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**TO:** Members of the State Board of Education

**FROM:** Carey M. Wright, Ed.D., State Superintendent of Schools

**DATE:** November 20, 2025

**SUBJECT:** COMAR 13A.02.10 *Maryland Public Charter School Program*  
Permission to Publish

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### **Purpose**

The Maryland State Department of Education (MSDE) seeks approval of the State Board for permission to publish Code of Maryland Regulations (COMAR) 13A.02.10 *Maryland Public Charter School Program*. The proposed regulation creates a framework for the operation of public charter schools within Maryland local agency agencies (LEAs) and establishes a funding formula for public charter schools in Maryland.

### **Background**

In 2003, the Maryland General Assembly enacted the Public Charter School Act. Education Article § 9-109 *Maryland Public Charter School Program* established, “an alternative means within the existing public school system in order to provide innovative learning opportunities and creative educational approaches to improve the education of students.” The Education Article was further amended in 2015.

Due to the need for guidance on commensurate funding for charter schools, on May 1, 2025, Dr. Carey Wright issued Superintendent’s Guidance to clarify questions related to the commensurate funding formula in accordance with previous opinions of the State Board. Following the Superintendent’s guidance, on May 29, 2025, the State Board issued *Resolution of the Maryland State Board of Education 25-01 Adoption of Guidance on Commensurate Funding for Charter Schools* affirming the Superintendent’s Guidance and provided, “further guidance on the proportionate allocation of Blueprint funding to charter schools consistent with the eligibility of their student populations.” To inform the development of regulations on charter school funding, the resolution included language for the State Superintendent to request each Local Board of Education with charter schools to submit their current commensurate funding calculations no later than July 31, 2025.

The Board noted the need for the promulgation of regulations on the matter of charter schools and commensurate funding for charter schools. The State Board charged MSDE with developing regulations and bringing a draft regulation to the State Board no later than the December 2025 State Board Meeting. MSDE followed this request and convened a Charter School Workgroup comprised of representatives of LEAs, the Maryland State Education Association (MSEA), the Public School Superintendents’ Association of Maryland (PSSAM), the Maryland Alliance of Public Charter Schools, and Charter school operators and administrators. The Workgroup met multiple times between the spring and fall of 2025. Several proposals were presented, and feedback was provided which contributed to several revisions of a draft regulation.

Maryland’s public education system currently includes 52 public charter schools in eight LEAs, serving over 25,000 students. In Maryland charter schools operate within the LEA. Staff are public school employees represented by the local bargaining units of MSEA and the Baltimore Teacher’s Union. Charter schools participate in the state accountability system.

## Executive Summary

The guiding principles for the development of COMAR 13A.02.10 *Maryland Public Charter School Program* were to ensure increased transparency in the process of calculating commensurate funding for charter schools and to create a fair and clear calculation that can be applied consistently across the State.

There are three key components of the draft regulation. First, the regulation incorporates the provisions of Education Article § 9-101 *et seq*, Maryland’s charter school law. Secondly, as part of the framework, the regulation includes a requirement, 13A.02.10.04(E), that the LEA and charter schools collaborate to develop a “process through which a parent or guardian of a student may apply for admission to every public charter school in the jurisdiction using a single application.”

The third major component, COMAR 13A.02.10.13 *Commensurate Funding*, provides clear direction on implementation of Education Article § 9-109, the statutory requirement that commensurate funding is disbursed to public charter schools.

The draft regulation:

- Defines a public charter school using the definition in statute, buy backs, in-kind services, and special education overage. Regulation 13A.02.10.13 *Commensurate Funding* codifies a funding formula for public charter schools.
- Incorporates in the regulation sections of the statute including waivers for charter schools on military bases and for converted public charter schools, admission via a lottery, chartering authority, applications to establish a public charter school, renewal of contracts, certification of professional staff, compliance, students with disabilities, and public charter school employees.
- Includes full transparency and fair funding in .13 *Commensurate Funding* which addresses:
  - The commensurate formula including:
    - All calculations to arrive at a final allocation (Base per pupil allocation plus eligibility per pupil allocation plus special education allocation minus shared cost deductions minus administrative fee)
    - Revenue sources (all local, State, and federal revenue sources)
    - Enrollment counts
    - Special education allocation (Charter manages or LEA manages impacts allocation)
    - Final total per pupil
    - Requirement to share calculations
  - Shared Cost Deductions
  - Administrative Fee (2% unless the LEA requests of the State Board that the administrative fee be increased up to 5%)
  - Approval Procedure
  - Appeals Procedure

**Action**

Request permission to publish Code of Maryland Regulation 13A.02.10 *Maryland Public Charter School Program*.

**Attachments**

COMAR 13A.02.10 Maryland Public Charter School Program – Slide Deck

COMAR 13A.02.10 *Maryland Public Charter School Program* - Regulation

DIVISION OF STUDENT SUPPORT AND FEDERAL PROGRAMS

# COMAR 13A.02.10 Maryland Public Charter School Program

November 20, 2025

Presented By | Mary Gable, Assistant State Superintendent



## Presentation Outline

1. Background on Charter Schools
2. Charter School Workgroup
3. Guiding Principles
4. Components of COMAR 13A.02.10 Maryland Public Charter School Program
5. COMAR 13A.02.10.13 Commensurate Funding
6. Application of the Formula for Commensurate Funding

## History of Charter Schools

In 2003 – The Maryland General Assembly enacted the Public Charter School Act which was further amended in 2015.

By 2010 – 39 Charter Schools had been established serving 13,051 students in five Local Education Agencies (LEAs).

Between 2005 and 2025 – The State Board issued numerous opinions related to Charter Schools; three cases went to the Court of Appeals, now the Maryland Supreme Court.

2019 – In October 2019, MSDE brought a COMAR regulation: *Commensurate Funding for Charter Schools* before the State Board for Permission to Publish. This was the first time a regulation on Charter Schools was proposed.

2020 – In July 2020, the State Superintendent requested permission from the State Board to withdraw the proposed Charter School regulation. The State Board granted the request.

2025 – The State Board charged the State Superintendent to develop regulations on Charter Schools, specifically to address commensurate funding. On December 9, the State Board will consider COMAR 13A.02.10 *Maryland Public Charter School Program*.

# Key Provisions of Maryland Public Charter School Law (Education Article § 9-101 et seq)

## Authorizing

Local School Boards are the authorizers of public charter schools. The State Board hears appeals.

## Accountability

Public Charter Schools participate in the State accountability system.

## Employees

Public Charter School staff are employees of the Local Education Agency and are represented by the local bargaining units.

## Funding

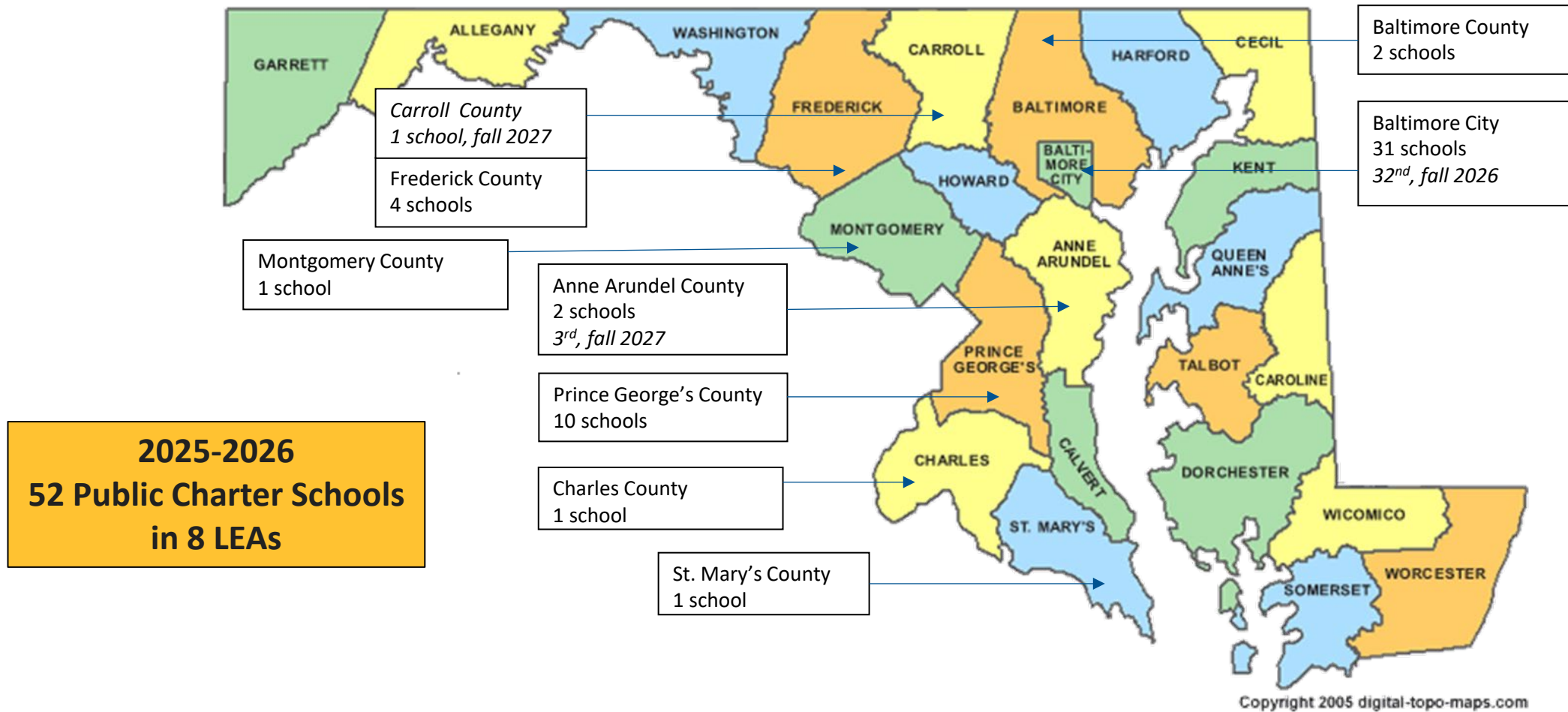
Per pupil funding must be commensurate with the amount of funding expended on behalf of all public school students.

## Autonomy

Key areas of increased autonomy are curriculum, governance, financial management, and selection of staff. Waivers are required from state and local regulations.

## Enrollment

Enrollment is open and admission is by lottery. Weighted lotteries are allowed in some circumstances.



# Workgroup

A workgroup was formed to provide input into commensurate funding related to charter schools. Members of the workgroup consisted of representatives from:

- **Maryland Alliance of Public Charter Schools**
- **Charter School Operators**
- **Chief Financial Officers (CFOs) and Staff from LEAs with Charter Schools**
- **Charter School Principals**
- **Maryland State Education Association (MSEA)**

- **Public School Superintendents Association of Maryland (PSSAM)**
- **Office of the Mayor of Baltimore City**
- **MSDE Staff**
- ***Workgroup Advisor: Office of the Attorney General***

## Workgroup (continued)

The Workgroup met four times between April and October 2025.

A smaller group met four times in August and September 2025 to provide recommendations to the larger Workgroup. The small group consisted of:

- **LEA CFOs**
- **LEA Staff**
- **Charter School Operators**
- **MSDE Staff**

## Principles Guiding the Regulation

- **Transparency** – ensure increased transparency of the process of calculating commensurate funding for charter schools.
- **Fairness** – create a clear and fair calculation that can be applied consistently across the State.

## Components of COMAR 13A.02.10

Serving as the framework, the regulation incorporates the provisions of Education Article § 9-101 *et seq*, Maryland's charter school law.

- .01 Purpose
- .02 Definitions
- .03 Waivers for Public Charter Schools on Federal Military Bases
- .04 Admission of Students on a Lottery Basis
- .05 Waiver for Converted Public Charter Schools
- .06 Chartering Authority
- .07 Applications to Establish Public Charter Schools
- .08 Renewal of Certain Public Charter School Contracts
- .09 Certification of Professional Staff Required
- .10 Compliance with Laws and Regulations Governing Other Public Schools Required
- .11 Students with Disabilities and Special Education Compliance Required
- .12 Public Charter School Employees

## Components of COMAR 13A.02.10 (continued)

COMAR 13A.02.10.04(E) requires that:

Each local school system shall collaborate with the public charter schools in its jurisdiction to develop, or have the public charter schools develop, a process through which the parent or guardian of a student may apply for admission to every public charter school in the jurisdiction **using a single application.**

## Components of COMAR 13A.02.10 (continued)

COMAR 13A.02.10.13 *Commensurate Funding* codifies a funding formula for public charter schools, not included in Education Article § 9-109.

COMAR 13A.02.10.13 provides clear direction on the implementation of Education Article § 9-109, which states:

“A county board shall disburse to a public charter school an amount of county, State, and federal money for elementary, middle, and secondary students that is **commensurate with the amount disbursed to other public schools** in the local jurisdiction.”

### .13 Commensurate Funding

- A. Formula
- B. Shared Cost Deductions
- C. Administrative Fee
- D. Approval Procedure
- E. Appeal Procedure

## Components of COMAR 13A.02.10 (continued)

Further sections taken from the statute of the Maryland Public Charter School Program include:

- .14 Public Charter School Policies
- .15 School Sites or Buildings Available for Public Charter School Use
- .16 Property Tax Exemption

## COMAR 13A.02.10.13 Commensurate Funding

Preliminary Total Per Pupil Allocation:

The initial calculation of all local, State, and federal revenue minus deductions and fees.

Final Total Per Pupil Allocation:

The adjusted amount after good-faith negotiations.

## COMAR 13A.02.10.13 Commensurate Funding

### A. Formula.

(1) The local board shall calculate **commensurate funding** for the public charter schools in its jurisdiction using a formula that complies with Education Article § 9-109 and this regulation.

(2) Includes all steps in the calculation using **all revenue sources**, local, State, and federal, to identify a **preliminary total per pupil allocation** for each public charter school that includes the enrollment of the public charter school, the special education allocation necessary to implement the IEPs of all students with a disability, shared cost deductions, and the administrative fee.

### (3) Revenue Sources.

(a) The preliminary total per pupil allocation shall be calculated using

**100 percent of each revenue source.**

(b) Any restrictions applicable to a revenue source shall continue to apply notwithstanding this regulation.

(c) The **concentration of poverty** grant program is not a revenue source for purposes of this regulation.

## COMAR 13A.02.10.13 Commensurate Funding

### (4) Enrollment Counts

(a) The preliminary total per pupil allocation shall be determined using the following data points, as applicable, for the local school system and each public charter school during the prior school year:

(i) The enrollment data collected on **September 30 or an alternate date set by the Department**; or

(ii) For a public charter school that is **new or expanding**, or with the consent of the public charter school, the **enrollment data projected** by the local school system.

(b) The final total per pupil allocation shall be adjusted, upward or downward, **only one time** based on the actual enrollment count for each public charter school during the school year.

## COMAR 13A.02.10.13 Commensurate Funding

### (5) Special Education Allocation

- (a) If a public charter school elects to **delegate the management of special education to the local school system**, the special education allocation in §A(2) of this regulation shall be **zero**.
- (b) If a public charter school elects to manage special education directly, the allocation shall be based on:
  - (i.) Special Education **revenue and** special education **transportation** revenue for each eligible student.
  - (ii.) Any additional revenue that is necessary to provide the services documented in the **IEPs** of each student enrolled; and
  - (iii.) **Equivalent costs** for services delivered in other schools
- (c) If a public charter school fails to timely complete corrective action required for special education noncompliance, the **local school system may centralize management of special education** with the approval of the Department.
- (d) If a public charter school student's individualized education program can only be implemented in a **non-public placement**, the student is no longer considered part of the special education allocation at the public charter school.

## COMAR 13A.02.10.13 Commensurate Funding

(6) The local board shall identify a **final total per pupil allocation** for each public charter school after:

- (a) **Negotiating** with the public charter schools **in good faith** regarding in-kind services, buy backs, and the management of special education; and
- (b) **Subtracting the cost of the negotiated items** from the preliminary total per pupil allocation.

(7) The local board shall **provide each public charter school** with a table showing:

- (a) The **calculation of its preliminary total per pupil allocation**, including:
  - (i) The base per pupil allocation;
  - (ii) The eligibility per pupil allocation;
  - (iii) The special education allocation;
  - (iv) The amount of the shared cost deductions; and
  - (v) The amount of the administrative fee;
- (b) The **calculation of its final total per pupil allocation**; and
- (c) To the extent practicable, the per pupil allocation of a **comparable public school** that is not a public charter school.

## COMAR 13A.02.10.13 Commensurate Funding

(8) Each public charter school **shall provide the information necessary** for the local school system to comply with reporting requirements in §§5-406 and 5-234 of the Education Article, Annotated Code of Maryland.

### B. Shared Cost Deductions.

(1) A local board **may apply shared cost deductions** when calculating commensurate funding under §A of this regulation.

(2) Each of the following shared cost deductions may be applied by a local board:

- (a) **Retiree benefits;**
- (b) **Adult education;** and
- (c) **Special education overage**

## COMAR 13A.02.10.13 Commensurate Funding

### C. Administrative Fee.

- (1) A local board **may charge an administrative fee** to each public charter school in its jurisdiction.
- (2) The administrative **fee shall account for the costs** related to:
  - (a) Implementation of § 9-110(a) of the Education Article, Annotated Code of Maryland;
  - (b) Local superintendent and local board administration;
  - (c) Special education and student services administration; and
  - (d) Human resources administration.
- (3) The administrative fee applied by a local board shall be:
  - (a) **Equal to 2%** of each public charter school's preliminary total per pupil allocation; **or**
  - (b) **Approved by the State Board** in accordance with §D of this regulation, **not to exceed 5%** of each public charter school's preliminary total per pupil allocation.

## COMAR 13A.02.10.13 Commensurate Funding

### D. Approval Procedure.

(1) A local board **shall submit** to the Department no later than **September 1** any request to charge an **administrative fee greater than 2%** of each public charter school's preliminary total per pupil allocation.

(2) The request shall include:

(a) An explanation **why** each administrative cost meets the criteria

(b) The **projected** fiscal impact on the local school system, including the total preliminary per pupil allocation for the public charter schools; and

(c) A **summary** of the local board's consultation with the public charter schools in its jurisdiction regarding the request.

(3) The Department shall **publish on its website each request** submitted by a local board under §D(1) of this regulation.

(4) The public charter schools in the jurisdiction **may submit** to the Department a written objection to the request **no later than October 1**.

## COMAR 13A.02.10.13 Commensurate Funding

### D. Approval Procedure.

(5) In evaluating the request, the **State Board shall consider:**

- (a) The level of detail and documentation provided to substantiate actual costs;
- (b) The alignment between the request and the applicable criteria;
- (c) The projected fiscal impact on the local school system, including the public charter schools.

(6) The State Board shall approve, modify, or deny each request **no later than December 31.**

(7) Requests approved under §D(6) of this regulation shall be valid in the local school system for **5 years.**

(8) A **local board may only seek a modification** to its commensurate funding formula during the 5-year period set forth in §D(7) of this regulation upon a showing that the modification is necessary to meet exigent circumstances.

## COMAR 13A.02.10.13 Commensurate Funding

### E. Appeal Procedure.

- (1) The local board or the public charter schools that submitted a written objection **may appeal a decision to the circuit court** of the jurisdiction in which the local board is located **within 30 days** of the date of the decision of the State Board.
- (2) The appeal is governed by Maryland Rules 7-401—7-403.
- (3) The State Board shall prepare and transmit the record in accordance with the timeline set forth in the Maryland Rules of Procedure.
- (4) The State Board may not participate as a party in an appeal.

## COMAR 13A.02.10.13 Commensurate Funding – Calculations

- MSDE did several sample calculations to test the result of the proposed calculation on the charter school per-pupil allocation. [Note: These are models and do not accurately represent final calculations or full dollars.]
- Inputs include:
  - Per-pupil amounts and enrollment from the State Aid Workbook for FY 26
  - Actual enrollment and deductions reported by LEAs for selected schools
- Inputs do not include:
  - Local revenue that is not part of the Blueprint
  - Federal restricted and non-restricted funds
- The Blueprint amount per pupil for students with disabilities was used as an estimate.

## COMAR 13A.02.10.13 Commensurate Funding – Calculations

The **Blueprint preliminary allocation** represents State Aid, divided by district enrollment, then multiplied by charter school enrollment. Each calculation used the appropriate enrollment numbers.

For the six LEAs that were reviewed, an estimate was calculated using a hypothetical 500 student school with demographics that mirror the LEA (e.g. %FRMS, %SWD).

The shared cost deductions and administrative fee resulted in a **final Per Pupil Allocation** after 10% to 17% of the Preliminary Allocation is withheld (meaning that 10% to 17% remains with the LEA for shared cost and administrative fees, with the remainder going to the Per Pupil Allocation).

## COMAR 13A.02.10.13 Commensurate Funding - Findings

**For three LEAs, estimates were calculated using the school enrollment numbers for the schools that the LEA included in its submission to the State Board.**

- LEA 1: The allowed shared cost deductions and a 5% administrative fee are estimated at 15% to 18% of the preliminary allocation. The estimated reduction from the preliminary allocation in the report to the Board is 25% to 40%.
- LEA 2: The allowed shared cost deductions and a 5% administrative fee are estimated at 16% to 19% of the preliminary allocation. The estimated reduction from the preliminary allocation in the report to the Board is 10% to 16%.
- LEA 3: The allowed shared cost deductions and a 5% administrative fee are estimated at 14% to 15% of the preliminary allocation. The estimated reduction from the preliminary allocation in the report to the Board is 20% to 21%.

## Estimated Percentage of Blueprint Preliminary Allocation Withheld

	<b>Regulation: Administrative Fee</b>	<b>Regulation: Estimate of Allowed Deductions</b>	<b>Regulation: Total Upper Estimate per Regulation</b>	<b>Current Total Deductions as a Percentage of Blueprint Preliminary Allocation</b>
LEA 1	2% - 5%	10% to 13%	18%	20% to 27%
LEA 2	2% - 5%	11% to 14%	19%	18% to 23%
LEA 3	2% - 5%	9% to 10%	15%	21%

# **Title 13A STATE BOARD OF EDUCATION**

## **Subtitle 02 LOCAL SCHOOL ADMINISTRATION**

### **Chapter 10 Maryland Public Charter School Program**

Authority: Education Article, §§2-205 and 9-101—9-112, Annotated Code of Maryland

#### **.01 Purpose.**

The general purpose of the Maryland Public Charter School Program is to establish an alternative means within the existing public school system in order to provide innovative learning opportunities and creative educational approaches to improve the education of students.

#### **.02 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

- (1) “Buy back” means a good or service that a public charter school elects to purchase from the local school system.
- (2) “In-kind service” means a service offered by the local school system to a public charter school and accepted by the public charter school without charge.
- (3) “Public charter school” means a public school that:
  - (a) Is nonsectarian in all its programs, policies, and operations;
  - (b) Is a school to which parents choose to send their children;
  - (c) Except as provided in §§ 9-102.1, 9-102.2, and 9-102.3 of the Education Article, Annotated Code of Maryland, is open to all students on a space-available basis and admits students on a lottery basis if more students apply than can be accommodated;
  - (d) Is a new public school or a conversion of an existing public school;
  - (e) Provides a program of elementary or secondary education or both;
  - (f) Operates in pursuit of a specific set of educational objectives;
  - (g) Is tuition-free;
  - (h) Is subject to federal and State laws prohibiting discrimination;
  - (i) Is in compliance with all applicable health and safety laws;
  - (j) Is in compliance with § 9-107 of the Education Article, Annotated Code of Maryland;
  - (k) Operates under the supervision of the public chartering authority from which its charter is granted and in accordance with its charter and, except as provided in §§ 9-104.1 and 9-106 of the Education Article, Annotated Code of Maryland, the provisions of law and regulation governing other public schools;
  - (l) Requires students to be physically present on school premises for a period of time substantially similar to that which other public school students spend on school premises; and
  - (m) Is created in accordance with Title 9 of the Education Article, Annotated Code of Maryland, this chapter, and the appropriate local board policy.
- (4) “Special education overage” means the difference between:
  - (a) A local school system’s actual expenditures on special education services and special education transportation during the prior fiscal year; and
  - (b) The local, State, and federal revenue dedicated to those costs that the local school system received the prior fiscal year.

#### **.03 Waivers for Public Charter Schools on Federal Military Bases.**

A. The State Board may grant a waiver from § 9-102(3) of the Education Article, Annotated Code of Maryland, to a public charter school if the public charter school:

- (1) Is located on property within a federal military base in the State; and
- (2) Will admit students with parents who are not assigned to the base to at least 35% of its total available space as part of the initial cohort of students in a grade.

B. If a public charter school is granted a waiver under §A of this regulation, subject to the requirement set forth in §A(2) of this regulation, the public charter school shall:

- (1) Admit all students on a lottery basis in accordance with § 9-102.2 of the Education Article, Annotated Code of Maryland; and
- (2) Take reasonable steps to maintain the 35% to 65% ratio intended as part of the initial cohort of students in a grade.

#### **.04 Admission of Students on a Lottery Basis.**

A. A public charter school may give greater weight to a student’s lottery status as part of a lottery held under § 9-102(3) of the Education Article, Annotated Code of Maryland, and in accordance with an application submitted under § 9-104 of the Education Article, Annotated Code of Maryland, if the student is:

- (1) Eligible for free or reduced price meals;
  - (2) A student with disabilities;
  - (3) A student with limited English proficiency;
  - (4) Homeless, as defined by the federal McKinney-Vento Homeless Assistance Act; or
  - (5) A sibling of a student currently enrolled in the public charter school for which the sibling is applying.
- B. Notwithstanding §9-102(3) of the Education Article, Annotated Code of Maryland, a public charter school may give priority to the sibling of a student admitted through the lottery process or a currently enrolled student for any spaces in the school that become available throughout the school year.
- C. Geographic Attendance Area.
- (1) Subject to the approval of the public chartering authority, a public charter school may propose a geographic attendance area with a median income that is equal to or less than the median income of the county for the public charter school.
  - (2) Subject to §C(4) of this regulation, a public charter school may provide guaranteed placement through a lottery to students who live within the geographic attendance area for up to 35%, as proposed by the public charter school and approved by the public chartering authority, of the available space of the public charter school.
  - (3) Subject to §§C(2) and C(4) of this regulation, the public charter school shall:
    - (a) Admit students on a lottery basis to its remaining available space; and
    - (b) Take reasonable steps to maintain the ratio intended under §C(2) of this regulation as part of the initial cohort of students accepted through the lottery process.
  - (4) If a public charter school does not fill 100% of its available space under §§C(2) and C(3) of this regulation, the public charter school may admit more than the percentage of students established under §C(2) of this regulation from the geographic attendance area established under this regulation.
- D. Guaranteed Placement Through Lottery.
- (1) Subject to the approval of the public chartering authority, §D(2) of this regulation, and § 9-104 of the Education Article, Annotated Code of Maryland, a public charter school may provide guaranteed placement through a lottery to up to 35%, as proposed by the public charter school and approved by the public chartering authority, of the available space of the public charter school to students who attended a public charter school during the previous school year that is operated by the same operator.
  - (2) A public charter school shall qualify under §D(1) of this regulation if:
    - (a) The operator operates two or more public charter schools in the county; and
    - (b) When combined, the public charter schools operated by the operator form an integrated multiyear academic program.
  - (3) Subject to §D(1) of this regulation, the public charter school shall:
    - (a) Admit students on a lottery basis to its remaining available space; and
    - (b) Take reasonable steps to maintain the ratio intended under §D(1) of this regulation as part of the initial cohort of students accepted through the lottery process.
  - (4) If a public charter school does not fill 100% of its available space under §§D(1) and D(3) of this regulation, the public charter school may admit more than the percentage of students established under §D(1) of this regulation.
- E. Each local school system shall collaborate with the public charter schools in its jurisdiction to develop, or have the public charter schools develop, a process through which the parent or guardian of a student may apply for admission to every public charter school in the jurisdiction using a single application.

**.05 Waiver for Converted Public Charter Schools.**

- A. A local board may grant a waiver from § 9-102(3) of the Education Article, Annotated Code of Maryland, to:
- (1) A converted public charter school that:
    - (a) Subject to §B of this regulation, provides guaranteed placement through a lottery to students who live within the geographic attendance area established by the local board;
    - (b) Is a low-performing school as identified by the local board;
    - (c) Is above the county average rate for the percentage of students who are eligible for free and reduced price meals; and
    - (d) Meets a strategic need of the local school system, as identified in the local board's public charter school policy developed under § 9-110 of the Education Article, Annotated Code of Maryland, that shall include at least one of the following elements:
      - (i) Serving a high-need population;
      - (ii) Increasing student performance;
      - (iii) Increasing enrollment; or
      - (iv) Increasing student diversity; or
  - (2) A converted public charter school that is seeking renewal of an existing charter contract that was granted under §A(1) of this regulation.
- B. If a public charter school does not fill 100% of its available space under §A(1) of this regulation, the public charter school shall admit students on a lottery basis to its remaining available space.

## **.06 Chartering Authority.**

The public chartering authority for the granting of a charter shall be a local board of education.

## **.07 Applications to Establish Public Charter Schools.**

### **A. Submission of Applications by Eligible Schools and Entities.**

- (1) An application to establish a public charter school shall be submitted to the local board of the county in which the public charter school will be located.
- (2) An application to establish a public charter school may be submitted to a local board by:
  - (a) The staff of a public school;
  - (b) A parent or guardian of a student who attends a public school in the county;
  - (c) A nonsectarian nonprofit entity;
  - (d) A nonsectarian institution of higher education in the State; or
  - (e) Any combination of persons specified in §A(2) of this regulation.
- (3) An application shall include:
  - (a) A plan to provide a rigorous program of instruction that includes an equivalent method for satisfying any requirements from which the public charter school operator intends to seek a waiver under § 9-106 of the Education Article, Annotated Code of Maryland; and
  - (b) A description of how a weighted lottery or the provision of guaranteed placement will be implemented under §§ 9-102.2 and 9-102.3 of the Education Article, Annotated Code of Maryland.
- (4) A public chartering authority may not grant a charter under this chapter to:
  - (a) A private school;
  - (b) A parochial school;
  - (c) A home school; or
  - (d) A school that operates fully online.
- (5) Timeline for Decision.
  - (a) Except as provided in §A(5)(b) of this regulation, the local board shall review the application and render a decision within 120 days of receipt of the application and in accordance with the application procedures adopted by the local board.
  - (b) For a restructured school:
    - (i) The local board shall review the application and render a decision within 30 days of receipt of the application;
    - (ii) The local board may apply to the State Board for an extension of up to 15 days;
    - (iii) If an extension is not granted, and 30 days have elapsed, the decision may be appealed to the State Board in accordance with § 4-205(c) of the Education Article, Annotated Code of Maryland; and
    - (iv) If an extension has been granted, and 45 days have elapsed, the decision may be appealed to the State Board in accordance with § 4-205(c) of the Education Article, Annotated Code of Maryland.
- (6) Contingent Approval.
  - (a) A public chartering authority may approve an application to operate a public charter school on a contingent basis subject to the conditions of §A(6)(b) of this regulation.
  - (b) The contingent approval granted under §A(6)(a) of this regulation may be contingent on:
    - (i) A public charter school's ability to meet any timelines established by the public chartering authority for the securing of a facility; and
    - (ii) Final approval by the public chartering authority regarding the suitability of the facility secured by the public charter school.

### **B. Separate Consideration of Weighted Lottery Process.**

- (1) If an application to establish a public charter school includes a description of the implementation of a weighted lottery that gives priority to students in a specific geographic attendance area in accordance with §§ 9-102.2 or § 9-102.3 of the Education Article, Annotated Code of Maryland, the public chartering authority may approve or reject this provision separately from the application as a whole.
- (2) A decision of a public chartering authority under §B(1) of this regulation may not be appealed to the State Board.

### **C. Inclusion of Staffing Model.**

- (1) An application to establish a public charter school may include a staffing model, including provisions for staff recruitment, training, evaluation, and professional development.
- (2) A public charter school may submit a staffing model with a renewal application or with an amendment to an existing charter.

### **D. Denial of Application and Appeals.**

- (1) If the local board denies an application to establish a public charter school, the applicant may appeal the decision to the State Board, in accordance with § 4-205(c) of the Education Article, Annotated Code of Maryland.
- (2) The State Board shall render a decision within 120 days of the filing of an appeal.
- (3) If the local board denies an application to establish a public charter school and the State Board reverses the decision, the State Board shall remand the matter to the local board and may direct the local board to grant a charter and may, if necessary, mediate with the local board and the applicant to implement the charter.

**.08 Renewal of Certain Public Charter School Contracts.**

- A. In this regulation, “eligible public charter school” means a public charter school that has been in existence for at least 5 years and demonstrates to the public chartering authority a history of:
- (1) Sound fiscal management; and
  - (2) Student achievement that exceeds the average in the local school system in which the public charter school is located on:
    - (a) Statewide assessments; and
    - (b) Other measures developed by the State Board.
- B. Submission of Application to Public Chartering Authority:
- (1) An eligible public charter school may submit to a public chartering authority:
    - (a) An application for renewal of an existing charter contract that incorporates the provisions of §D of this regulation; or
    - (b) Subject to §B(2) of this regulation, an application for an addendum to an existing charter contract that incorporates the provisions of §D of this regulation.
  - (2) An eligible public charter school may not submit an application under §B(1)(b) of this regulation more than one time during the duration of an existing charter contract.
- C. If the public chartering authority determines that a public charter school is not an eligible public charter school, the public charter school may appeal the decision to the State Board in accordance with § 4-205(c) of the Education Article, Annotated Code of Maryland.
- D. If an eligible public charter school and a public chartering authority mutually agree to an alternative means by which the eligible public charter school will satisfy the intent of the policies of the public chartering authority, an eligible public charter school is exempt from:
- (1) Textbook, instructional program, curriculum, professional development, and scheduling requirements;
  - (2) A requirement to establish a school community council;
  - (3) Except for Title I schools, a requirement to establish a school improvement plan;
  - (4) Except for schools with a school activity fund, a requirement to provide school activity fund disclosure statements; and
  - (5) Except for prekindergarten classes, class size or staffing ratios.
- E. A public chartering authority and an eligible public charter school may jointly develop and mutually agree to a communication process and supervision methodology that flows among the local board, the operator, and the administration of the eligible public charter school.
- F. Assignment of Staff.
- (1) An eligible public charter school may not be assigned a principal without the written consent of the operator of the eligible public charter school.
  - (2) Staff assignment and transfer.
    - (a) Staff members shall be assigned or transferred to an eligible public charter school if the staff member expresses in writing that the staff member wants to work in that eligible public charter school and the eligible public charter school requests in writing that the staff member be assigned or transferred to the eligible public charter school, provided there is an existing vacancy.
    - (b) A transfer authorized under §F(2)(a) of this regulation shall take place as designated by the agreement of the local bargaining unit in the local school system.
- G. Nothing in this regulation may be construed to take precedence over an agreement of a local bargaining unit in a local school system.
- H. Except as otherwise provided in this regulation, an eligible public charter school is subject to the provisions of this chapter.

**.09 Certification of Professional Staff Required.**

A member of the professional staff of a public charter school shall be subject to the same certification provisions established in regulations for the professional staff of other public schools.

**.10 Compliance with Laws and Regulations Governing Other Public Schools Required.**

- A. Subject to §B of this regulation, a public charter school shall comply with the provisions of law and regulation governing other public schools.
- B. Waiver of Requirements. Subject to §D of this regulation, a public charter school may seek a waiver of the requirements under §A of this regulation from:
- (1) A local board for policies that are the policies of the local board; and
  - (2) The State Board for policies that are the policies of the State Board.
- C. If a waiver is denied under this regulation, the local board or the State Board, as appropriate, shall provide the reason for the denial in writing to the public charter school.
- B. A waiver may not be granted from provisions of law or regulation relating to:
- (1) Audit requirements;
  - (2) The measurement of student academic achievement, including all assessments required for other public schools and other assessments mutually agreed upon by the public chartering authority and the public charter school; or
  - (3) The health, safety, or civil rights of a student or an employee of the public charter school.

### **.11 Students with Disabilities and Special Education Compliance Required.**

- A. A public chartering authority may not grant a charter to a public charter school whose operation would be inconsistent with any public policy initiative, court order, or federal improvement plan governing special education that is applicable to the State.
- B. A public chartering authority shall ensure that the authorizing process for a public charter school and the charter application address the roles and responsibilities of the local board and the applicants and operators of the public charter school with respect to children with disabilities.
- C. The public chartering authority shall ensure that, prior to opening a public charter school, the operators of the school are informed of the human, fiscal, and organizational capacity needed to fulfill the school's responsibilities related to children with disabilities.

### **.12 Public Charter School Employees.**

- A. Employees of a public charter schools:
  - (1) Are public school employees, as defined in §§6-401(e) and 6-501(g) of the Education Article, Annotated Code of Maryland;
  - (2) Are employees of a public school employer, as defined in §§6-401(f) and 6-501(h) of the Education Article, Annotated Code of Maryland, in the county in which the public charter school is located; and
  - (3) Shall have the rights granted under Title 6, Subtitles 4 and 5 of the Education Article, Annotated Code of Maryland.
- B. If a collective bargaining agreement under Title 6, Subtitles 4 or 5 of the Education Article, Annotated Code of Maryland, is already in existence in the county where a public charter school is located, the employee organization, public school employer, and the public charter school may mutually agree to negotiate amendments to the existing agreement to address the needs of the particular public charter school, including amendments to work days, work hours, school year, procedures for transfers that are consistent with the instructional mission of the school, and extra duty assignments.

### **.13 Commensurate Funding.**

- A. Formula.
  - (1) A local board of education shall calculate commensurate funding for the public charter schools in its jurisdiction using a formula that complies with § 9-109 of the Education Article, Annotated Code of Maryland, and this regulation.
  - (2) The local board shall identify a preliminary total per pupil allocation for each public charter school by completing all of the following steps in order:
    - (a) Identify all local, State, and federal revenue sources, consistent with §A(3) of this regulation, contained in the local school system's operating budget;
    - (b) Identify the enrollment counts, consistent with §A(4) of this regulation, for the local school system and each public charter school;
    - (c) Divide each local, State, and federal revenue source that is not eligibility based by total enrollment;
    - (d) Multiply the results from §A(2)(c) of this regulation by the last enrollment count for each public charter school to determine the base per pupil allocation;
    - (e) Divide each local, State, and federal revenue source that is eligibility based, with the exception of special education revenue and special education transportation revenue, by eligible enrollment;
    - (f) Multiply the results from §A(2)(e) of this regulation by the last enrollment count of eligible students for each public charter school to determine the eligibility per pupil allocation;
    - (g) Identify the special education allocation, consistent with §A(5) of this regulation, necessary to implement the individualized education programs of all students with disabilities enrolled at each public charter school;
    - (h) Add the results from §A(2)(d), (f), and (g) of this regulation;
    - (i) Divide the shared cost deductions in §B of this regulation by total enrollment;
    - (j) Multiply the results from §A(2)(i) of this regulation by the last enrollment count for each public charter school;
    - (k) Subtract the result in §A(2)(j) of this regulation from the result in §A(2)(h) of this regulation; and
    - (l) Multiply the result from §A(2)(k) of this regulation by the difference between 1.0 and the administrative fee in §C of this regulation.
  - (3) Revenue Sources.
    - (a) The preliminary total per pupil allocation shall be calculated using 100 percent of each revenue source.
    - (b) Any restrictions applicable to a revenue source shall continue to apply notwithstanding this regulation.
    - (c) The concentration of poverty grant program established under §5-223 of the Education Article, Annotated Code of Maryland, is not a revenue source for purposes of this regulation.
  - (4) Enrollment Counts.
    - (a) The preliminary total per pupil allocation shall be determined using the following data points, as applicable, for the local school system and each public charter school during the prior school year:
      - (i) The enrollment data collected on September 30 or an alternate date set by the Department; or
      - (ii) For a public charter school that is new or expanding, or with the consent of the public charter school, the enrollment data projected by the local school system.

- (b) The final total per pupil allocation shall be adjusted, upward or downward, only one time based on the actual enrollment count for each public charter school during the school year.
- (5) Special Education Allocation.
- (a) If a public charter school elects to delegate the management of special education to the local school system, the special education allocation in §A(2) of this regulation shall be zero.
- (b) If a public charter school elects to manage special education directly, the special education allocation shall be based on:
- (i) The special education revenue and special education transportation revenue for which each student enrolled in the public charter school is eligible;
  - (ii) Any additional revenue that is necessary to provide the services documented in the individualized education program of each student enrolled in the public charter school; and
  - (iii) Equivalent costs for services delivered in other schools within the local school system.
- (c) If a public charter school fails to timely complete corrective action required for special education noncompliance, the local school system may centralize management of special education with the approval of the Department.
- (d) If a public charter school student's individualized education program can only be implemented in a non-public placement, the student is no longer considered part of the special education allocation at the public charter school.
- (6) The local board shall identify a final total per pupil allocation for each public charter school after:
- (a) Negotiating with the public charter schools in good faith regarding in-kind services, buy backs, and the management of special education; and
  - (b) Subtracting the cost of the negotiated items from the preliminary total per pupil allocation.
- (7) The local board shall provide each public charter school with a table showing:
- (a) The calculation of its preliminary total per pupil allocation, including:
    - (i) The base per pupil allocation;
    - (ii) The eligibility per pupil allocation;
    - (iii) The special education allocation;
    - (iv) The amount of the shared cost deductions; and
    - (v) The amount the administrative fee;
  - (b) The calculation of its final total per pupil allocation; and
  - (c) To the extent practicable, the per pupil allocation of a comparable public school that is not a public charter school.
- (8) Each public charter school shall provide the information necessary for the local school system to comply with reporting requirements in §§5-406 and 5-234 of the Education Article, Annotated Code of Maryland.
- B. Shared Cost Deductions.
- (1) A local board may apply shared cost deductions when calculating commensurate funding under §A of this regulation.
  - (2) Each of the following shared cost deductions may be applied by a local board:
    - (a) Retiree benefits;
    - (b) Adult education; and
    - (c) Special education overage.
- C. Administrative Fee.
- (1) A local board may charge an administrative fee to each public charter school in its jurisdiction.
  - (2) The administrative fee shall account for the costs related to:
    - (a) Implementation of § 9-110(a) of the Education Article, Annotated Code of Maryland;
    - (b) Local superintendent and local board administration;
    - (c) Special education and student services administration; and
    - (d) Human resources administration.
  - (3) The administrative fee applied by a local board shall be:
    - (a) Equal to 2% of each public charter school's preliminary total per pupil allocation; or
    - (b) Approved by the State Board in accordance with §D of this regulation, not to exceed 5% of each public charter school's preliminary total per pupil allocation.
- D. Approval Procedure.
- (1) A local board shall submit to the Department no later than September 1 any request to charge an administrative fee greater than 2% of each public charter school's preliminary total per pupil allocation.
  - (2) The request shall include:
    - (a) An explanation why each administrative cost meets the criteria set forth in §C(2) of this regulation;
    - (b) The projected fiscal impact on the local school system, including the total preliminary per pupil allocation for the public charter schools; and
    - (c) A summary of the local board's consultation with the public charter schools in its jurisdiction regarding the request.
  - (3) The Department shall publish on its website each request submitted by a local board under §D(1) of this regulation.
  - (4) The public charter schools in the jurisdiction may submit to the Department a written objection to the request no later than October 1.
  - (5) In evaluating the request, the State Board shall consider:
    - (a) The level of detail and documentation provided to substantiate actual costs;
    - (b) The alignment between the request and the applicable criteria; and

- (c) The projected fiscal impact on the local school system, including the public charter schools.
- (6) The State Board shall approve, modify, or deny each request no later than December 31.
- (7) Requests approved under §D(6) of this regulation shall be valid in the local school system for 5 years.
- (8) A local board may only seek a modification to its commensurate funding formula during the 5-year period set forth in §D(7) of this regulation upon a showing that the modification is necessary to meet exigent circumstances.

E. Appeal Procedure.

- (1) The local board or the public charter schools that submitted a written objection may appeal a decision to the circuit court of the jurisdiction in which the local board is located within 30 days of the date of the decision of the State Board.
- (2) The appeal is governed by Maryland Rules 7-401—7-403.
- (3) The State Board shall prepare and transmit the record in accordance with the time line set forth in the Maryland Rules of Procedure.
- (4) The State Board may not participate as a party in an appeal.

**.14 Public Charter School Policies.**

A. Submission of Public Charter School Policy to the State Board.

- (1) Each local board shall develop a public charter school policy and provide it to the State Board.
- (2) The policy required under §A(1) of this regulation shall include guidelines and procedures regarding:
  - (a) Evaluation of public charter schools;
  - (b) Revocation of a charter;
  - (c) Reporting requirements;
  - (d) Financial, programmatic, or compliance audits of public charter schools; and
  - (e) Calculation of commensurate funding, including the formula established under Regulation .13 of this chapter.
- (3) The policy required under §A(1) of this regulation, including any updates or amendments made to the policy, shall be provided to the Department and made available on request and posted on the website of the local board.

**.15 School Sites or Buildings Available for Public Charter School Use.**

A. Notice of Availability of School Sites or Buildings.

- (1) If, with the approval of the State Superintendent, a local board determines that a school site or building no longer is needed for school purposes and after the county commissioners or county council have provided the required notice under § 4-115 of the Education Article, Annotated Code of Maryland, the local board shall inform the public charter schools in the county that the school site or building is available for occupation and use by a public charter school on the terms determined by the local board.
- (2) Each local board:
  - (a) Shall establish a procedure to determine which public charter school may occupy and use an available school site or building if more than one public charter school notifies the local board of an interest in occupying and using a school site or building; and
  - (b) May consider the utilization rate of surrounding school sites and buildings when authorizing a public charter school to occupy a school site or building.

B. A public charter school that occupies or uses a school site or building under §A of this regulation may not sell, dispose of, or otherwise transfer the school site or building.

**.16 Property Tax Exemption.**

Any portion of a building or property occupied and used by a public charter school shall be exempt from property taxes under § 7-202 of the Tax—Property Article, Annotated Code of Maryland, for the duration of the occupation and use of the building or property as a public charter school.

# Title 13A STATE BOARD OF EDUCATION

## Subtitle 02 LOCAL SCHOOL ADMINISTRATION

### Chapter 10 Maryland Public Charter School Program

Authority: Education Article, §§2-205 and 9-101—9-112, Annotated Code of Maryland

#### **.01 Purpose.**

The general purpose of the Maryland Public Charter School Program is to establish an alternative means within the existing public school system in order to provide innovative learning opportunities and creative educational approaches to improve the education of students.

#### **.02 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

- (1) “Buy back” means a good or service that a public charter school elects to purchase from the local school system.
- (2) “In-kind service” means a service offered by the local school system to a public charter school and accepted by the public charter school without charge.
- (3) “Public charter school” means a public school that:
  - (a) Is nonsectarian in all its programs, policies, and operations;
  - (b) Is a school to which parents choose to send their children;
  - (c) Except as provided in §§ 9-102.1, 9-102.2, and 9-102.3 of the Education Article, Annotated Code of Maryland, is open to all students on a space-available basis and admits students on a lottery basis if more students apply than can be accommodated;
  - (d) Is a new public school or a conversion of an existing public school;
  - (e) Provides a program of elementary or secondary education or both;
  - (f) Operates in pursuit of a specific set of educational objectives;
  - (g) Is tuition-free;
  - (h) Is subject to federal and State laws prohibiting discrimination;
  - (i) Is in compliance with all applicable health and safety laws;
  - (j) Is in compliance with § 9-107 of the Education Article, Annotated Code of Maryland;
  - (k) Operates under the supervision of the public chartering authority from which its charter is granted and in accordance with its charter and, except as provided in §§ 9-104.1 and 9-106 of the Education Article, Annotated Code of Maryland, the provisions of law and regulation governing other public schools;
  - (l) Requires students to be physically present on school premises for a period of time substantially similar to that which other public school students spend on school premises; and
  - (m) Is created in accordance with Title 9 of the Education Article, Annotated Code of Maryland, this chapter, and the appropriate local board policy.
- (4) “Special education overage” means the difference between:
  - (a) A local school system’s actual expenditures on special education services and special education transportation during the prior fiscal year; and
  - (b) The local, State, and federal revenue dedicated to those costs that the local school system received the prior fiscal year.

#### **.03 Waivers for Public Charter Schools on Federal Military Bases.**

A. The State Board may grant a waiver from § 9-102(3) of the Education Article, Annotated Code of Maryland, to a public charter school if the public charter school:

- (1) Is located on property within a federal military base in the State; and
- (2) Will admit students with parents who are not assigned to the base to at least 35% of its total available space as part of the initial cohort of students in a grade.

B. If a public charter school is granted a waiver under §A of this regulation, subject to the requirement set forth in §A(2) of this regulation, the public charter school shall:

- (1) Admit all students on a lottery basis in accordance with § 9-102.2 of the Education Article, Annotated Code of Maryland; and
- (2) Take reasonable steps to maintain the 35% to 65% ratio intended as part of the initial cohort of students in a grade.

#### **.04 Admission of Students on a Lottery Basis.**

A. A public charter school may give greater weight to a student’s lottery status as part of a lottery held under § 9-102(3) of the Education Article, Annotated Code of Maryland, and in accordance with an application submitted under § 9-104 of the Education Article, Annotated Code of Maryland, if the student is:

**Highlight changes from 10/29/25 to 11/12/25**

- (1) Eligible for free or reduced price meals;
  - (2) A student with disabilities;
  - (3) A student with limited English proficiency;
  - (4) Homeless, as defined by the federal McKinney-Vento Homeless Assistance Act; or
  - (5) A sibling of a student currently enrolled in the public charter school for which the sibling is applying.
- B. Notwithstanding §9-102(3) of the Education Article, Annotated Code of Maryland, a public charter school may give priority to the sibling of a student admitted through the lottery process or a currently enrolled student for any spaces in the school that become available throughout the school year.
- C. Geographic Attendance Area.
- (1) Subject to the approval of the public chartering authority, a public charter school may propose a geographic attendance area with a median income that is equal to or less than the median income of the county for the public charter school.
  - (2) Subject to §C(4) of this regulation, a public charter school may provide guaranteed placement through a lottery to students who live within the geographic attendance area for up to 35%, as proposed by the public charter school and approved by the public chartering authority, of the available space of the public charter school.
  - (3) Subject to §§C(2) and C(4) of this regulation, the public charter school shall:
    - (a) Admit students on a lottery basis to its remaining available space; and
    - (b) Take reasonable steps to maintain the ratio intended under §C(2) of this regulation as part of the initial cohort of students accepted through the lottery process.
  - (4) If a public charter school does not fill 100% of its available space under §§C(2) and C(3) of this regulation, the public charter school may admit more than the percentage of students established under §C(2) of this regulation from the geographic attendance area established under this regulation.
- D. Guaranteed Placement Through Lottery.
- (1) Subject to the approval of the public chartering authority, §D(2) of this regulation, and § 9-104 of the Education Article, Annotated Code of Maryland, a public charter school may provide guaranteed placement through a lottery to up to 35%, as proposed by the public charter school and approved by the public chartering authority, of the available space of the public charter school to students who attended a public charter school during the previous school year that is operated by the same operator.
  - (2) A public charter school shall qualify under §D(1) of this regulation if:
    - (a) The operator operates two or more public charter schools in the county; and
    - (b) When combined, the public charter schools operated by the operator form an integrated multiyear academic program.
  - (3) Subject to §D(1) of this regulation, the public charter school shall:
    - (a) Admit students on a lottery basis to its remaining available space; and
    - (b) Take reasonable steps to maintain the ratio intended under §D(1) of this regulation as part of the initial cohort of students accepted through the lottery process.
  - (4) If a public charter school does not fill 100% of its available space under §§D(1) and D(3) of this regulation, the public charter school may admit more than the percentage of students established under §D(1) of this regulation.
- E. Each local school system shall collaborate with the public charter schools in its jurisdiction to develop, or have the public charter schools develop, a process through which the parent or guardian of a student may apply for admission to every public charter school in the jurisdiction using a single application.

**.05 Waiver for Converted Public Charter Schools.**

- A. A local board may grant a waiver from § 9-102(3) of the Education Article, Annotated Code of Maryland, to:
- (1) A converted public charter school that:
    - (a) Subject to §B of this regulation, provides guaranteed placement through a lottery to students who live within the geographic attendance area established by the local board;
    - (b) Is a low-performing school as identified by the local board;
    - (c) Is above the county average rate for the percentage of students who are eligible for free and reduced price meals; and
    - (d) Meets a strategic need of the local school system, as identified in the local board's public charter school policy developed under § 9-110 of the Education Article, Annotated Code of Maryland, that shall include at least one of the following elements:
      - (i) Serving a high-need population;
      - (ii) Increasing student performance;
      - (iii) Increasing enrollment; or
      - (iv) Increasing student diversity;
  - (2) A converted public charter school that is seeking renewal of an existing charter contract that was granted under §A(1) of this regulation.
- B. If a public charter school does not fill 100% of its available space under §A(1) of this regulation, the public charter school shall admit students on a lottery basis to its remaining available space.

**.06 Chartering Authority.**

The public chartering authority for the granting of a charter shall be a local board of education.

**.07 Applications to Establish Public Charter Schools.**

**A. Submission of Applications by Eligible Schools and Entities.**

- (1) An application to establish a public charter school shall be submitted to the local board of the county in which the public charter school will be located.
- (2) An application to establish a public charter school may be submitted to a local board by:
  - (a) The staff of a public school;
  - (b) A parent or guardian of a student who attends a public school in the county;
  - (c) A nonsectarian nonprofit entity;
  - (d) A nonsectarian institution of higher education in the State; or
  - (e) Any combination of persons specified in §A(2) of this regulation.
- (3) An application shall include:
  - (a) A plan to provide a rigorous program of instruction that includes an equivalent method for satisfying any requirements from which the public charter school operator intends to seek a waiver under § 9-106 of the Education Article, Annotated Code of Maryland; and
  - (b) A description of how a weighted lottery or the provision of guaranteed placement will be implemented under §§ 9-102.2 and 9-102.3 of the Education Article, Annotated Code of Maryland.
- (4) A public chartering authority may not grant a charter under this chapter to:
  - (a) A private school;
  - (b) A parochial school;
  - (c) A home school; or
  - (d) A school that operates fully online.
- (5) Timeline for Decision.
  - (a) Except as provided in §A(5)(b) of this regulation, the local board shall review the application and render a decision within 120 days of receipt of the application and in accordance with the application procedures adopted by the local board.
  - (b) For a restructured school:
    - (i) The local board shall review the application and render a decision within 30 days of receipt of the application;
    - (ii) The local board may apply to the State Board for an extension of up to 15 days;
    - (iii) If an extension is not granted, and 30 days have elapsed, the decision may be appealed to the State Board in accordance with § 4-205(c) of the Education Article, Annotated Code of Maryland; and
    - (iv) If an extension has been granted, and 45 days have elapsed, the decision may be appealed to the State Board in accordance with § 4-205(c) of the Education Article, Annotated Code of Maryland.
- (6) Contingent Approval.
  - (a) A public chartering authority may approve an application to operate a public charter school on a contingent basis subject to the conditions of §A(6)(b) of this regulation.
  - (b) The contingent approval granted under §A(6)(a) of this regulation may be contingent on:
    - (i) A public charter school's ability to meet any timelines established by the public chartering authority for the securing of a facility; and
    - (ii) Final approval by the public chartering authority regarding the suitability of the facility secured by the public charter school.

**B. Separate Consideration of Weighted Lottery Process.**

- (1) If an application to establish a public charter school includes a description of the implementation of a weighted lottery that gives priority to students in a specific geographic attendance area in accordance with §§ 9-102.2 or § 9-102.3 of the Education Article, Annotated Code of Maryland, the public chartering authority may approve or reject this provision separately from the application as a whole.
- (2) A decision of a public chartering authority under §B(1) of this regulation may not be appealed to the State Board.

**C. Inclusion of Staffing Model.**

- (1) An application to establish a public charter school may include a staffing model, including provisions for staff recruitment, training, evaluation, and professional development.
- (2) A public charter school may submit a staffing model with a renewal application or with an amendment to an existing charter.

**D. Denial of Application and Appeals.**

- (1) If the local board denies an application to establish a public charter school, the applicant may appeal the decision to the State Board, in accordance with § 4-205(c) of the Education Article, Annotated Code of Maryland.
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- (3) If the local board denies an application to establish a public charter school and the State Board reverses the decision, the State Board shall remand the matter to the local board and may direct the local board to grant a charter and may, if necessary, mediate with the local board and the applicant to implement the charter.

**.08 Renewal of Certain Public Charter School Contracts.**

- A. In this regulation, “eligible public charter school” means a public charter school that has been in existence for at least 5 years and demonstrates to the public chartering authority a history of:
- (1) Sound fiscal management; and
  - (2) Student achievement that exceeds the average in the local school system in which the public charter school is located on:
    - (a) Statewide assessments; and
    - (b) Other measures developed by the State Board.
- B. Submission of Application to Public Chartering Authority:
- (1) An eligible public charter school may submit to a public chartering authority:
    - (a) An application for renewal of an existing charter contract that incorporates the provisions of §D of this regulation; or
    - (b) Subject to §B(2) of this regulation, an application for an addendum to an existing charter contract that incorporates the provisions of §D of this regulation.
  - (2) An eligible public charter school may not submit an application under §B(1)(b) of this regulation more than one time during the duration of an existing charter contract.
- C. If the public chartering authority determines that a public charter school is not an eligible public charter school, the public charter school may appeal the decision to the State Board in accordance with § 4-205(c) of the Education Article, Annotated Code of Maryland.
- D. If an eligible public charter school and a public chartering authority mutually agree to an alternative means by which the eligible public charter school will satisfy the intent of the policies of the public chartering authority, an eligible public charter school is exempt from:
- (1) Textbook, instructional program, curriculum, professional development, and scheduling requirements;
  - (2) A requirement to establish a school community council;
  - (3) Except for Title I schools, a requirement to establish a school improvement plan;
  - (4) Except for schools with a school activity fund, a requirement to provide school activity fund disclosure statements; and
  - (5) Except for prekindergarten classes, class size or staffing ratios.
- E. A public chartering authority and an eligible public charter school may jointly develop and mutually agree to a communication process and supervision methodology that flows among the local board, the operator, and the administration of the eligible public charter school.
- F. Assignment of Staff.
- (1) An eligible public charter school may not be assigned a principal without the written consent of the operator of the eligible public charter school.
  - (2) Staff assignment and transfer.
    - (a) Staff members shall be assigned or transferred to an eligible public charter school if the staff member expresses in writing that the staff member wants to work in that eligible public charter school and the eligible public charter school requests in writing that the staff member be assigned or transferred to the eligible public charter school, provided there is an existing vacancy.
    - (b) A transfer authorized under §F(2)(a) of this regulation shall take place as designated by the agreement of the local bargaining unit in the local school system.
- G. Nothing in this regulation may be construed to take precedence over an agreement of a local bargaining unit in a local school system.
- H. Except as otherwise provided in this regulation, an eligible public charter school is subject to the provisions of this chapter.

**.09 Certification of Professional Staff Required.**

A member of the professional staff of a public charter school shall be subject to the same certification provisions established in regulations for the professional staff of other public schools.

**.10 Compliance with Laws and Regulations Governing Other Public Schools Required.**

- A. Subject to §B of this regulation, a public charter school shall comply with the provisions of law and regulation governing other public schools.
- B. Waiver of Requirements. Subject to §D of this regulation, a public charter school may seek a waiver of the requirements under §A of this regulation from:
- (1) A local board for policies that are the policies of the local board; and
  - (2) The State Board for policies that are the policies of the State Board.
- C. If a waiver is denied under this regulation, the local board or the State Board, as appropriate, shall provide the reason for the denial in writing to the public charter school.
- B. A waiver may not be granted from provisions of law or regulation relating to:
- (1) Audit requirements;
  - (2) The measurement of student academic achievement, including all assessments required for other public schools and other assessments mutually agreed upon by the public chartering authority and the public charter school; or
  - (3) The health, safety, or civil rights of a student or an employee of the public charter school.

**.11 Students with Disabilities and Special Education Compliance Required.**

- A. A public chartering authority may not grant a charter to a public charter school whose operation would be inconsistent with any public policy initiative, court order, or federal improvement plan governing special education that is applicable to the State.
- B. A public chartering authority shall ensure that the authorizing process for a public charter school and the charter application address the roles and responsibilities of the local board and the applicants and operators of the public charter school with respect to children with disabilities.
- C. The public chartering authority shall ensure that, prior to opening a public charter school, the operators of the school are informed of the human, fiscal, and organizational capacity needed to fulfill the school's responsibilities related to children with disabilities.

**.12 Public Charter School Employees.**

- A. Employees of a public charter schools:
  - (1) Are public school employees, as defined in §§6-401(e) and 6-501(g) of the Education Article, Annotated Code of Maryland;
  - (2) Are employees of a public school employer, as defined in §§6-401(f) and 6-501(h) of the Education Article, Annotated Code of Maryland, in the county in which the public charter school is located; and
  - (3) Shall have the rights granted under Title 6, Subtitles 4 and 5 of the Education Article, Annotated Code of Maryland.
- B. If a collective bargaining agreement under Title 6, Subtitles 4 or 5 of the Education Article, Annotated Code of Maryland, is already in existence in the county where a public charter school is located, the employee organization, public school employer, and the public charter school may mutually agree to negotiate amendments to the existing agreement to address the needs of the particular public charter school, including amendments to work days, work hours, school year, procedures for transfers that are consistent with the instructional mission of the school, and extra duty assignments.

**.13 Commensurate Funding.**

- A. Formula.
  - (1) A local board of education shall calculate commensurate funding for the public charter schools in its jurisdiction using a formula that complies with § 9-109 of the Education Article, Annotated Code of Maryland, and this regulation.
  - (2) The local board shall identify a preliminary total per pupil allocation for each public charter school by completing all of the following steps in order:
    - (a) Identify all local, State, and federal revenue sources, consistent with §A(3) of this regulation, contained in the local school system's operating budget;
    - (b) Identify the enrollment counts, consistent with §A(4) of this regulation, for the local school system and each public charter school;
    - (c) Divide each local, State, and federal revenue source that is not eligibility based by total enrollment;
    - (d) Multiply the results from §A(2)(c) of this regulation by the last enrollment count for each public charter school to determine the base per pupil allocation;
    - (e) Divide each local, State, and federal revenue source that is eligibility based, with the exception of special education revenue and special education transportation revenue, by eligible enrollment;
    - (f) Multiply the results from §A(2)(e) of this regulation by the last enrollment count of eligible students for each public charter school to determine the eligibility per pupil allocation;
    - (g) Identify the special education allocation, consistent with §A(5) of this regulation, necessary to implement the individualized education programs of all students with disabilities enrolled at each public charter school;
    - (h) Add the results from §A(2)(d), (f), and (g) of this regulation;
    - (i) Divide the shared cost deductions in §B of this regulation by total enrollment;
    - (j) Multiply the results from §A(2)(i) of this regulation by the last enrollment count for each public charter school;
    - (k) Subtract the result in §A(2)(j) of this regulation from the result in §A(2)(h) of this regulation; and
    - (l) Multiply the result from §A(2)(k) of this regulation by the difference between 1.0 and the administrative fee in §C of this regulation.
  - (3) Revenue Sources.
    - (a) The preliminary total per pupil allocation shall be calculated using 100 percent of each revenue source.
    - (b) Any restrictions applicable to a revenue source shall continue to apply notwithstanding this regulation.
    - (c) The concentration of poverty grant program established under §5-223 of the Education Article, Annotated Code of Maryland, is not a revenue source for purposes of this regulation.
  - (4) Enrollment Counts.
    - (a) The preliminary total per pupil allocation shall be determined using the following data points, as applicable, for the local school system and each public charter school during the prior school year:
      - (i) The enrollment data collected on September 30 or an alternate date set by the Department; or
      - (ii) For a public charter school that is new or expanding, or with the consent of the public charter school, the enrollment data projected by the local school system.

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- (b) The final total per pupil allocation shall be adjusted, upward or downward, only one time based on the actual enrollment count for each public charter school during the school year.
- (5) Special Education Allocation.
- (a) If a public charter school elects to delegate the management of special education to the local school system, the special education allocation in §A(2) of this regulation shall be zero.
- (b) If a public charter school elects to manage special education directly, the special education allocation shall be based on:
- (i) The special education revenue and special education transportation revenue for which each student enrolled in the public charter school is eligible;
- (ii) Any additional revenue that is necessary to provide the services documented in the individualized education program of each student enrolled in the public charter school; and
- (iii) Equivalent costs for services delivered in other schools within the local school system.
- (c) If a public charter school fails to timely complete corrective action required for special education noncompliance, the local school system may centralize management of special education with the approval of the Department.
- (d) If a public charter school student's individualized education program can only be implemented in a non-public placement, the student is no longer considered part of the special education allocation at the public charter school.
- (6) The local board shall identify a final total per pupil allocation for each public charter school after:
- (a) Negotiating with the public charter schools in good faith regarding in-kind services, buy backs, and the management of special education; and
- (b) Subtracting the cost of the negotiated items from the preliminary total per pupil allocation.
- (7) The local board shall provide each public charter school with a table showing:
- (a) The calculation of its preliminary total per pupil allocation, including:
- (i) The base per pupil allocation;
- (ii) The eligibility per pupil allocation;
- (iii) The special education allocation;
- (iv) The amount of the shared cost deductions; and
- (v) The amount the administrative fee;
- (b) The calculation of its final total per pupil allocation; and
- (c) To the extent practicable, the per pupil allocation of a comparable public school that is not a public charter school.
- (8) Each public charter school shall provide the information necessary for the local school system to comply with reporting requirements in §§5-406 and 5-234 of the Education Article, Annotated Code of Maryland.
- B. Shared Cost Deductions.
- (1) A local board may apply shared cost deductions when calculating commensurate funding under §A of this regulation.
- (2) Each of the following shared cost deductions may be applied by a local board:
- (a) Retiree benefits;
- (b) Adult education; and
- (c) Special education overage.
- C. Administrative Fee.
- (1) A local board may charge an administrative fee to each public charter school in its jurisdiction.
- (2) The administrative fee shall account for the costs related to:
- (a) Implementation of § 9-110(a) of the Education Article, Annotated Code of Maryland;
- (b) Local superintendent and local board administration;
- (c) Special education and student services administration; and
- (d) Human resources administration.
- (3) The administrative fee applied by a local board shall be:
- (a) Equal to 2% of each public charter school's preliminary total per pupil allocation; or
- (b) Approved by the State Board in accordance with §D of this regulation, not to exceed 5% of each public charter school's preliminary total per pupil allocation.
- D. Approval Procedure.
- (1) A local board shall submit to the Department no later than September 1 any request to charge an administrative fee greater than 2% of each public charter school's preliminary total per pupil allocation.
- (2) The request shall include:
- (a) An explanation why each administrative cost meets the criteria set forth in §C(2) of this regulation;
- (b) The projected fiscal impact on the local school system, including the total preliminary per pupil allocation for the public charter schools; and
- (c) A summary of the local board's consultation with the public charter schools in its jurisdiction regarding the request.
- (3) The Department shall publish on its website each request submitted by a local board under §D(1) of this regulation.
- (4) The public charter schools in the jurisdiction may submit to the Department a written objection to the request no later than October 1.
- (5) In evaluating the request, the State Board shall consider:
- (a) The level of detail and documentation provided to substantiate actual costs;
- (b) The alignment between the request and the applicable criteria; and

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### (c) The projected fiscal impact on the local school system, including the public charter schools.

- (6) The State Board shall approve, modify, or deny each request no later than December 31.
- (7) Requests approved under §D(6) of this regulation shall be valid in the local school system for 5 years.
- (8) A local board may only seek a modification to its commensurate funding formula during the 5-year period set forth in §D(7) of this regulation upon a showing that the modification is necessary to meet exigent circumstances.

#### E. Appeal Procedure.

- (1) The local board or the public charter schools that submitted a written objection may appeal a decision to the circuit court of the jurisdiction in which the local board is located within 30 days of the date of the decision of the State Board.
- (2) The appeal is governed by Maryland Rules 7-401—7-403.
- (3) The State Board shall prepare and transmit the record in accordance with the time line set forth in the Maryland Rules of Procedure.
- (4) The State Board may not participate as a party in an appeal.

### **.14 Public Charter School Policies.**

#### A. Submission of Public Charter School Policy to the State Board.

- (1) Each local board shall develop a public charter school policy and provide it to the State Board.
- (2) The policy required under §A(1) of this regulation shall include guidelines and procedures regarding:
  - (a) Evaluation of public charter schools;
  - (b) Revocation of a charter;
  - (c) Reporting requirements;
  - (d) Financial, programmatic, or compliance audits of public charter schools; and
  - (e) Calculation of commensurate funding, including the formula established under Regulation .13 of this chapter.
- (3) The policy required under §A(1) of this regulation, including any updates or amendments made to the policy, shall be provided to the Department and made available on request and posted on the website of the local board.

### **.15 School Sites or Buildings Available for Public Charter School Use.**

#### A. Notice of Availability of School Sites or Buildings.

- (1) If, with the approval of the State Superintendent, a local board determines that a school site or building no longer is needed for school purposes and after the county commissioners or county council have provided the required notice under § 4-115 of the Education Article, Annotated Code of Maryland, the local board shall inform the public charter schools in the county that the school site or building is available for occupation and use by a public charter school on the terms determined by the local board.
- (2) Each local board:
  - (a) Shall establish a procedure to determine which public charter school may occupy and use an available school site or building if more than one public charter school notifies the local board of an interest in occupying and using a school site or building; and
  - (b) May consider the utilization rate of surrounding school sites and buildings when authorizing a public charter school to occupy a school site or building.

#### B. A public charter school that occupies or uses a school site or building under §A of this regulation may not sell, dispose of, or otherwise transfer the school site or building.

### **.16 Property Tax Exemption.**

Any portion of a building or property occupied and used by a public charter school shall be exempt from property taxes under § 7-202 of the Tax—Property Article, Annotated Code of Maryland, for the duration of the occupation and use of the building or property as a public charter school.