



# Multiple Charter School Organization Application Guide

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*Questions regarding this guide can be directed to the Pennsylvania Department of Education (Department), Division of Charter Schools, by calling (717) 787-9744.*

## Introduction

Act 55 of 2017 amended the Public School Code to add Section 1729.1-A<sup>1</sup> to the Charter School Law (CSL), 24 P.S. § 17-1729.1-A, and permit the consolidation<sup>2</sup> of existing charter schools into a Multiple Charter School Organization (MCSO). This guide serves as the companion to the Department’s Multiple Charter School Organization Application (MCSO Application) that is required for charter schools seeking to form an MCSO. As Section 1729.1-A refers specifically to charter schools, an MCSO cannot include a cyber charter school.

The establishment of an MCSO requires:

- Completing the MCSO Application and compliance certification sheets available on the [Department’s website](#).

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<sup>1</sup> See Appendix.

<sup>2</sup> The term “consolidation” found in 24 P.S. § 17-1729.1-A is referred to in this guide as “merger” to reflect the current provisions of Pennsylvania’s Associations Code, 15 Pa.C.S. § 101 *et seq.* The term “merger” is defined in the Associations Code as: “A transaction in which two or more merging associations are combined into a surviving association pursuant to a document filed by the department or similar office in another jurisdiction.” 15 Pa.C.S. § 312(a). The General Comments to section 312 of the Associations Code further explain: “The term ‘merger’ in this chapter includes the transaction formerly known under Pennsylvania law as a consolidation in which a new entity results from the combination of two or more pre-existing entities.”

- Securing approval from each of the school district(s) that granted the initial charter for each charter school under the proposed MCSO (*i.e.*, chartering school district(s));
- Securing approval from the Department; and
- Merging existing charter school entities into a single entity that shall hold the charters for each participating school in accordance with Department of State requirements, including Pennsylvania’s Associations Code.

This guide discusses the documents and procedures necessary to prepare for the formation of an MCSO. The Department recommends that charter schools consult legal counsel to assist in drafting the appropriate documents for merger, and to ensure proper procedures are followed.

## **Timing for Establishment of an MCSO**

The Department notes that a merger is generally effective on the date of filing with the Pennsylvania Department of State, unless otherwise noted to become effective on a later date. For accounting and other corporate purposes, charter schools seeking to establish an MCSO may wish to consider a July 1 start date to coincide with the start of both a new fiscal year and school year.

## **Request for Establishment of an MCSO**

The General Assembly did not provide express direction concerning the sequence of submission and review of MCSO applications to the chartering school district(s) and the Department. Therefore, the Department has concluded that the most reasonable way to implement the requirements relating to submission and review is through a sequential review.

Under this sequential review process, the establishment of an MCSO begins with the submission of a complete and verified MCSO Application to the chartering school district(s) for each charter school under the proposed MCSO. In the case of a regional charter school, or when the charter schools seeking to form an MCSO have different chartering school districts, the MCSO Application must be submitted to all chartering school districts simultaneously. Chartering school district(s) have 45 days to review and act on an application for creation of an MCSO; if no action occurs within the 45 days, the application is deemed approved. 24 P.S. § 17-1729.1-A(a)(2). If a chartering school district disapproves an application and that disapproval is subsequently reversed by the State Charter School Appeal Board (CAB), see 24 P.S. § 17-1729.1-A(f), the application will be considered approved as of the date of CAB’s written determination unless otherwise stayed by an appropriate order.

After approval by the chartering school district(s) (or CAB) or the passage of 45 days, the MCSO Application is submitted to the Department. The MCSO Application

submitted to the Department must be identical to that approved by the chartering school district(s). The Department has 45 days for review and action. 24 P.S. § 17-1729.1-A(a)(1). Disapproval by the Department is also subject to an appeal to CAB. See 24 P.S. § 17-1729.1-A(f).

This sequential review allows charter schools to address and resolve any concerns with the chartering school district(s), which have closer oversight of the charter schools, before seeking the Department's approval. Also, the sequential review eliminates the possibility of conflicting decisions on an MCSO Application being issued by the chartering school district(s) and the Department at the same time.

Additional instructions for charter schools seeking to form an MCSO<sup>3</sup> are as follows:

### **Submit a Letter of Intent (Recommended)**

The Department recommends that charter schools seeking to establish an MCSO submit a Letter of Intent to the attention of the chartering school district(s) 14 days prior to the submission of an MCSO Application. This action may facilitate a conversation between the charter schools and the chartering schools district(s) to assist in the completion and review of an MCSO Application.

The Letter of Intent should include the following:

- Name of each charter school requesting to merge;
- The chartering school district(s);
- Name and contact information for the person handling the submission of the MCSO Application and required documents; and
- If applicable, any request(s) for additional information or guidance.

The Letter of Intent also provides an opportunity for the participating charter schools to outline key principles underpinning the proposed MCSO. The formation of an MCSO should be guided by a commitment to equitable, high-quality educational opportunities for students. In keeping with this commitment, MCSO proposals may speak to how the merger will promote:

- Improved economies of scale and centralized capacity to better serve students, particularly those with low-incidence special education requirements;
- Increased availability of high rigor courses and innovative programming to expand educational opportunity and success; and
- Streamlined governance that promotes transparency and accountability.

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<sup>3</sup> Charter schools interested in pursuing Multiple Charter School Organization status must be eligible to do so as authorized by 24 P.S. § 17-1729.1-A.

## **Complete MCSO Application**

24 P.S. § 17-1729.1-A(c) requires the Department to develop and issue a common MCSO Application. A copy of the MCSO Application can be accessed through the [Department's website](#). Charter schools should note that the complete MCSO Application must also include:

- A Plan of Merger, see 15 Pa.C.S. § 332, or a copy of the Statement of Merger (DSCB: 15-335) that the applicant proposes to file with the Pennsylvania Department of State's Bureau of Corporations and Charitable Organizations (<http://www.dos.pa.gov/BusinessCharities/Business/RegistrationForms/Documents/Updated%202017%20Registration%20Forms/Domestic%20Business%20Corporation/15-335%20Statement%20of%20Merger.pdf>).
- Resolutions for merger and creation of an MCSO as adopted by the Board of Trustees for each participating charter school.

Charter schools seeking to form an MCSO must fully and accurately complete the MCSO Application. Failure to fully and accurately complete the application will be grounds for denying the application.

## **Secure Approval from Chartering School District(s)**

The MCSO Application and other attachments required in the MCSO Application, along with the MCSO's proposed Plan of Merger or Statement of Merger, must be submitted and approved by each of the chartering school district(s) for the charter schools in the proposed MCSO. These approvals must occur before the application can be submitted to the Department. Documentation of approval(s) must be provided with the submission of the application to the Department by including a copy of the approval letter(s) from the district(s), or dated email sent to the district(s), a registered mail receipt, or other similar verification of the application submission date.

## **Secure Approval from the Department**

The MCSO Application, along with the MCSO's proposed Plan of Merger or Statement of Merger, must be submitted to the Department for review and approval. The MCSO Application submitted to the Department must also include: (1) evidence of approval by the chartering school district(s); or, (2) evidence of the date the MCSO application was submitted to the chartering school district(s) and a verified statement from an authorized representative of the applicant that the chartering school district(s) did not act on the MCSO Application in the required 45-day time period.

## **File Approved Merger**

Upon approval by the Department of the MCSO Application, the Department will provide the applicant with a letter indicating that all approvals have been received; this document,

along with the Plan or Merger or Statement of Merger, should be filed with the Pennsylvania Department of State. See 15 Pa.C.S. §§ 314(a), 335.

## **File Verification of Merger Documents**

Following the Department of State's approval of the merger, the MCSO should provide copies of the corporate documents to both the chartering school district(s) and the Department. The Department can then work with the MCSO on amendments to any state or federal grant documents, or changes to contact information retained in the Department's databases.

## **APPENDIX**

### **24 P.S. § 17-1729.1-A. Multiple charter school organizations.**

a) Establishment shall be as follows:

(1) Subject to the requirements of this section and 15 Pa.C.S. Pt. II Subpt. C (relating to nonprofit corporations), two (2) or more charter schools may consolidate into a multiple charter school organization if both of the following apply:

(i) The department approves the consolidation as proposed in the application form submitted to the department pursuant to subsection (c). If the department does not approve or disapprove the proposed consolidation within forty-five (45) days after receipt of the application, the department will be deemed to have approved the consolidation.

(ii) Each school district that granted the initial charter of any charter school included in the proposed consolidation approves, by a majority vote of the local board of school directors, a resolution approving the consolidation as proposed in the application submitted to the local board of school directors pursuant to subsection (c). If a local board of school directors does not adopt a resolution under this clause approving or rejecting the proposed consolidation within forty-five (45) days after receipt of the application, the school district will be deemed to have approved the consolidation.

(2) The multiple charter school organization shall be:

- (i) granted legal authority to operate two (2) or more individual charter schools under the oversight of a single board of trustees and a chief administrator who shall oversee and manage the operation of the individual charter schools under its organization; and
- (ii) subject to all of the requirements of this article unless otherwise provided for under this section.

- (3) Nothing under this section shall be construed to affect or change the terms or conditions of any individual charter previously granted that is consolidated under this section, including, but not limited to, any obligation of a school district to provide transportation for students enrolled in an individual charter school within a multiple charter school organization.

(b)

- (1) A charter school that, within either of the most recent two (2) school years, has failed to meet any of the following shall not be eligible to consolidate with another charter school:
  - (i) Requirements for student performance set forth in 22 Pa. Code Ch. 4 (relating to academic standards and assessment).
  - (ii) Accepted standards of fiscal management or audit requirements.
  - (iii) A school performance profile score that is among the top twenty-fifth percentile of Pennsylvania charter schools as measured by the school performance profile for the most recent year for which a school performance profile score is available.
- (2) A charter school that has failed to meet any of the requirements of paragraph (1) may consolidate if the consolidation includes a charter school demonstrating that it has satisfied such requirements for the most recent two (2) school years.

(c) Within ninety (90) days of the effective date of this section, the department shall develop and issue a standard application form that multiple charter school organization applicants must submit to the department and to the local board of school directors of each school district that granted the initial charter of any charter school included in the proposed consolidation. The application form shall contain the following information:

- (1) The name of the multiple charter school organization.
- (2) The names of the charter schools seeking consolidation under this section.
- (3) A copy of the approved charter of each charter school seeking to consolidate under this section.
- (4) An organizational chart clearly presenting the proposed governance structure of the multiple charter school organization, including lines of authority and reporting between the board of trustees, chief administrator, administrators, staff and any educational management service provider

that will play a role in providing management services to the charter schools under its jurisdiction.

- (5) A clear description of the roles and responsibilities for the board of trustees, chief administrator, administrators and any other entities, including a charter school foundation, shown in the organizational chart.
  - (6) A clear description of the method for the appointment or election of members of the board of trustees.
  - (7) Standards for board of trustees performance, including compliance with all applicable laws, regulations and terms of the charter.
  - (8) Enrollment procedures for each individual charter school included in its charter.
  - (9) Any other information as deemed necessary by the department.
- (d) A multiple charter school organization may:
- (1) Participate in the assessment system in the same manner in which a school district participates, with its individual charter schools participating in the assessment system in the same manner as individual schools within school districts. All data gathered for purposes of evaluation shall be gathered in the same manner in which data is gathered in the case of school districts and individual schools within school districts. Nothing in this paragraph shall alter the manner in which charter school performance on assessments is measured as required under the Every Student Succeeds Act (Public Law 114-95, 129 Stat. 1802), or its successor Federal statute.
  - (2) Add existing charter schools to its organization by obtaining the approval of the department and of the local board of school directors that granted the initial charter of each charter school proposed to be added under subsection (a)(1).
  - (3) Allow students enrolled in an individual charter school to matriculate to another individual charter school under its oversight so as to complete a course of instruction in an educational institution from kindergarten through grade twelve or otherwise in the best interests of the student.
- (e) A multiple charter school organization shall be regarded as the holder of the charter of each individual charter school under its oversight and each previously or subsequently awarded charter shall be subject to nonrenewal or revocation by the local board of school directors that granted the initial charter in accordance with this act. The nonrenewal or revocation of the charter of an individual charter school under the oversight of a multiple charter school organization shall not affect the status of a charter

awarded for any other individual charter school under the oversight of the multiple charter school organization.

(f) Appeals shall be as follows:

- (1) The appeal board shall have the exclusive review of an appeal by an applicant for consolidation, with respect to the rejection of a proposed consolidation by either the department or a school district.
- (2) In considering an appeal under this section, the appeal board shall:
  - (i) Review the decision made by either the department or the school district on the record as certified by the entity that made the decision being appealed, provided that the appeal board may allow the department, a school district or the applicant for consolidation to supplement the record if the supplemental information was previously unavailable.
  - (ii) Meet to officially review the certified record no later than thirty (30) days after the date of filing the appeal.
  - (iii) Issue a written decision affirming or denying the appeal no later than sixty (60) days following its review of the certified record.
  - (iv) Make its decision based on whether the proposed consolidation satisfies the requirements of subsections (b) and (c).
- (3) The secretary shall recuse himself from all appeals of decisions by the department and shall not participate in a hearing, deliberation or vote on any appeal of a decision made by the department.
- (4) All decisions of the appeal board shall be subject to appellate review by the Commonwealth Court. In the event of an appeal of a decision by the appeal board to the Commonwealth Court, the decision of the appeal board shall be stayed only upon order of the appeal board, the Commonwealth Court or the Pennsylvania Supreme Court.

(g) For purposes of this section, the term “charter school” shall include a regional charter school.