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***Richard Woods, Georgia's School Superintendent***  
*"Educating Georgia's Future"*

September 11, 2015

R. Stephen Green, Ed.D.  
CEO and Superintendent  
DeKalb County School District  
Robert R. Freeman Administrative and Instructional Complex  
1701 Mountain Industrial Blvd.  
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Dear Dr. Green:

Thank you for submitting the DeKalb County School System (DCSS) proposed charter school policy and regulation for our review. We sincerely appreciate the spirit of partnership you have demonstrated as we move forward together in ensuring that only high quality charter schools with strong academic results and well-trained and high-functioning governing boards that can and do ensure financial sustainability and legal and regulatory compliance are created and renewed in DeKalb County.

We have reviewed these documents for compliance with Georgia's charter school laws, State Board of Education (SBOE) rules, and Georgia Department of Education (GaDOE) guidance. The guidance for each rule has recently been combined into each rules, and references to rules in this letter are to the combined rule/guidance versions (see attached). We have identified several things in DCSS's proposed policy and regulation that require revision.

One of the major changes needed is to clearly state what DCSS charter schools are authorized to do, specifically as it relates to charter school governing boards making decisions related to personnel, finance, curriculum and instruction, resource allocation, and school operations. Charter schools cannot be truly held accountable by a local board of education unless the local board is, in fact, providing the flexibility, autonomy, and support outlined in Georgia law and SBOE rules/guidelines.

The list below includes 36 revisions to the proposed DCSS charter school policy and regulation. These changes are designed to provide charter schools with the maximum flexibility to which they are entitled by law.

**Revisions to Proposed DCSS Charter Schools Policy**

1. Please remove "unique" and "innovative" from the initial paragraph of the proposed DCSS Policy in which it is stated that DCSS seeks to authorize high quality charter schools with "innovative, unique...academic programs".

- No state law, SBOE rules, or GaDOE guidelines require charter schools to implement unique or innovative programming that is not conducted elsewhere in a school district.
  - Therefore, requiring “innovative, unique” academic programs in a new charter school or one seeking renewal places a greater burden on charter schools than is legally required.
  - The goal in creating charter schools is to produce higher student performance in exchange for autonomy from the state and local district regardless of the academic model selected or the degree to which that model is unique or innovative.
2. Please change the word “enforce” to “state” in the initial paragraph of the proposed DCSS Policy.
- It is not possible to enforce an expectation (a belief that someone will or should achieve something).
  - The use of “enforce” (to compel observance of or compliance with a law, rule, or obligation) promotes the image of DCSS as a top-down, compliance-oriented organization with a Compliance Culture (where success is measured by simply achieving requirements) rather than as an Achievement Culture (where success is measured by achieving high expectations for all students).
  - Eliminating this word may seem inconsequential, but doing so would highlight the importance of your initial and subsequent work to design and implement a transformation of DCSS’s leadership from a Compliance Culture to an Achievement Culture and dovetail nicely with the charter system application requirement that such a transition occur. As we have discussed, the key is that the district is truly transformed from being a “school command and control center” to being a “school support service center” where, instead of compelling school-level compliance, the district focuses on providing quality support and resources for the DCSS system of schools.
3. Please add SBOE Rule 160-4-9-.06(1)(a) to the end of the initial paragraph of the proposed DCSS policy following the control and management reference to O.C.G.A. 20-2-2065(b)(2).
- The SBOE rule cited distinguishes between control and management *before* and *after* a charter petition is approved by a local BOE. The rule clarifies that:
    - *Prior to approval* control and management includes reviewing and acting on local charter school petitions
    - *After approval* control and management means allowing charter schools substantial autonomy over the vast majority of areas including employment, finances, school leader, achievement of school improvement goals, and selecting and implementing curriculum while providing support to ensure success without additional requirements.
  - This distinction is critical for understanding the autonomy of locally-approved charter schools.
  - Including this citation also reinforces DCSS’s commitment to granting and fully supporting charter school autonomy.
4. Please add to the end of the first sentence in **Section I. d. Charter Authorization** (following “within ninety (90) days after the petitioner’s timely submission”) the following text: “unless the

petitioner offers an extension and the local board accepts the offer to allow time to perfect the application per the clarification or revision phases included within The DeKalb Charter Application Process”.

5. Please add to statements within **Section I. e. Assurance and Required Statements** regarding the assurances charter schools must sign (regarding following certain DCSS policies and procedures) that all such assurances are approved by the Georgia Department of Education as being consistent with state law, State Board rules, and GaDOE guidelines.
6. Please change the citation for **Section III. a. Termination** from O.C.G.A. § 20-2-2068(a)(3) to O.C.G.A. § 20-2-2068(a)(2).
7. Please remove from **Section III. a. iii.** “rules, district procedures, policies” as grounds for termination since local rules, district procedures, policies are not included in the O.C.G.A. § 20-2-2068(a)(2) list of reasons for termination and/or non-renewal of charter schools and therefore cannot and will not be used by the State Board of Education as the basis for terminating a charter contract.
  - A major component in the “basic flexibility agreement” enshrined in Georgia’s charter law and State Board rules is the exchange of autonomy for increase accountability – where autonomy includes freedom from state and local controls.
8. Please remove **Section III. a. vi.** “A failure to comply with the terms of this policy and corresponding regulation or District procedure and guidance, or the DeKalb Assurances and Required Statements” because such a failure is not pursuant to any state law, SBOE rules, or GaDOE guidelines and, therefore, cannot and will not be used by the State Board of Education as the basis for terminating a charter contract.

#### Revisions to Proposed DCSS Charter Schools Regulation

9. Please remove “unique” and “innovative” from the initial paragraph of the proposed DCSS Regulation in which it is stated that DCSS seeks to authorize high quality charter schools with “innovative, unique...academic programs”. *See item 1 above.*
10. Please change the word “enforce” to “state” in the initial paragraph of the proposed DCSS Regulation. *See item 2 above.*
11. Please remove “unique” and “innovative” from **Section I. a. Board Authority** in which it is stated that DCSS’s Board shall consider for approval charter petitions that, *inter alia*, “have the demonstrated potential to increase student performance through unique and innovative educational offerings”. *See item 1 above.*
12. Please add SBOE Rule 160-4-9-.06(1)(a) to the end of **Section I. d. Board Control and Management** policy following the reference to O.C.G.A. 20-2-2065(b)(2) in reference to the control and management of charter schools. *See item 3 above.*

The following seven changes make all definitions included in both the proposed DCSS Regulation and the State Board of Education Rule 160-4-9-.04 consistent with the SBOE’s definitions in that Rule.

13. Please change the definition of in **Section II. b. Charter** to “a performance-based contract between the charter authorizer(s) and a Georgia nonprofit charter school governing board (nonprofit governing board). By entering into a charter, a nonprofit governing board and the charter authorizer(s) shall be deemed to have agreed to be bound by all the provisions of the Charter Schools Act, O.C.G.A. § 20-2-2060 et. seq., and all State Board of Education rules and guidelines implementing the Charter Schools Act as if such terms were set forth in the charter. A charter for a local charter school, if approved, shall be a three-party agreement between a Georgia nonprofit charter school governing board, a local board of education, and the State Board of Education.”
14. Please change the definition in **Section II. c. Charter Attendance Zone** to “all or any portion of the local school system in which the charter school is located and may include all or any other portion of other local school systems if the charter school is jointly authorized pursuant to O.C.G.A. § 20-2-2063(c).”
15. Please change the definition in **Section II. d. Charter Petitioner** to “a local school, local board of education, private individual, private organization, or state or local public entity that submits or initiates a petition for a charter, except that a charter petitioner for a local charter school shall be a party other than the local board of education. The term “charter petitioner” does not include home study programs or schools, sectarian schools, religious schools, private for profit schools, private educational institutions not established, operated, or governed by the State of Georgia, or existing private schools. In the case of a charter school, the charter petitioner does not become a party to the charter contract unless the petitioner is a Georgia nonprofit corporation.”
16. Please change the definition in **Section II. i. Governing Board** to “the nonprofit governing board that will serve as a school-level decision-making body at a local charter school, participates in the local and state petition review process, is a party to the charter contract, and is responsible for ensuring the implementation of and compliance with the charter contract.”
17. Please change the definition in **Section II. k. Petition** to “a proposal or an application to establish a charter school.”
18. Please change the definition in **Section II. n. State Board** to include “the constitutional authority that defines education policy for the public K-12 local education agencies in Georgia.”
19. Please change the definition in **Section IV. d. vii. Public Interest** to “more likely than not to promote the welfare or well-being of students, staff, the community or the general public, including but not limited to, increased student achievement, financial stability, and positive school climate.”
  - The definition in the proposed Regulation includes eight additional requirements that are not a part of the SBOE Rule and add a greater burden on charter petitioners by requiring charter schools to, *inter alia*, be “unique” and not “duplicate current District opportunities and programming.” *See item 1 above.*
20. Please move the revised definition in **Section IV. d. vii. Public Interest** to the **II. Definitions** section.

21. Please add a new section after **II. Definitions** entitled **III. District Responsibilities to Charter Schools** that enumerates the autonomy that charter schools are guaranteed pursuant to O.C.G.A. 20-2-2065(a) and SBOE Rule 160-4-9-.06(1)(a)(1)(ii)(VI). Include the following:

- “Charter schools are entitled to the maximum flexibility allowed by law from the provisions of Title 20 of the Official Code of Georgia Annotated and from any state or DCSS, regulation, policy, or procedure established by DCSS, the State Board of Education (State Board), or the Georgia Department of Education (Department).”
- “Charter school governing boards have authority to make personnel decisions, including selection of the principal or school leader; financial decisions and resource allocation decisions, including establishing the number and type of personnel, curriculum costs, supply costs, equipment costs and maintenance and operations costs; selection of a curriculum and accompanying instructional materials; establishment and monitoring of the achievement of school improvement goals, including approval of the school improvement plan and oversight of its implementation; and operations that are consistent with school improvement goals.”

The DeKalb Charter Application Process:

22. Please add the following provisions to **Section IV. a.** to ensure petitioners can resubmit their petition pursuant to SBOE Rule 160-4-9-.05(1)(b) CHARTER PETITION SUBMISSIONS TO LOCAL BOARDS.

Within the ninety (90) days a local district has to review a charter petition, the district shall provide a written statement to the petitioner indicating which of the following four groups the petitioner is in and, if appropriate, what they must do if they wish to revise and resubmit their petition:

(i) Rejection Group: These applications are flawed in some way that is irreparable and will be rejected for the current school year’s Petition Review Cycle.

(I) The local district shall issue a rejection letter that informs such applicants that their application cannot be considered during the current school year’s Petition Review Cycle.

(II) The rejection letter shall include a statement of the legal insufficiency that makes the petition irreparable.

(III) Applicants in this category are free to submit a brand new application in the following school year’s Petition Review Cycle.

(ii) Revision Group: During the district’s initial internal review and panel interview with the applicant, these applicants demonstrate minimum quality and compliance or less, and would require substantial and material revisions before their petition could be recommended by the district for approval by the local board of education.

(I) The local district shall issue a letter informing these applicants that they cannot receive an approval recommendation unless the required material revisions are made within thirty (30) days. This letter shall include mention of the district’s agreement to the petitioner’s granting the district ninety (90) additional days to accept or reject its petition.

(II) If an applicant chooses to make the substantial and material changes required, they shall resubmit their petition within the thirty (30) day window. Their resubmittal letter shall

include mention of their granting to the district ninety (90) additional days beyond the initial 90-day review period to accept or reject their petition.

(III) Applicants will have only one opportunity to revise their application to make the substantial and material changes required.

(IV) Applicants that fail to make required revisions will have to wait until the following school year's Petition Review Cycle to submit a new application.

(iii) Clarification Group: During the district's initial internal review and panel interview with the applicant, these applicants demonstrate moderate quality and compliance or better, but require clarification and supplemental information to be submitted before their petition could be recommended by the district for approval by the local board of education.

(I) The local district shall issue a letter informing these applicants what clarification(s) and/or supplemental information is required. This letter shall include mention of the district's agreement to the petitioner's granting the district ninety (90) additional days to accept or reject its petition.

(II) If an applicant chooses to provide the required clarification(s) and/or supplemental information, they shall resubmit their petition within a thirty (30) day window. Their response letter shall include mention of their granting to the district ninety (90) additional days beyond the initial ninety (90) day review period to accept or reject their petition.

(III) Applicants will have only one opportunity to provide the required clarification(s) and/or supplemental information.

(IV) Applicants that fail to provide the required clarification(s) and/or supplemental information will have to wait until the following school year's petition review cycle to submit a new application.

(iv) Approval Group: During the district's initial internal review and panel interview with the applicant, these applicants demonstrate near-perfect quality and compliance. For these applicants, the district will make a recommendation to the local board of education for approval of the petition without any further action on the part of the applicant.

23. Please remove the provisions of **Section IV. c.** requiring applicants to attend a pre-application training.

- There is no authority in law or rule to require initial petitioners to attend a training prior to becoming an approved charter school.
- SBOE Rule 160-4-9-.06(3)(b) provision regarding requiring charter schools to attend any required training applies only to *approved* charter schools, not to applicants.
- There is a practical consideration here in that applicants that fail to receive approval because they did not know critical information made available at the *optional* pre-application training session will decide for themselves that attending such training in the future could improve their chances of approval.

24. Please remove the word "unique" and the phrase "that do not duplicate current District opportunities and programming" from **Section IV. d. i. 3.** See *item 1 above*.

25. Please add provisions to **Sections IV. d. ii. and iii.** to allow petitioners to modify their applications within the same petition cycle pursuant to SBOE Rule 160-4-9-.05(1)(b). *See item 22 above.*
26. Please add provisions to **Section IV. d. vi.** allowing a time extension pursuant to SBOE Rule 160-4-9-.05(1)(b). *See item 22 above.*
27. Please add a section to **Section IV** that addresses the District’s plan and/or process for responding to petitioner requests mediation per SBOE Rule 160-4-9-.05(1)(b)(5) if DCSS denies an application.
28. Please add a section to **Section IV** addressing the requirement per SBOE Rule 160-4-9-.05(1)(b)(6) that both the applicant and the district deliver a copy of the petition to the Department if the local board approves an application.
29. Please change “October” to “November” in **Section VII. b.** pursuant to O.C.G.A. § 20-2-2067.1(c).
30. Please add to statements within **Section VII. f. Assurance and Required Statements** regarding the assurances charter schools must sign (regarding following certain DCSS policies and procedures) that all such assurances are approved by the Georgia Department of Education as being consistent with state law, State Board rules, and GaDOE guidelines. *See item 5 above.*
31. Please also remove from **Section VII. f. Assurance and Required Statements** references to non-waivable or required district policies. *See item 7 above.*
32. Please add to **Section VII. g. Special Education** the following statement: “Conversely, DCSS is responsible for providing the same level of special education services and supports that it would provide to any traditional public school student.”
33. Please replace **the text in Section VII. i. Waiver** with “Charter schools can waive all DCSS policies unless they directly conflict with the charter contract.”
  - This is in accordance with the maximum flexibility from law guaranteed in charter contract pursuant to O.C.G.A. 20-2-2065(a) and SBOE Rule 160-4-9-.06(1)(a)(1)(ii)(VII).
34. Please replace the initial paragraph in **Section VII. k. Notification Requirements** with the following: “Each locally approved charter school must provide written notice to the District Charter Office prior to making any changes that would require a charter contract amendment. This notice should be submitted at least four months in advance of the date the school would like to implement the change to allow for local BOE and SBOE consideration of the school’s charter amendment petition.”
  - Such material changes include grades served, attendance zone, management partnerships, performance measures, and enrollment priorities. *See O.C.G.A. § 20-2-2067.1 (a) (2013). SBOE Rule 160-4-9-.06(3)(c).*
  - Consistent with the requirement that charter schools have autonomy, changes in the operations, organization, and/or management of the charter schools are allowable under state law without approval of a charter school’s authorizer(s).

35. Please change **Section VIII. a. Joint Determination** to align with the charter amendment process in SBOE Rule 160-4-9-.06(3)(c) which provides that, “Pursuant to O.C.G.A. § 20-2-2067.1, the terms of a charter contract may be amended during the term of the charter upon the approval of the local board, State Board of Education, and the charter school governing board. Amendment requests that originate with the charter school governing board shall be submitted to the local board. The local board shall, by a majority vote, approve or deny the proposed amendment no later than sixty (60) days after the local board request is received, unless the local board and the charter school governing board agree to extend the amendment review beyond sixty (60) days. If the local board and the charter school governing board agree to the amendment, the charter school shall forward the amendment to the Department for State Board of Education action.”
  
36. Please replace **Section IX. c.** with this: “The governing board has demonstrated an inability to provide effective leadership to oversee the operation of the charter school.” See SBOE Rule 160-4-9-.06 (3)(d)(1)(vii).

Thank you again, Dr. Green. We look forward to assisting your team as it incorporates the revisions included in this letter. These changes are essential to the very nature of chartering – providing increased autonomy in exchange for increased results and accountability. Additionally, these revisions are necessary for DCSS to have charter school Policy and Regulation that is legally congruent to the SBOE Rules as well as state and federal law. We are committed to DCSS’s success as a strong charter school authorizer. Please let me know if you or your team have any questions or needs any clarification about the contents of this letter.

Lou

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c: Mr. Richard Woods, Georgia State School Superintendent