writing or stated in the record. The decision should include “findings of fact and conclusions of law” and charter operators must be notified in writing of the charter’s revocation.

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<sup>i</sup> La. RS 17:3992

<sup>ii</sup> La. RS 17:3982; La. RS 17:3992; La. House Bill No. 962, Regular Session, 2010

<sup>iii</sup> The Louisiana Administrative Code, Title 28, Education, Part I. Board of Elementary and Secondary Education, Part CXXXIX., *Bulletin 126 – Charter Schools*, March 2010.

<sup>iv</sup> Ibid.

<sup>v</sup> Ibid.