

R277-553 received final approval by the Utah State Board of Education on December 5, 2019. R277-553 is published in the January 1, 2020 Utah State Bulletin, subject to a 30-day comment period, with a first possible effective date of February 7, 2020.

**R277. Education, Administration.**

**R277-553. Charter School Oversight, Monitoring and Appeals.**

**R277-553-1. Authority and Purpose.**

(1) This rule is authorized under:

(a) Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities;

(c) Subsection 53G-5-205(5), which requires the Board to establish minimum standards that a charter school authorizer is required to apply when evaluating a charter school application and monitoring charter school compliance; and

(d) Subsection 53G-5-501(5), which directs the Board to adopt rules specifying the timeline for remedying deficiencies and ensuring the compliance of a charter school with its charter.

(2) The purpose of this rule is to establish minimum standards that an authorizer is required to apply when monitoring charter school compliance.

**R277-553-2. Authorizer Review of Charter Schools.**

(1) An authorizer shall review and evaluate annually the performance of charter schools for which it is the authorizer, including requiring all charter schools to:

(a) comply with their charter agreements; and

(b) comply with statute and board rule.

(2) An authorizer shall:

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

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

(c) provide written reports to a charter school after the visits that set forth:

(i) strengths;

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- (ii) deficiencies; and
  - (iii) proposed corrective actions;
  - (d) notify the Superintendent of a claim of fraud or misuse of public assets or funds by a charter school; and
  - (e) coordinate the investigation of claims identified in Subsection (d) with the Superintendent.
- (3) An authorizer shall annually review and document matters specific to effective charter school operations, including:
- (a) financial performance;
  - (b) academic performance;
  - (c) enrollment; and
  - (d) governing board performance.
- (4) An authorizer shall conduct and document a comprehensive review of governing board performance and review the charter agreement at least once every five years.
- (5) An authorizer shall coordinate with the Superintendent to regularly review its charter schools as described in Subsection 53G-5-205(2).

**R277-553-3. Remediation and Probation.**

(1)(a) An authorizer shall develop a written policy documenting the process and for remediation of any deficiencies identified through the processes outlined in Section R277-553-2.

(b) An authorizer shall submit a copy of their remediation policy to the Board for approval along with their policy for approving new charters under Section R277-552-3.

(c) Notwithstanding Subsection (b), each authorizer shall submit a remediation policy to the Board for approval by January 1, 2020.

(2) If a school fails to remedy deficiencies through the remediation process, an authorizer may place the school on probation for no longer than one calendar year.

(3) Upon placing a school on probation, an authorizer shall set forth a written plan outlining those provisions in the charter agreement, applicable laws, rules, and regulations

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with which the school is not in compliance.

(4) The written plan required by Subsection (3) shall:

(a) set forth the terms, conditions, and timeline that the school shall follow in order to be removed from probation; and

(b) a plan for further remedial action if the school fails to comply with probationary terms.

(5) If a school complies with the terms of the written plan within the timeline prescribed, the authorizer shall remove the school from probation.

(6) A school may request a single extension of no more than six months from an authorizer to comply with the terms of the written plan.

(7) If a school fails to satisfy the terms of the written plan within the established timeline, the authorizer shall propose to terminate the school's charter.

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

(9) An authorizer 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.

(10) An authorizer shall notify the Superintendent in writing within 30 days of any probationary terms imposed under this Section R277-553-3.

(11) An authorizer shall comply with the notification requirements in Section 53G-5-504 if the authorizer approves a motion to terminate a charter.

#### **R277-553-4. Charter School Governing Board Compliance with Law.**

(1) A charter school governing board may amend the charter school's charter agreement by receiving approval from its authorizer consistent with Section 53G-5-303.

(2) A charter school governing board shall comply with the charter school's authorizer's processes and timelines for all reviews, amendments, expansion requests, and satellite applications.

(3) A charter school shall notify the Superintendent and charter school's authorizer

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of lawsuits filed against the charter school within 30 days of the school being served with the complaint.

#### **R277-553-5. Charter School Financial Practices and Training.**

(1)(a) A charter school shall hire or contract with a business administrator to perform the duties described in Section 53G-4-303.

(b) A charter school business administrator shall attend business meetings required by the Superintendent or the school's authorizer.

(2) A charter school board shall:

(a) regularly monitor the charter school's business administrator described under Subsection (1); and

(b) ensure the business administrator fulfills the duties outlined in Section 53G-4-303.

(3) The Board may impose corrective action against a charter school for failure to provide financial and statistical information required by law or Board rules in accordance with Rule R277-114.

(3) A charter school shall comply with the Utah State Procurement Code, Title 63G, Chapter 6a.

(4) A charter school may not receive necessarily existent small schools funding under Subsection 53F-2-304(2) and Rule R277-445.

#### **R277-553-6. Remediating Charter School Deficiencies.**

(1) Upon receiving credible information of charter school financial mismanagement or fraud, or a threat to the health, safety, or welfare of students, in coordination with the Superintendent an authorizer shall direct an independent review or monitoring, as appropriate.

(2) An authorizer may direct a charter school governing board or the charter school administration to take reasonable action to protect students or state or federal funds consistent with Section 53G-5-503.

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(3) Upon receipt of findings documenting a threat to the health, welfare, or safety of a school under Subsection (1), an authorizer may:

(a) recommend that the Superintendent impose corrective action against the school in accordance with Rule R277-114;

(b) take immediate or subsequent corrective action with charter school governing board members or employees who are responsible for deficiencies consistent with Section 53G-5-501;

(c) identify a remediation team to work with the school; or

(d) immediately terminate the school's charter in accordance with Subsection 53G-5-503(5).

(4) Upon notification of an authorizer placing a charter school on probation or notification of an authorizer recommending closure of a charter school pending an appeal, the Superintendent may do one or any combination of the following:

(a) place state appropriations in a reimbursable status pending the outcome of the appeal;

(b) suspend state appropriations pending the outcome of the appeal;

(c) direct fiscal monitoring visits for both state and federal programs ahead of other scheduled visits to the charter school; or

(d) take other action at the direction of the Board consistent with state and federal law.

([4]5) Upon receipt of findings documenting financial mismanagement or fraud by a charter school, an authorizer shall coordinate appropriate corrective action with the Superintendent.

([5]6) An authorizer may exercise flexibility for good cause in making a recommendation regarding an identified deficiency.

### **R277-553-7. Appeals to the Board.**

(1) An operating charter school may appeal an authorizer's decision to terminate the school's charter to the Board.

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(2) Upon terminating a charter, an authorizer shall:

(a) provide written notice to the 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.

(3) If a charter school appeals an authorizer's decision to terminate a charter, the charter school governing board chair shall submit a written appeal to the Superintendent within 14 calendar days of the authorizer's action.

(4)(a) Upon receipt of an appeal under this section, Board leadership may:

(i) set a hearing before a standing committee to make a recommendation to the Board for consideration at its next regularly scheduled meeting;

(ii) designate three to five Board members and a hearing officer, who is not a Board member, to act as an objective hearing panel to conduct a hearing and provide a recommendation to the Board for consideration at its next regularly scheduled meeting; or

(iii) set a hearing before the full Board.

(b) A hearing under Subsection (4)(a) shall be held no more than 45 days following receipt of the written appeal.

(5) The Board shall:

(a) uphold the authorizer's decision; or

(b) remand the matter to the authorizer with identified deficiencies in the authorizer's decision and suggested remedies.

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

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

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

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

**Notice of Continuation:**

**Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401; 53G-5-205**