

1 **R277. Education, Administration.**

2 **R277-481. Charter School Oversight, Monitoring and Appeals.**

3 **R277-481-1. Definitions.**

4 A. "Board" means the Utah State Board of Education.

5 B. "Chartering entities" means entities that authorize
6 a charter school under Section 53A-1a-501.3(2).

7 C. "Charter schools" means schools acknowledged as
8 charter schools by chartering entities under Sections
9 53A-1a-515, 53A-1a-521, and this rule or by the Board under
10 Section 53A-1a-505.

11 D. "Charter school agreement (charter agreement)" means
12 the terms and conditions for the operation of an approved
13 charter school. The final charter school agreement shall be
14 maintained at the USOE.

15 E. "Charter school deficiencies" means the following
16 information:

17 (1) a charter school is not satisfying financial
18 obligations as required by Section 53A-1a-505 in the charter
19 school's written contractual agreement;

20 (2) a charter school is not providing required
21 documentation after being placed on warning status;

22 (3) compelling evidence of fraud or misuse of funds by
23 charter school governing board members or employees. Fraud or
24 misuse of funds need not rise to the minimal standard. It may
25 include failure to properly account for funds received at the
26 school; failure to follow regularly established accounting and
27 receipting practices or failure to provide data, financial
28 records or information as requested by the State Charter
29 School Board or the Board.

30 F. "Charter school governing board" means the board
31 designated by the charter school to make decisions for the
32 operation of the school similar to a local board of education.

33 G. "Northwest" means the Northwest Accreditation
34 Commission, the regional accrediting association of which Utah

35 is a member.

36 H. "Probation" means a formal process and time period
37 during which a school is permitted to demonstrate its full
38 compliance with its charter agreement and all applicable laws,
39 rules and regulations.

40 I. "State Charter School Board" means the board
41 designated in Section 53A-1a-501.5.

42 J. "Superintendent" means the State Superintendent of
43 Public Instruction as designated under Section 53A-1-301.

44 K. "USOE" means the Utah State Office of Education.

45 L. "Warning status" means an informal status in which a
46 school is placed through written notification from the USOE
47 for the school's failure to maintain compliance with its
48 charter agreement, applicable laws, rules or regulations.

49 **R277-481-2. Authority and Purpose.**

50 A. This rule is authorized under Utah Constitution
51 Article X, Section 3 which vests general control and
52 supervision over public education in the Board, Section
53 53A-1-401(3) which allows the Board to adopt rules in
54 accordance with its responsibilities, and 20 U.S.C., Section
55 8063(3) which directs the Board to submit specific information
56 prior to charter schools' receipt of federal funds.

57 B. The purpose of this rule is to establish procedures
58 for oversight and monitoring charter agreements and charter
59 schools for compliance with minimum standards. The rule also
60 provides appeals criteria and a process for schools found out
61 of compliance with State Charter School Board findings.

62 **R277-481-3. State Charter School Board Oversight, Minimum**
63 **Standards, and Consequences.**

64 A. The State Charter School Board shall provide direct
65 oversight to the state's Board chartered schools, including
66 requiring all charter schools to:

67 (1) have and comply with a charter agreement containing
68 clear and meaningful expectations for measuring charter school
69 quality.

70 (2) be members of and accredited by the Northwest
71 Accreditation Commission;

72 (3) annually review charter agreements, as maintained by
73 the USOE. It is presumed that the charter agreement
74 maintained by the USOE is the final, official, and complete
75 agreement;

76 (4) regularly review other matters specific to effective
77 charter school operations as recommended by the USOE charter
78 school staff; and

79 (5) audit and investigate claims of fraud or misuse of
80 public assets or funds.

81 B. All charter schools shall also meet the following
82 minimum standards:

83 (1) charter schools shall have no material findings,
84 financial condition findings or repeat significant findings in
85 the school's independent financial audit;

86 (2) charter schools shall maintain a minimum of 30 days
87 cash on hand or the cash reserve amount required in bond
88 covenants, whichever is greater;

89 (3) charter schools shall receive a letter grade of
90 greater than D on the statewide school grading system;

91 (4)

92 (5)

93 (6)

94 C. Warning status

95 (1) A charter school that fails to meet any of the
96 minimum standards may be placed on warning status and notified
97 in writing by the USOE.

98 (2) While a school is on warning status, the school may
99 seek technical assistance from the USOE staff to remedy any
100 deficiencies.

101 D. Probation status

102 (1) If any minimum standard has not been met within one
103 calendar year following designation of warning status, as
104 evidenced by a second report identifying the same problem(s),
105 the State Charter School Board shall notify the school in
106 writing of the specific minimum standard(s) the school did not
107 meet.

108 (2) Based on the State Charter School Board's review of
109 the charter school's noncompliance, progress and response to
110 technical assistance, the State Charter School Board may place
111 the school on probation for up to one year following the State
112 Charter School Board's designation of warning status.

113 (3) Upon placing a school on probation, the State Charter
114 School Board shall set forth a written plan outlining those
115 provisions in the charter agreement, applicable laws, rules
116 and regulations with which the school is not in full
117 compliance. This written plan shall set forth the terms and
118 conditions and the timeline that the school shall follow in
119 order to be removed from probation.

120 (4) If the school complies with the written plan in a
121 timely manner, the State Charter School Board shall remove the
122 school from probation.

123 (5) While a school is on probation, it shall be required
124 to satisfy certain requirements and conditions set forth by
125 the State Charter School Board. If the school fails to
126 satisfy specific requirements and conditions by a date
127 established by the State Charter School Board, the State
128 Charter School Board may terminate the school's charter.

129 (6) While a school is on probation, the school may seek
130 technical assistance from the USOE staff to remedy any
131 deficiencies.

132 (7) The State Charter School Board may, for good cause,
133 or if the health, safety, or welfare of the students at the
134 school is threatened at any time during the probationary
135 period, terminate the charter immediately.

136 **R277-481-4. Charter School Governing Board Compliance with**
137 **Law.**

138 A. The Board may review or terminate the charter based
139 upon factors that may include:

140 (1) failure to meet measures of charter school quality
141 which includes adherence to a charter agreement required and
142 monitored by the State Charter School Board; or

143 (2) charter school deficiencies or irregularities; or

144 (3) failure of the charter school to comply with state
145 law, Board rules or Board directives.

146 B. If a charter school's charter conflicts with
147 applicable federal or state law or rule, the charter shall be
148 interpreted to require compliance with such law or rule; all
149 other provisions of the school's charter shall remain in full
150 force and effect.

151 C. A charter school shall notify the Board and the
152 chartering entity of any and all lawsuits filed against the
153 charter school within 30 days of the filing of the lawsuit.

154 **R277-481-5. Authorizer Oversight and Monitoring.**

155 A. Local school board and institutions of higher
156 education charter school authorizers shall:

157 (1) visit a charter school at least once during its first
158 year of operation in order to ensure adherence to and
159 implementation of approved charter and to finalize a review
160 process;

161 (2) visit a charter school as determined in the review
162 process; and

163 (3) provide written reports to a charter school after the

164 visits that set forth strengths, deficiencies, corrective
165 actions, timelines and the reason for charter termination, if
166 applicable.

167 B. Chartering entities shall notify the State Charter
168 School Board within 20 days of charter school deficiencies
169 that initiate corrective action by charter school authorizers.

170 **R277-481-6. Charter School Financial Practices and Training.**

171 A. Charter school business administrators shall attend
172 USOE required business meetings for charter schools.

173 B. Charter school governing board members and school
174 administrators shall be invited to all applicable Board-
175 sponsored training, meetings, and sessions for traditional
176 school district financial personnel if charter schools supply
177 current staff information and addresses and indicate the
178 desire to attend.

179 C. The Board shall work with other education agencies to
180 encourage their inclusion of charter school representatives at
181 training and professional development sessions.

182 D. A charter school shall appoint a business
183 administrator consistent with Sections 53A-3-302 and 303. The
184 business administrator shall be responsible for the submission
185 of all financial and statistical information required by the
186 Board.

187 E. The Board may interrupt disbursements to charter
188 schools for failure to comply with financial and statistical
189 information required by law or Board rules.

190 F. Charter schools shall comply with the Utah State
191 Procurement Code, Title 63G, Chapter 6.

192 G. Charter schools are not eligible for necessarily
193 existent small schools funding under Section 53A-17a-109(2)
194 and R277-445.

195 **R277-481-7. Remediating Charter School Financial Deficiencies.**

196 A. Upon receiving credible information of charter school
197 deficiencies, the State Charter School Board shall immediately
198 direct a review or audit through the charter school governing
199 board, by State Charter School Board staff, or by an
200 independent auditor hired by the State Charter School Board.

201 B. The State Charter School Board or the Board through
202 the State Charter School Board may direct a charter school
203 governing board or the charter school administration to take
204 reasonable action to protect state or federal funds consistent
205 with Section 53A-1a-510.

206 C. The State Charter School Board or the Board may:

207 (1) allow a charter school governing board to hold a
208 hearing to determine financial responsibility and assist the
209 charter school governing board with the hearing process;

210 (2) immediately terminate the flow of state funds;

211 (3) recommend cessation of federal funding to the school;

212 (4) take immediate or subsequent corrective action with
213 employees who are responsible for charter school deficiencies;
214 or

215 (5) any combination of the foregoing (1), (2), (3) and
216 (4).

217 D. The recommendation by the State Charter School Board
218 shall be made within 20 school days of receipt of complaint of
219 deficiency(ies).

220 E. The State Charter School Board may exercise
221 flexibility for good cause in making recommendation(s)
222 regarding deficiency(ies).

223 F. The Board shall consider and affirm or modify the
224 State Charter School Board's recommendation(s) for remedying
225 a charter school's deficiency(ies) within 60 days of receipt
226 of information from the State Charter School Board.

227 G. In addition to remedies provided for in Section 53A-
228 1a-509, the State Charter School Board may provide for a
229 remediation team to work with the school.

230 **R277-481-8. Appeals Criteria and Procedures.**

231 A. Only an operating charter school, a charter school
232 that has been recommended by the State Charter School Board to
233 the Board, or a charter school applicant that has met State
234 Charter School Board requirements for review by the full State
235 Charter School Board, may appeal State Charter School Board
236 administrative decisions or recommendations to the Board.

237 B. Only the following State Charter School Board
238 administrative decisions or recommendations may be appealed to
239 the Board:

240 (1) recommendation for termination of a charter;

241 (2) recommendation for denial of expansions or satellite
242 schools;

243 (3) recommendation for denial of proposed amendments to
244 charter agreement;

245 (4) recommendation for denial or withholding of funds
246 from charter school governing boards; and

247 (5) recommendation for denial of a charter.

248 C. No other issues may be appealed.

249 D. Appeals procedures and timelines

250 (1) The State Charter School Board shall, upon taking any
251 of the administrative actions:

252 (a) provide written notice of denial to the charter
253 school or approved charter school;

254 (b) provide written notice of appeal rights and timelines
255 to the charter school governing board chair or authorized
256 agent; and

257 (c) post information about the appeals process on the
258 USOE website and provide training to charter school governing
259 board members and authorized agents regarding the appeals
260 procedure.

261 (2) A charter school governing board chair or authorized
262 agent (appellant) may submit a written appeal to the State
263 Superintendent within 14 calendar days of the State Charter

264 School Board administrative action or recommendation.

265 (3) The Superintendent shall, in consultation with the
266 Board chair, designate three to five Board members and a
267 hearing officer, who is not a Board member, to act as an
268 objective hearing panel.

269 (4) The hearing officer, in consultation with the
270 Superintendent, shall set a hearing date and provide notice to
271 all parties, including the State Charter School Board staff
272 and State Charter School Board.

273 (5) The Hearing shall be held no more than 45 days
274 following receipt of the written appeal.

275 (6) The hearing officer shall establish procedures that
276 provide fairness for all parties, which may include:

277 (a) a request for parties to provide a written
278 explanation of the appeal and related information and
279 evidence;

280 (b) a determination of time limits and scope of testimony
281 and witnesses;

282 (c) a determination for recording the hearing;

283 (d) preliminary decisions about evidence; and

284 (e) decisions about representation of parties.

285 (7) The hearing panel shall make written findings and
286 provide an appeal recommendation to the Board no more than 10
287 calendar days following the hearing.

288 (8) The Board shall take action on the hearing report
289 findings at the next regularly scheduled Board meeting.

290 (9) The recommendation of the State Charter School Board
291 shall be in place pending the conclusion of the appeals
292 process, unless the Superintendent in his sole discretion,
293 determines that the State Charter School Board's
294 recommendation or failure to act presents a serious threat to
295 students or an imminent threat to public property or
296 resources.

297 (10) All parties shall work to schedule and conclude

298 hearings as fairly and expeditiously as possible.

299 (11) The Board's acceptance or rejection of the hearing
300 report is the final administrative action on the issue.

301 **KEY: charter schools, oversight, monitoring, appeals**

302 **Date of Enactment or Last Substantive Amendment: 2011**

303 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3;**

304 **53A-1-401(3); 53A-1a-501.3; 53A-1a-515; 53A-1a-521; 53A-1a-**

305 **505; 53A-1a-501.5; 53A-1a-510; 53A-1a-509; 53A-1-301; 53A-3-**

306 **302; 53A-3-303; 53A-17a-109**