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## STATE BOARD OF EDUCATION

Action Item

October 18, 2017

**SUBJECT:** Approval of Amendment to Rule 6A-6.0781, Procedures for Appealing a District School Board Decision Denying Application for Charter School or High-Performing Charter School

#### **PROPOSED BOARD ACTION**

For Approval

#### **AUTHORITY FOR STATE BOARD ACTION**

Section 1002.33(28), F.S.

#### **EXECUTIVE SUMMARY**

This amendment revises the process for appealing a high-performing charter school application denial, by revising the format in which written arguments must be submitted to the Agency Clerk, and reducing the number of hardcopies of the written appeal and arguments that must be submitted to the Agency Clerk. The proposed revisions are responsive to changes to Section 1002.33, Florida Statutes, made during the 2017 legislative session.

- An applicant appealing the denial of a high-performing charter school replication application will first present the appeal to the Charter School Appeal Commission (CSAC). The CSAC will then issue a recommendation to the State Board of Education. Prior to this change, these applicants appealed directly to the State Board of Education.
- Appellants and respondents will be required to submit one electronic copy and five (5) hard copies of appeal documents, instead of the current ten (10) hard copies.

**Supporting Documentation Included:** Proposed Rule 6A-6.0781, F.A.C.

**Facilitator/Presenter:** Adam Miller, Executive Director, Office of Independent Education and Parental Choice

# 6A-6.0781 Procedures for Appealing a District School Board Decision Denying Application for Charter School or High-Performing Charter School.

The procedures for filing and reviewing all appeals to the State Board of Education under provisions of Section 1002.33(6), F.S., shall be as follows:

- (1) Appealing a Charter School Application Denial. The district school board letter of denial required by Section 1002.33(6)(b)3.a., F.S., shall be provided to the applicant by the district school board via certified mail unless the applicant agrees in writing to accept receipt by hand delivery, regular mail, facsimile or electronic mail. Receipt of delivery shall be documented and filed with the Agency Clerk for the Department of Education. Within thirty (30) days after receipt by certified mail, or other verified mode of transmittal as provided by the parties' agreement, the decision of a district school board denying an application for a Charter School, the charter applicant may appeal the decision by submitting one (1) electronic copy and five (5) ten (10) hard copies of the appeal to the Agency Clerk for the Department of Education, 325 West Gaines Street, Room 1520, Tallahassee, Florida 32399-0400.
  - (a) through (b) No Change.
- (c) Within thirty (30) days after receipt of the appeal the district school board shall file one (1) electronic copy and five (5) ten (10) hard copies of its written arguments with the Agency Clerk for the Department of Education and certify that it has provided a copy to the charter school applicant or representative identified in the applicant's appeal by U.S. Mail, hand delivery, or other agreed upon mode of transmittal. The district school board shall file with its written arguments all documents considered by the district school board in making its decision that were not filed as exhibits to the applicant's appeal. The written arguments are limited to the reasons for denial identified in the district school board's notice of denial and any issues raised by the applicant in its appeal.
- (d) Such written arguments required from both parties shall not exceed twenty (20) pages exclusive of any exhibit. The Chair of the Charter School Appeal Commission may grant leave to exceed the page limit only when necessary for both parties to address an extraordinarily large or complex set of issues on appeal. Written arguments may be produced by any duplicating or copying process which produces a clear black image on white paper. All written arguments shall be on 8 1/2" x 11" inch paper, double spaced, except quoted material and footnotes. Typewritten text, including footnotes must be no smaller than ten (10) pitch spacing, and there must be no more than twenty-six (26) lines of text per paper. Margins shall be no less than one inch at the top, bottom, left and right. All written arguments and exhibits must be bound with tabs for each exhibit with a table of contents detailing each section. Electronic and

hardcopy appeal documents shall be numbered consecutively throughout the entire submission with no breaks.

- (e) No Change.
- (2) No Change.
- (3) Appealing a High-Performing Charter School Application Denial.
- (a) The district school board letter of denial required by Section 1002.33(6)(b)3.a., F.S., shall be provided to the applicant by the district school board via certified mail unless the applicant agrees in writing to accept receipt by hand delivery, regular mail, facsimile or electronic mail. Receipt of delivery shall be documented and filed with the Agency Clerk. Within thirty (30) days after receipt by certified mail, or other verified mode of transmittal as provided by the parties' agreement, the date of a decision of a district school board denying an application for a replication of a High-Performing Charter School pursuant to Section 1002.331, F.S., the charter applicant may file a written appeal by submitting ten (10) hard copies of the appeal to the Agency Clerk in the same manner and format described in paragraphs (1)(a) (d) of this rule. A copy of the appeal shall be sent via regular mail or hand delivery to the district school board, via the Superintendent, or a designee of the Superintendent as specified within the letter of denial, by the applicant on or before the date of filing with the Agency Clerk. The applicant shall certify that it has provided the district school board a copy of the appeal as provided herein by filing a certificate of service with the Agency Clerk stating the person and address to which the copy was provided and the date of mailing or other transmittal. High-performing charter school appeal submissions shall be considered directly by the State Board of Education pursuant to Section 1002.33(6)(e)3.b., F.S. The State Board of Education does not have jurisdiction to hear late filed appeals.
- (b) Within thirty (30) days after receipt of the appeal, the district school board shall file ten (10) hard copies of its written arguments to the Agency Clerk for the Department of Education in the same manner and format described in paragraphs (1)(a) (d) of this rule. The written arguments are limited to the reasons for denial identified in the district school board's notice of denial.
- (c) Failure to meet the requirements herein specified may cause rejection of the submission by the Commissioner of Education, where the failure could result in prejudice to the opposing party. The rejection shall describe the submission errors and the party shall have fifteen (15) days to resubmit an appeal that meets the requirements herein.
- (d) The State Board of Education shall consider the high performing charter school appeal at a State Board of Education meeting no later than ninety (90) calendar days after an appeal is filed. Each party shall have fifteen (15) to summarize their arguments. Additionally, the State Board of Education may, in its discretion, ask questions to

clarify the issues on appeal. Ex parte communications with either party or communication among board members regarding the appeal is prohibited. The State Board of Education shall approve or deny the appeal.

- (3)(4) Motions.
- (a) through (c) No Change.

Rulemaking Authority 1002.33(28) FS. Law Implemented 1002.33(6) FS. History-New 2-2-97, Amended 5-27-12.