R277. Education, Administration.
R277-481. Charter School Oversight, Monitoring and Appeals.
R277-481-1. Definitions.

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

B. "Chartering entities" means entities that authorize a charter school under Section 53A-1a-501.3(3).

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

D. "Charter school agreement (charter agreement)" means the terms and conditions for the operation of an approved charter school. The charter school agreement shall be maintained at the USOE and is considered the final, official and complete agreement.

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

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

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

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

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

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

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

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

J. "USOE" means the Utah State Office of Education.

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

R277-481-2. Authority and Purpose.

A. This rule is authorized under Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, and 20 U.S.C., Section 8063(3) which directs the Board to submit specific

information prior to charter schools' receipt of federal funds.

B. The purpose of this rule is to establish procedures for oversight and monitoring charter agreements and charter schools for compliance with minimum standards. The rule also provides appeals criteria and a process for schools found out of compliance with chartering entity findings.

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

A. The State Charter School Board shall provide direct oversight to the charter schools for which it is the chartering entity, including requiring all charter schools to:

(1) comply with their charter agreements containing clear and meaningful expectations for measuring charter school quality.

(2) annually review charter agreements, as maintained by the USOE;

(3) regularly review other matters specific to effective charter school operations, including a comprehensive review of governing board performance at least once every five years; and

(4) audit and investigate claims of fraud or misuse of public assets or funds.

B. All charter schools authorized by the State Charter School Board shall also meet the following minimum standards:

(1) charter schools shall have no unresolved material findings, financial condition findings or repeat significant findings in the school's independent financial audit, federal single audit or USOE audits;

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

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

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

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

C. Warning status

(1) A charter school that fails to meet any of the minimum standards or a significant number of performance standards may be placed on warning status and notified in writing by the USOE.

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

D. Probation status

(1) If any minimum standard or a significant number of performance standards has not been met by an assigned date following designation of warning status, the State Charter School Board shall notify the school in writing of the specific minimum standard(s) the school did not meet.

(2) Based on the State Charter School Board's review of the

charter school's noncompliance, progress and response to technical assistance, the State Charter School Board may place the school on probation for up to one calendar year following the designation of warning status.

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

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

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

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

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

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

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

(1) failure to meet measures of charter school quality which includes adherence to a charter agreement required and monitored by chartering entities; or

(2) charter school deficiencies; or

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

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

C. A charter school governing board may amend its charter agreement by receiving approval from its chartering entity consistent with Section 53A-1a-508.

D. Chartering entities shall obtain approval by the Board before amending charter agreements specific to (1) changes to mission and purpose; (2) waivers from Board administrative rule; (3) expansions of student enrollment; (4) expansions of grade levels that will put students in different weighted pupil unit grade level categories; and (5) revolving loans.

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

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

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

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

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

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

(4) audit and investigate claims of fraud or misuse of public assets or funds.

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

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

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

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

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

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

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

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

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

R277-481-7. Remedying Charter School Financial Deficiencies.

A. Upon receiving credible information of charter school deficiencies, the chartering entity shall immediately direct an independent review or audit through the charter school governing board.

B. The chartering entity or the Board through the chartering

entity may direct a charter school governing board or the charter school administration to take reasonable action to protect state or federal funds consistent with Section 53A-1a-510.

C. The chartering entity or the Board may:

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

(2) immediately terminate the flow of state funds;

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

(4) take immediate or subsequent corrective action with employees who are responsible for charter school deficiencies consistent with Section 53A-1a-509; or

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

D. The recommendation by the chartering entity shall be made within 20 school days of receipt of complaint of deficiency(ies).

E. The chartering entity may exercise flexibility for good cause in making recommendation(s) regarding deficiency(ies).

F. The Board shall consider and affirm or modify the chartering entity's recommendation(s) for remedying a charter school's deficiency(ies) within 60 days of receipt of information from the chartering entity.

G. In addition to remedies provided for in Section 53A-1a-509, the chartering entity may provide for a remediation team to work with the school.

R277-481-8. Appeals Criteria and Procedures.

A. Only an operating charter school, a charter school that has been recommended for approval to the Board, or a charter school applicant that has met State Charter School Board requirements for review by the full State Charter School Board, may appeal chartering entity administrative decisions or recommendations to the Board.

B. The following chartering entity administrative decisions may be appealed to the Board:

(1) termination of a charter;

(2) denial of proposed amendments to charter agreement;

(3) denial or withholding of funds from charter school governing boards; and

(4) denial of a charter.

C. Appeals procedures and timelines

(1) The chartering entity shall, upon taking any of the administrative actions:

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

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

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

(2) A charter school governing board chair or authorized agent

(appellant) may submit a written appeal to the State Superintendent within 14 calendar days of the chartering entity administrative action.

(3) The Superintendent shall, in consultation with Board Leadership, review the written appeal and determine if the appeal addresses an administrative decision by a chartering entity. If the Superintendent and Board Leadership determine that the appeal is appropriate, Board Leadership shall designate three to five Board members and a hearing officer, who is not a Board member, to act as an objective hearing panel.

(4) The hearing officer, in consultation with the Superintendent, shall set a hearing date and provide notice to all parties, including the chartering entity and staff.

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

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

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

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

(c) a determination for recording the hearing;

(d) preliminary decisions about evidence; and

(e) decisions about representation of parties.

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

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

(9) The recommendation of the chartering entity shall be in place pending the conclusion of the appeals process, unless the Superintendent in his sole discretion, determines that the chartering entity's recommendation or failure to act presents a serious threat to students or an imminent threat to public property or resources.

(10) All parties shall work to schedule and conclude hearings as fairly and expeditiously as possible.

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

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