

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 charter school agreement shall be
14 maintained at the USOE and is considered the final, official
15 and complete agreement.

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

18 (1) a charter school is not satisfying financial,
19 academic or operational obligations as required in its charter
20 agreement;

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

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

31 F. "Charter school governing board" means the board
32 designated by the charter school to make decisions for the
33 operation of the school.

34 G. "Northwest" means the Northwest Accreditation

35 Commission, the regional accrediting association of which Utah
36 is a member.

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

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

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

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

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

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

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

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

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

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

67 requiring all charter schools to:

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

71 (2) be members of and fully accredited by the Northwest
72 Accreditation Commission by the end of its third year of
73 operation;

74 (3) annually review charter agreements, as maintained by
75 the USOE;

76 (4) regularly review other matters specific to effective
77 charter school operations as recommended by the USOE staff;
78 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 unresolved material
84 findings, financial condition findings or repeat significant
85 findings in the school's independent financial audit, federal
86 single audit or USOE audits;

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

90 (3) charter schools shall have no violations of federal
91 or state law or regulation, Board rules or Board directives;

92 (4) charter schools shall have all teachers properly
93 licensed and endorsed for teaching assignments in CACTUS; and

94 (5) charter school governing boards shall ensure all
95 employees and board members have criminal background checks on
96 file.

97 C. Warning status

98 (1) A charter school that fails to meet any of the
99 minimum standards or a significant number of the guidance
100 provisions found in the Utah Charter School Best Practice

101 Guidelines may be placed on warning status and notified in
102 writing by the USOE.

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

106 D. Probation status

107 (1) If any minimum standard or a significant number of
108 the guidance provisions has not been met by an assigned date
109 following designation of warning status, as evidenced by a
110 second report identifying the same problem(s), the State
111 Charter School Board shall notify the school in writing of the
112 specific minimum standard(s) the school did not meet.

113 (2) Based on the State Charter School Board's review of
114 the charter school's noncompliance, progress and response to
115 technical assistance, the State Charter School Board may place
116 the school on probation for up to one calendar year following
117 the designation of warning status.

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

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

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

134 (6) While a school is on probation, the school may seek

135 technical assistance from the USOE staff to remedy any
136 deficiencies.

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

141 **R277-481-4. Charter School Governing Board Compliance with**
142 **Law.**

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

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

148 (2) charter school deficiencies; or

149 (3) failure of the charter school to comply with federal
150 or state law or regulation, Board rules or Board directives.

151 B. If a charter school's charter conflicts with
152 applicable federal or state law or rule, the charter shall be
153 interpreted to require compliance with such law or rule; all
154 other provisions of the school's charter shall remain in full
155 force and effect.

156 C. A charter school shall notify the Board and the
157 chartering entity of any and all lawsuits filed against the
158 charter school within 30 days of the filing of the lawsuit.

159 **R277-481-5. Chartering Entity Oversight and Monitoring.**

160 A. Local school board and institutions of higher
161 education chartering entities shall:

162 (1) visit a charter school at least once during its first
163 year of operation in order to ensure adherence to and
164 implementation of approved charter and to finalize a review
165 process;

166 (2) visit a charter school as determined in the review

167 process; and

168 (3) provide written reports to a charter school after the
169 visits that set forth strengths, deficiencies, corrective
170 actions, timelines and the reason for charter termination, if
171 applicable.

172 B. Chartering entities shall notify the Board within 20
173 days of charter school deficiencies that initiate corrective
174 action by chartering entities.

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

176 A. Charter school business administrators shall attend
177 USOE required business meetings for charter schools.

178 B. Charter school governing board members and school
179 administrators shall be invited to all applicable Board-
180 sponsored training, meetings, and sessions for traditional
181 school district financial personnel.

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

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

190 E. The Board may interrupt disbursements to charter
191 schools for failure to comply with financial and statistical
192 information required by law or Board rules.

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

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

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

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

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

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

210 (1) allow a charter school governing board to hold a
211 hearing to determine financial responsibility and assist the
212 charter school governing board with the hearing process;

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

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

215 (4) take immediate or subsequent corrective action with
216 employees who are responsible for charter school deficiencies;
217 or

218 (5) any combination of the foregoing (1), (2), (3) and
219 (4).

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

223 E. The State Charter School Board may exercise
224 flexibility for good cause in making recommendation(s)
225 regarding deficiency(ies).

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

230 G. In addition to remedies provided for in Section 53A-
231 1a-509, the State Charter School Board may provide for a
232 remediation team to work with the school.

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

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

240 B. Only the following State Charter School Board
241 administrative decisions or recommendations may be appealed to
242 the Board:

243 (1) recommendation for termination of a charter;

244 (2) recommendation for denial of expansions or satellite
245 schools;

246 (3) recommendation for denial of proposed amendments to
247 charter agreement;

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

250 (5) recommendation for denial of a charter.

251 C. No other issues may be appealed.

252 D. Appeals procedures and timelines

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

255 (a) provide written notice of denial to the charter
256 school or approved charter school;

257 (b) provide written notice of appeal rights and timelines
258 to the charter school governing board chair or authorized
259 agent; and

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

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

267 School Board administrative action or recommendation.

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

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

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

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

280 (a) a request for parties to provide a written
281 explanation of the appeal and related information and
282 evidence;

283 (b) a determination of time limits and scope of testimony
284 and witnesses;

285 (c) a determination for recording the hearing;

286 (d) preliminary decisions about evidence; and

287 (e) decisions about representation of parties.

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

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

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

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

301 hearings as fairly and expeditiously as possible.

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

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

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

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

307 **53A-1-401(3); 53A-1a-501.3; 53A-1a-515; 53A-1a-521; 53A-1a-**

308 **505; 53A-1a-501.5; 53A-1a-510; 53A-1a-509; 53A-1-301; 53A-3-**

309 **302; 53A-3-303; 53A-17a-109**