

## Part 5 The Utah Charter Schools Act

### **53A-1a-501 Short title.**

This part is known as "The Utah Charter Schools Act."

Enacted by Chapter 231, 1998 General Session

### ***Superseded 7/1/2017***

### **53A-1a-501.3 Definitions.**

As used in this part:

- (1) "Asset" means property of all kinds, real and personal, tangible and intangible, and includes:
  - (a) cash;
  - (b) stock or other investments;
  - (c) real property;
  - (d) equipment and supplies;
  - (e) an ownership interest;
  - (f) a license;
  - (g) a cause of action; and
  - (h) any similar property.
- (2) "Board of trustees of a higher education institution" or "board of trustees" means:
  - (a) the board of trustees of:
    - (i) the University of Utah;
    - (ii) Utah State University;
    - (iii) Weber State University;
    - (iv) Southern Utah University;
    - (v) Snow College;
    - (vi) Dixie State University;
    - (vii) Utah Valley University; or
    - (viii) Salt Lake Community College; or
  - (b) the board of directors of an applied technology college within the Utah College of Applied Technology.
- (3) "Charter agreement" or "charter" means an agreement made in accordance with Section 53A-1a-508, that authorizes the operation of a charter school.
- (4) "Charter school authorizer" or "authorizer" means the State Charter School Board, local school board, or board of trustees of a higher education institution that authorizes the establishment of a charter school.
- (5) "Governing board" means the board that operates a charter school.

Amended by Chapter 236, 2016 General Session

### ***Effective 7/1/2017***

### **53A-1a-501.3 Definitions.**

As used in this part:

- (1) "Asset" means property of all kinds, real and personal, tangible and intangible, and includes:
  - (a) cash;
  - (b) stock or other investments;

- (c) real property;
  - (d) equipment and supplies;
  - (e) an ownership interest;
  - (f) a license;
  - (g) a cause of action; and
  - (h) any similar property.
- (2) "Board of trustees of a higher education institution" or "board of trustees" means:
- (a) the board of trustees of:
    - (i) the University of Utah;
    - (ii) Utah State University;
    - (iii) Weber State University;
    - (iv) Southern Utah University;
    - (v) Snow College;
    - (vi) Dixie State University;
    - (vii) Utah Valley University; or
    - (viii) Salt Lake Community College; or
  - (b) the board of directors of a technical college described in Section 53B-2a-108.
- (3) "Charter agreement" or "charter" means an agreement made in accordance with Section 53A-1a-508 that authorizes the operation of a charter school.
- (4) "Charter school authorizer" or "authorizer" means the State Charter School Board, a local school board, or a board of trustees of a higher education institution that authorizes the establishment of a charter school.
- (5) "Governing board" means the board that operates a charter school.

Amended by Chapter 382, 2017 General Session

**53A-1a-501.5 State Charter School Board created.**

- (1) As used in this section, "organization that represents Utah's charter schools" means an organization, except a governmental entity, that advocates for charter schools, charter school parents, or charter school students.
- (2)
- (a) The State Charter School Board is created consisting of the following members appointed by the governor:
    - (i) two members who have expertise in finance or small business management;
    - (ii) three members who:
      - (A) are nominated by an organization that represents Utah's charter schools; and
      - (B) have expertise or experience in developing or administering a charter school; and
    - (iii) two members who are nominated by the State Board of Education.
  - (b) Each appointee shall have demonstrated dedication to the purposes of charter schools as outlined in Section 53A-1a-503.
  - (c) At least two candidates shall be nominated for each appointment made under Subsection (2)(a)(ii) or (iii).
  - (d) The governor may seek nominations for a prospective appointment under Subsection (2)(a)(ii) from one or more organizations that represent Utah's charter schools.
- (3)
- (a) State Charter School Board members shall serve four-year terms.
  - (b) If a vacancy occurs, the governor shall appoint a replacement for the unexpired term.

- (4) The governor may remove a member at any time for official misconduct, habitual or willful neglect of duty, or for other good and sufficient cause.
- (5)
  - (a) The State Charter School Board shall annually elect a chair from its membership.
  - (b) Four members of the board shall constitute a quorum.
  - (c) Meetings may be called by the chair or upon request of three members of the board.
- (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
  - (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 429, 2011 General Session

**53A-1a-501.6 Power and duties of State Charter School Board.**

- (1) The State Charter School Board shall:
  - (a) authorize and promote the establishment of charter schools, subject to the provisions in this part;
  - (b) annually review and evaluate the performance of charter schools authorized by the State Charter School Board and hold the schools accountable for their performance;
  - (c) monitor charter schools authorized by the State Charter School Board for compliance with federal and state laws, rules, and regulations;
  - (d) provide technical support to charter schools and persons seeking to establish charter schools by:
    - (i) identifying and promoting successful charter school models;
    - (ii) facilitating the application and approval process for charter school authorization;
    - (iii) directing charter schools and persons seeking to establish charter schools to sources of private funding and support;
    - (iv) reviewing and evaluating proposals to establish charter schools for the purpose of supporting and strengthening proposals before an application for charter school authorization is submitted to a charter school authorizer; and
    - (v) assisting charter schools to understand and carry out their charter obligations;
  - (e) provide technical support, as requested, to a charter school authorizer relating to charter schools;
  - (f) make recommendations on legislation and rules pertaining to charter schools to the Legislature and State Board of Education, respectively; and
  - (g) make recommendations to the State Board of Education on the funding of charter schools.
- (2) The State Charter School Board may:
  - (a) contract;
  - (b) sue and be sued; and
  - (c)
    - (i) at the discretion of the charter school, provide administrative services to, or perform other school functions for, charter schools authorized by the State Charter School Board; and
    - (ii) charge fees for the provision of services or functions.

Amended by Chapter 363, 2014 General Session

**53A-1a-501.7 State Charter School Board -- Staff director -- Facilities.**

- (1)
  - (a) The State Charter School Board, with the consent of the superintendent of public instruction, shall appoint a staff director for the State Charter School Board.
  - (b) The State Charter School Board shall have authority to remove the staff director with the consent of the superintendent of public instruction.
  - (c) The position of staff director is exempt from the career service provisions of Title 67, Chapter 19, Utah State Personnel Management Act.
- (2) The superintendent of public instruction shall provide space for staff of the State Charter School Board in facilities occupied by the State Board of Education or the State Board of Education's employees, with costs charged for the facilities equal to those charged other sections and divisions under the State Board of Education.

Amended by Chapter 144, 2016 General Session

Amended by Chapter 271, 2016 General Session

**53A-1a-501.9 State Charter School Board to request applications for certain types of charter schools.**

- (1) To meet the unique learning styles and needs of students, the State Charter School Board shall seek to expand the types of instructional methods and programs offered by schools, as provided in this section.
- (2)
  - (a) The State Charter School Board shall request individuals, groups of individuals, or not-for-profit legal entities to submit an application to the State Charter School Board to establish a charter school that employs new and creative methods to meet the unique learning styles and needs of students, such as:
    - (i) a military charter school;
    - (ii) a charter school whose mission is to enhance learning opportunities for students at risk of academic failure;
    - (iii) a charter school whose focus is career and technical education;
    - (iv) a single gender charter school; or
    - (v) a charter school with an international focus that provides opportunities for the exchange of students or teachers.
  - (b) In addition to a charter school identified in Subsection (2)(a), the State Charter School Board shall request applications for other types of charter schools that meet the unique learning styles and needs of students.
- (3) The State Charter School Board shall publicize a request for applications to establish a charter school specified in Subsection (2).
- (4) A charter school application submitted pursuant to Subsection (2) shall be subject to the application and approval procedures specified in Section 53A-1a-505.
- (5) The State Charter School Board and the State Board of Education may approve one or more applications for each charter school specified in Subsection (2), subject to the Legislature appropriating funds for, or authorizing, an increase in charter school enrollment capacity as provided in Section 53A-1a-502.5.
- (6) The State Board of Education shall submit a request to the Legislature to appropriate funds for, or authorize, the enrollment of students in charter schools tentatively approved under this section.

Enacted by Chapter 376, 2013 General Session

**53A-1a-502.5 Approval of increase in charter school enrollment capacity -- Expansion.**

- (1) For the purposes of this section:
  - (a) "High growth area" means an area of the state where school enrollment is significantly increasing or projected to significantly increase.
  - (b) "Next school year" means the school year that begins on or after the July 1 immediately following the end of a general session of the Legislature.
- (2) The State Board of Education may approve an increase in charter school enrollment capacity subject to the Legislature:
  - (a) appropriating funds for an increase in charter school enrollment capacity in the next school year; or
  - (b) authorizing an increase in charter school enrollment capacity in the school year immediately following the next school year.
- (3) In appropriating funds for, or authorizing, an increase in charter school enrollment capacity, the Legislature shall provide a separate appropriation or authorization of enrollment capacity for a charter school proposed and approved in response to a request for applications issued under Section 53A-1a-501.9.
- (4)
  - (a) A charter school may annually submit a request to the State Board of Education for an increase in enrollment capacity in the amount of .25 times the number of students in grades 9 through 12 enrolled in an online course in the previous school year through the Statewide Online Education Program.
  - (b) A charter school shall submit a request for an increase in enrollment capacity pursuant to Subsection (4)(a) on or before October 1 of the school year for which the increase in enrollment capacity is requested.
  - (c) The State Board of Education shall approve a request for an increase in enrollment capacity made under Subsection (4)(a) subject to the availability of sufficient funds appropriated under Section 53A-1a-513 to provide the full amount of the per student allocation for each charter school student in the state to supplement school district property tax revenues.
  - (d) An increase in enrollment capacity approved under Subsection (4)(c) shall be a permanent increase in the charter school's enrollment capacity.
- (5)
  - (a) On or before January 1, 2017, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall, after considering suggestions from charter school authorizers, make rules establishing requirements, procedures, and deadlines for an expansion of a charter school.
  - (b) The rules described in Subsection (5)(a) shall include rules related to:
    - (i) an expansion of a charter school when another charter school issues a notice of closure; and
    - (ii) the establishment of a satellite campus.
- (6)
  - (a) If the Legislature does not appropriate funds for an increase in charter school enrollment capacity that is tentatively approved by the State Board of Education, the State Board of Education shall prioritize the tentatively approved schools and expansions based on approved funds.
  - (b) A charter school or expansion that is tentatively approved, but not funded, shall be considered to be tentatively approved for the next application year and receive priority status for available funding.
- (7)

- (a) Except as provided in Subsection (6)(b) or (7)(b), in approving an increase in charter school enrollment capacity for new charter schools and expanding charter schools, the State Board of Education shall give:
  - (i) high priority to approving a new charter school or a charter school expansion in a high growth area; and
  - (ii) low priority to approving a new charter school or a charter school expansion in an area where student enrollment is stable or declining.
- (b) An applicant seeking to establish a charter school in a high growth area may elect to not receive high priority status as provided in Subsection (7)(a)(i).

Amended by Chapter 213, 2016 General Session

**53A-1a-503 Purpose.**

The purposes of the state's charter schools as a whole are to:

- (1) continue to improve student learning;
- (2) encourage the use of different and innovative teaching methods;
- (3) create new professional opportunities for educators that will allow them to actively participate in designing and implementing the learning program at the school;
- (4) increase choice of learning opportunities for students;
- (5) establish new models of public schools and a new form of accountability for schools that emphasizes the measurement of learning outcomes and the creation of innovative measurement tools;
- (6) provide opportunities for greater parental involvement in management decisions at the school level; and
- (7) expand public school choice in areas where schools have been identified for school improvement, corrective action, or restructuring under the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.

Amended by Chapter 319, 2008 General Session

**53A-1a-503.5 Status of charter schools.**

- (1) Charter schools are:
  - (a) considered to be public schools within the state's public education system;
  - (b) subject to Subsection 53A-1-401(8); and
  - (c) governed by independent boards and held accountable to a legally binding written contractual agreement.
- (2) A charter school may be established by:
  - (a) creating a new school; or
  - (b) converting an existing public school to charter status.
- (3) A parochial school or home school is not eligible for charter school status.

Amended by Chapter 232, 2016 General Session

***Superseded 7/1/2017***

**53A-1a-504 Charter school application -- Applicants -- Contents.**

- (1)
  - (a) An application to establish a charter school may be submitted by:
    - (i) an individual;

- (ii) a group of individuals; or
- (iii) a nonprofit legal entity organized under Utah law.
- (b) An authorized charter school may apply under this chapter for a charter from another charter school authorizer.
- (2) A charter school application shall include:
  - (a) the purpose and mission of the school;
  - (b) except for a charter school authorized by a local school board, a statement that, after entering into a charter agreement, the charter school will be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act;
  - (c) a description of the governance structure of the school, including:
    - (i) a list of the governing board members that describes the qualifications of each member; and
    - (ii) an assurance that the applicant shall, within 30 days of authorization, provide the authorizer with the results of a background check for each member;
  - (d) a description of the target population of the school that includes:
    - (i) the projected maximum number of students the school proposes to enroll;
    - (ii) the projected school enrollment for each of the first three years of school operation; and
    - (iii) the ages or grade levels the school proposes to serve;
  - (e) academic goals;
  - (f) qualifications and policies for school employees, including policies that:
    - (i) comply with the criminal background check requirements described in Section 53A-1a-512.5;
    - (ii) require employee evaluations; and
    - (iii) address employment of relatives within the charter school;
  - (g) a description of how the charter school will provide, as required by state and federal law, special education and related services;
  - (h) for a public school converting to charter status, arrangements for:
    - (i) students who choose not to continue attending the charter school; and
    - (ii) teachers who choose not to continue teaching at the charter school;
  - (i) a statement that describes the charter school's plan for establishing the charter school's facilities, including:
    - (i) whether the charter school intends to lease or purchase the charter school's facilities; and
    - (ii) financing arrangements;
  - (j) a market analysis of the community the school plans to serve;
  - (k) a capital facility plan;
  - (l) a business plan;
  - (m) other major issues involving the establishment and operation of the charter school; and
  - (n) the signatures of the governing board members of the charter school.
- (3) A charter school authorizer may require a charter school application to include:
  - (a) the charter school's proposed:
    - (i) curriculum;
    - (ii) instructional program; or
    - (iii) delivery methods;
  - (b) a method for assessing whether students are reaching academic goals, including, at a minimum, participation in the Utah Performance Assessment System for Students under Chapter 1, Part 6, Achievement Tests;
  - (c) a proposed calendar;
  - (d) sample policies;
  - (e) a description of opportunities for parental involvement;

- (f) a description of the school's administrative, supervisory, or other proposed services that may be obtained through service providers; or
- (g) other information that demonstrates an applicant's ability to establish and operate a charter school.

Amended by Chapter 213, 2016 General Session

***Effective 7/1/2017***

**53A-1a-504 Charter school application -- Applicants -- Contents.**

- (1)
  - (a) An application to establish a charter school may be submitted by:
    - (i) an individual;
    - (ii) a group of individuals; or
    - (iii) a nonprofit legal entity organized under Utah law.
  - (b) An authorized charter school may apply under this chapter for a charter from another charter school authorizer.
- (2) A charter school application shall include:
  - (a) the purpose and mission of the school;
  - (b) except for a charter school authorized by a local school board, a statement that, after entering into a charter agreement, the charter school will be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act;
  - (c) a description of the governance structure of the school, including:
    - (i) a list of the governing board members that describes the qualifications of each member; and
    - (ii) an assurance that the applicant shall, within 30 days of authorization, provide the authorizer with the results of a background check for each member;
  - (d) a description of the target population of the school that includes:
    - (i) the projected maximum number of students the school proposes to enroll;
    - (ii) the projected school enrollment for each of the first three years of school operation; and
    - (iii) the ages or grade levels the school proposes to serve;
  - (e) academic goals;
  - (f) qualifications and policies for school employees, including policies that:
    - (i) comply with the criminal background check requirements described in Section 53A-1a-512.5;
    - (ii) require employee evaluations; and
    - (iii) address employment of relatives within the charter school;
  - (g) a description of how the charter school will provide, as required by state and federal law, special education and related services;
  - (h) for a public school converting to charter status, arrangements for:
    - (i) students who choose not to continue attending the charter school; and
    - (ii) teachers who choose not to continue teaching at the charter school;
  - (i) a statement that describes the charter school's plan for establishing the charter school's facilities, including:
    - (i) whether the charter school intends to lease or purchase the charter school's facilities; and
    - (ii) financing arrangements;
  - (j) a market analysis of the community the school plans to serve;
  - (k) a capital facility plan;
  - (l) a business plan;
  - (m) other major issues involving the establishment and operation of the charter school; and
  - (n) the signatures of the governing board members of the charter school.



- (3) A charter school authorizer may require a charter school application to include:
- (a) the charter school's proposed:
    - (i) curriculum;
    - (ii) instructional program; or
    - (iii) delivery methods;
  - (b) a method for assessing whether students are reaching academic goals, including, at a minimum, administering the statewide assessments described in Section 53A-1-602;
  - (c) a proposed calendar;
  - (d) sample policies;
  - (e) a description of opportunities for parental involvement;
  - (f) a description of the school's administrative, supervisory, or other proposed services that may be obtained through service providers; or
  - (g) other information that demonstrates an applicant's ability to establish and operate a charter school.

Amended by Chapter 325, 2017 General Session

Amended by Chapter 378, 2017 General Session

**53A-1a-505 Charter schools authorized by the State Charter School Board -- Application process -- Prohibited bases of application denial.**

- (1)
- (a) An applicant seeking authorization of a charter school from the State Charter School Board shall provide a copy of the application to the local school board of the school district in which the proposed charter school shall be located either before or at the same time it files its application with the State Charter School Board.
  - (b) The local board may review the application and may offer suggestions or recommendations to the applicant or the State Charter School Board prior to its acting on the application.
  - (c) The State Charter School Board shall give due consideration to suggestions or recommendations made by the local school board under Subsection (1)(b).
  - (d) The State Charter School Board shall review and, by majority vote, either approve or deny the application.
  - (e) The State Board of Education shall, by majority vote, within 60 days after action by the State Charter School Board under Subsection (1)(d):
    - (i) approve or deny an application approved by the State Charter School Board; or
    - (ii) hear an appeal, if any, of an application denied by the State Charter School Board.
  - (f) The State Board of Education's action under Subsection (1)(d) is final action subject to judicial review.
  - (g) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:
    - (i) an enrollment decline;
    - (ii) a decrease in funding; or
    - (iii) a modification of programs or services.
- (2) The State Board of Education shall make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by the State Charter School Board.
- (3) After approval of a charter school application and in accordance with Section 53A-1a-508, the applicant and the State Charter School Board shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.

- (4) The State Charter School Board shall, in accordance with State Board of Education rules, establish and make public the State Charter School Board's:
- (a) application requirements, in accordance with Section 53A-1a-504;
  - (b) application process, including timelines, in accordance with this section; and
  - (c) minimum academic, financial, and enrollment standards.

Amended by Chapter 363, 2014 General Session

**53A-1a-506 Eligible students.**

- (1) As used in this section:
- (a) "At capacity" means operating above the school's open enrollment threshold.
  - (b) "District school" means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.
  - (c) "Open enrollment threshold" means the same as that term is defined in Section 53A-2-206.5.
  - (d) "Refugee" means a person who is eligible to receive benefits and services from the federal Office of Refugee Resettlement.
  - (e) "School of residence" means the same as that term is defined in Section 53A-2-206.5.
- (2) All resident students of the state qualify for admission to a charter school, subject to the limitations set forth in this section and Section 53A-1a-506.5.
- (3)
- (a) A charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or the charter school.
  - (b) If the number of applications exceeds the capacity of a program, class, grade level, or the charter school, the charter school shall select students on a random basis, except as provided in Subsections (4) through (8).
- (4) A charter school may give an enrollment preference to:
- (a) a child or grandchild of an individual who has actively participated in the development of the charter school;
  - (b) a child or grandchild of a member of the charter school governing board;
  - (c) a sibling of an individual who was previously or is presently enrolled in the charter school;
  - (d) a child of an employee of the charter school;
  - (e) a student articulating between charter schools offering similar programs that are governed by the same charter school governing board;
  - (f) a student articulating from one charter school to another pursuant to an articulation agreement between the charter schools that is approved by the State Charter School Board; or
  - (g) a student who resides within a two-mile radius of the charter school and whose school of residence is at capacity.
- (5)
- (a) Except as provided in Subsection (5)(b), and notwithstanding Subsection (4)(g), a charter school that is approved by the State Board of Education after May 13, 2014, and is located in a high growth area as defined in Section 53A-1a-502.5 shall give an enrollment preference to a student who resides within a two-mile radius of the charter school.
  - (b) The requirement to give an enrollment preference under Subsection (5)(a) does not apply to a charter school that was approved without a high priority status pursuant to Subsection 53A-1a-502.5(7)(b).
- (6) If a district school converts to charter status, the charter school shall give an enrollment preference to students who would have otherwise attended it as a district school.

- (7)
  - (a) A charter school whose mission is to enhance learning opportunities for refugees or children of refugee families may give an enrollment preference to refugees or children of refugee families.
  - (b) A charter school whose mission is to enhance learning opportunities for English language learners may give an enrollment preference to English language learners.
- (8) A charter school may weight the charter school's lottery to give a slightly better chance of admission to educationally disadvantaged students, including:
  - (a) low-income students;
  - (b) students with disabilities;
  - (c) English language learners;
  - (d) migrant students;
  - (e) neglected or delinquent students; and
  - (f) homeless students.
- (9) A charter school may not discriminate in the charter school's admission policies or practices on the same basis as other public schools may not discriminate in admission policies and practices.

Amended by Chapter 87, 2017 General Session

Amended by Chapter 212, 2017 General Session

**53A-1a-506.5 Charter school students -- Admissions procedures -- Transfers.**

- (1) As used in this section:
  - (a) "District school" means a public school under the control of a local school board elected pursuant to Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.
  - (b) "Nonresident school district" means a school district other than a student's school district of residence.
  - (c) "School district of residence" means a student's school district of residence as determined under Section 53A-2-201.
  - (d) "School of residence" means the school to which a student is assigned to attend based on the student's place of residence.
- (2)
  - (a) The State School Board, in consultation with the State Charter School Board, shall make rules describing procedures for students to follow in applying for entry into, or exiting, a charter school.
  - (b) The rules under Subsection (2)(a) shall, at a minimum, provide for:
    - (i) posting on a charter school's Internet website, beginning no later than 60 days before the school's initial period of applications:
      - (A) procedures for applying for admission to the charter school;
      - (B) the school's opening date, if the school has not yet opened, or the school calendar; and
      - (C) information on how a student may transfer from a charter school to another charter school or a district school;
    - (ii) written notification to a student's parent or legal guardian of an offer of admission;
    - (iii) written acceptance of an offer of admission by a student's parent or legal guardian;
    - (iv) written notification to a student's current charter school or school district of residence upon acceptance of the student for enrollment in a charter school; and
    - (v) the admission of students at:
      - (A) any time to protect the health or safety of a student; or

- (B) times other than those permitted under standard policies if there are other conditions of special need that warrant consideration.
- (c) The rules under Subsection (2)(a) shall prevent the parent of a student who is enrolled in a charter school or who has accepted an offer of admission to a charter school from duplicating enrollment for the student in another charter school or a school district without following the withdrawal procedures described in Subsection (3).
- (3) The parent of a student enrolled in a charter school may withdraw the student from the charter school for enrollment in another charter school or a school district by submitting to the charter school:
  - (a) on or before June 30, a notice of intent to enroll the student in the student's school of residence for the following school year;
  - (b) after June 30, a letter of acceptance for enrollment in the student's school district of residence for the following year;
  - (c) a letter of acceptance for enrollment in the student's school district of residence in the current school year;
  - (d) a letter of acceptance for enrollment in a nonresident school district; or
  - (e) a letter of acceptance for enrollment in a charter school.
- (4)
  - (a) A charter school shall report to a school district, by the last business day of each month the aggregate number of new students, sorted by their school of residence and grade level, who have accepted enrollment in the charter school for the following school year.
  - (b) A school district shall report to a charter school, by the last business day of each month, the aggregate number of students enrolled in the charter school who have accepted enrollment in the school district in the following school year, sorted by grade level.
- (5) When a vacancy occurs because a student has withdrawn from a charter school, the charter school may immediately enroll a new student from its list of applicants.
- (6) Unless provisions have previously been made for enrollment in another school, a charter school releasing a student from enrollment during a school year shall immediately notify the school district of residence, which shall enroll the student in the school district of residence and take additional steps as may be necessary to ensure compliance with laws governing school attendance.
- (7)
  - (a) The parent of a student enrolled in a charter school may withdraw the student from the charter school for enrollment in the student's school of residence in the following school year if an application of admission is submitted to the school district of residence by June 30.
  - (b) If the parent of a student enrolled in a charter school submits an application of admission to the student's school district of residence after June 30 for the student's enrollment in the school district of residence in the following school year, or an application of admission is submitted for enrollment during the current school year, the student may enroll in a school of the school district of residence that has adequate capacity in:
    - (i) the student's grade level, if the student is an elementary school student; or
    - (ii) the core classes that the student needs to take, if the student is a secondary school student.
  - (c) State Board of Education rules made under Subsection (2)(a) shall specify how adequate capacity in a grade level or core classes is determined for the purposes of Subsection (7)(b).
- (8) Notwithstanding Subsection (7), a school district may enroll a student at any time to protect the health and safety of the student.
- (9) A school district or charter school may charge secondary students a one-time \$5 processing fee, to be paid at the time of application.

Amended by Chapter 363, 2014 General Session

**53A-1a-507 Requirements for charter schools.**

- (1) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations.
- (2) A charter school may not charge tuition or fees, except those fees normally charged by other public schools.
- (3) A charter school shall meet all applicable federal, state, and local health, safety, and civil rights requirements.
- (4)
  - (a) A charter school shall make the same annual reports required of other public schools under this title, including an annual financial audit report.
  - (b) A charter school shall file its annual financial audit report with the Office of the State Auditor within six months of the end of the fiscal year.
- (5)
  - (a) A charter school shall be accountable to the charter school's authorizer for performance as provided in the school's charter.
  - (b) To measure the performance of a charter school, an authorizer may use data contained in:
    - (i) the charter school's annual financial audit report;
    - (ii) a report submitted by the charter school as required by statute; or
    - (iii) a report submitted by the charter school as required by its charter.
  - (c) A charter school authorizer may not impose performance standards, except as permitted by statute, that limit, infringe, or prohibit a charter school's ability to successfully accomplish the purposes of charter schools as provided in Section 53A-1a-503 or as otherwise provided in law.
- (6) A charter school may not advocate unlawful behavior.
- (7) Except as provided in Section 53A-1a-515, a charter school shall be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, after its authorization.
- (8) A charter school shall provide adequate liability and other appropriate insurance.
- (9) Beginning on July 1, 2014, a charter school shall submit any lease, lease-purchase agreement, or other contract or agreement relating to the charter school's facilities or financing of the charter school's facilities to the school's authorizer and an attorney for review and advice prior to the charter school entering into the lease, agreement, or contract.
- (10) A charter school may not employ an educator whose license has been suspended or revoked by the State Board of Education under Section 53A-6-501.

Amended by Chapter 363, 2014 General Session

**53A-1a-507.1 Charter school innovative practices -- Report to State Charter School Board.**

Prior to July 31 of each year, a charter school may identify and report to the State Charter School Board its innovative practices which fulfill the purposes of charter schools as outlined in Section 53A-1a-503, including:

- (1) unique learning opportunities providing increased choice in education;
- (2) new public school models;
- (3) innovative teaching practices;
- (4) opportunities for educators to actively participate in the design and implementation of the learning program;

- (5) new forms of accountability emphasizing the measurement of learning outcomes and the creation of new measurement tools;
- (6) opportunities for greater parental involvement, including involvement in management decisions; and
- (7) the impact of the innovative practices on student achievement.

Enacted by Chapter 74, 2005 General Session

**53A-1a-508 Charter agreement -- Content -- Modification.**

- (1) A charter agreement:
  - (a) is a contract between the charter school applicant and the charter school authorizer;
  - (b) shall describe the rights and responsibilities of each party; and
  - (c) shall allow for the operation of the applicant's proposed charter school.
- (2) A charter agreement shall include:
  - (a) the name of:
    - (i) the charter school; and
    - (ii) the charter school applicant;
  - (b) the mission statement and purpose of the charter school;
  - (c) the charter school's opening date;
  - (d) the grade levels and number of students the charter school will serve;
  - (e) a description of the structure of the charter school governing board, including:
    - (i) the number of board members;
    - (ii) how members of the board are appointed; and
    - (iii) board members' terms of office;
  - (f) assurances that:
    - (i) the charter school governing board will comply with:
      - (A) the charter school's bylaws;
      - (B) the charter school's articles of incorporation; and
      - (C) applicable federal law, state law, and State Board of Education rules;
    - (ii) the charter school governing board will meet all reporting requirements described in Section 53A-1a-507; and
    - (iii) except as provided in Title 53A, Chapter 20b, Part 2, Charter School Credit Enhancement Program, neither the authorizer nor the state, including an agency of the state, is liable for the debts or financial obligations of the charter school or a person who operates the charter school;
  - (g) which administrative rules the State Board of Education will waive for the charter school;
  - (h) minimum financial standards for operating the charter school;
  - (i) minimum standards for student achievement; and
  - (j) signatures of the charter school authorizer and the charter school governing board members.
- (3)
  - (a) Except as provided in Subsection (3)(b), a charter agreement may not be modified except by mutual agreement between the charter school authorizer and the charter school governing board.
  - (b) A charter school governing board may modify the charter school's charter agreement without the mutual agreement described in Subsection (3)(a) to include an enrollment preference described in Subsection 53A-1a-506(4)(g).

Amended by Chapter 212, 2017 General Session

**53A-1a-509 Noncompliance -- Rulemaking.**

- (1) If a charter school is found to be out of compliance with the requirements of Section 53A-1a-507 or the school's charter, the charter school authorizer shall notify the following in writing that the charter school has a reasonable time to remedy the deficiency, except as otherwise provided in Subsection 53A-1a-510(4):
  - (a) the governing board of the charter school; and
  - (b) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.
- (2) If the charter school does not remedy the deficiency within the established timeline, the authorizer may:
  - (a) subject to the requirements of Subsection (4), take one or more of the following actions:
    - (i) remove a charter school director or finance officer;
    - (ii) remove a governing board member; or
    - (iii) appoint an interim director or mentor to work with the charter school; or
  - (b) subject to the requirements of Section 53A-1a-510, terminate the school's charter.
- (3) The costs of an interim director or mentor appointed pursuant to Subsection (2)(a) shall be paid from the funds of the charter school for which the interim director or mentor is working.
- (4) The authorizer shall notify the Utah Charter School Finance Authority before the authorizer takes an action described in Subsections (2)(a)(i) through (iii) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program.
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules:
  - (a) specifying the timeline for remedying deficiencies under Subsection (1); and
  - (b) ensuring the compliance of a charter school with its approved charter.

Amended by Chapter 363, 2014 General Session

**53A-1a-509.5 Voluntary school improvement process.**

- (1) As used in this section, "high performing charter school" means a charter school that:
  - (a) satisfies all requirements of state law and State Board of Education rules;
  - (b) has operated for at least three years meeting the terms of the school's charter agreement; and
  - (c) has students performing at or above the academic performance standard in the school's charter agreement.
- (2)
  - (a) Subject to Subsection (2)(b), a governing board may voluntarily request the charter school's authorizer to place the school in a school improvement process.
  - (b) A governing board shall provide notice and a hearing on the governing board's intent to make a request under Subsection (2)(a) to parents and guardians of students enrolled in the charter school.
- (3) An authorizer may grant a governing board's request to be placed in a school improvement process if the governing board has provided notice and a hearing under Subsection (2)(b).
- (4) An authorizer that has entered into a school improvement process with a governing board shall:
  - (a) enter into a contract with the governing board on the terms of the school improvement process;

- (b) notify the State Board of Education that the authorizer has entered into a school improvement process with the governing board;
  - (c) make a report to a committee of the State Board of Education regarding the school improvement process; and
  - (d) notify the Utah Charter School Finance Authority that the authorizer has entered into a school improvement process with the governing board if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program.
- (5) Upon notification under Subsection (4)(b), and after the report described in Subsection (4)(c), the State Board of Education shall notify charter schools and the school district in which the charter school is located that the governing board has entered into a school improvement process with the charter school's authorizer.
- (6) A high performing charter school or the school district in which the charter school is located may apply to the governing board to assume operation and control of the charter school that has been placed in a school improvement process.
- (7) A governing board that has entered into a school improvement process shall review applications submitted under Subsection (6) and submit a proposal to the charter school's authorizer to:
- (a) terminate the school's charter, notwithstanding the requirements of Section 53A-1a-510; and
  - (b) transfer operation and control of the charter school to:
    - (i) the school district in which the charter school is located; or
    - (ii) a high performing charter school.
- (8) Except as provided in Subsection (9) and subject to Subsection (10), an authorizer may:
- (a) approve a governing board's proposal under Subsection (7); or
  - (b)
    - (i) deny a governing board's proposal under Subsection (7); and
    - (ii)
      - (A) terminate the school's charter in accordance with Section 53A-1a-510;
      - (B) allow the governing board to submit a revised proposal; or
      - (C) take no action.
- (9) An authorizer may not take an action under Subsection (8) for a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, without mutual agreement of the Utah Charter School Finance Authority and the authorizer.
- (10)
- (a) An authorizer that intends to transfer operation and control of a charter school as described in Subsection (7)(b) shall request approval from the State Board of Education.
  - (b)
    - (i) The State Board of Education shall consider an authorizer's request under Subsection (10)(a) within 30 days of receiving the request.
    - (ii) If the State Board of Education denies an authorizer's request under Subsection (10)(a), the authorizer may not transfer operation and control of the charter school as described in Subsection (7)(b).
    - (iii) If the State Board of Education does not take action on an authorizer's request under Subsection (10)(a) within 30 days of receiving the request, an authorizer may proceed to transfer operation and control of the charter school as described in Subsection (7)(b).

Amended by Chapter 363, 2016 General Session



***Superseded 11/1/2017***

**53A-1a-510 Termination of a charter.**

- (1) Subject to the requirements of Subsection (3), a charter school authorizer may terminate a school's charter for any of the following reasons:
  - (a) failure of the charter school to meet the requirements stated in the charter;
  - (b) failure to meet generally accepted standards of fiscal management;
  - (c) subject to Subsection (8), failure to make adequate yearly progress under the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.;
  - (d)
    - (i) designation as a low performing school under Chapter 1, Part 11, School Grading Act; and
    - (ii) failure to improve the school's grade under the conditions described in Chapter 1, Part 12, School Turnaround and Leadership Development Act;
  - (e) violation of requirements under this part or another law; or
  - (f) other good cause shown.
- (2)
  - (a) The authorizer shall notify the following of the proposed termination in writing, state the grounds for the termination, and stipulate that the governing board may request an informal hearing before the authorizer:
    - (i) the governing board of the charter school; and
    - (ii) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.
  - (b) Except as provided in Subsection (2)(e), the authorizer shall conduct the hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act, within 30 days after receiving a written request under Subsection (2)(a).
  - (c) If the authorizer, by majority vote, approves a motion to terminate a charter school, the governing board of the charter school may appeal the decision to the State Board of Education.
  - (d)
    - (i) The State Board of Education shall hear an appeal of a termination made pursuant to Subsection (2)(c).
    - (ii) The State Board of Education's action is final action subject to judicial review.
  - (e)
    - (i) If the authorizer proposes to terminate the charter of a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, the authorizer shall conduct a hearing described in Subsection (2)
      - (b) 120 days or more after notifying the following of the proposed termination:
        - (A) the governing board of the qualifying charter school; and
        - (B) the Utah Charter School Finance Authority.
      - (ii) Prior to the hearing described in Subsection (2)(e)(i), the Utah Charter School Finance Authority shall meet with the authorizer to determine whether the deficiency may be remedied in lieu of termination of the qualifying charter school's charter.
- (3) An authorizer may not terminate the charter of a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, without mutual agreement of the Utah Charter School Finance Authority and the authorizer.
- (4)

- (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules that require a charter school to report any threats to the health, safety, or welfare of its students to the State Charter School Board in a timely manner.
- (b) The rules under Subsection (4)(a) shall also require the charter school report to include what steps the charter school has taken to remedy the threat.
- (5) Subject to the requirements of Subsection (3), the authorizer may terminate a charter immediately if good cause has been shown or if the health, safety, or welfare of the students at the school is threatened.
- (6) If a charter is terminated during a school year, the following entities may apply to the charter school's authorizer to assume operation of the school:
  - (a) the school district where the charter school is located;
  - (b) the governing board of another charter school; or
  - (c) a private management company.
- (7)
  - (a) If a charter is terminated, a student who attended the school may apply to and shall be enrolled in another public school under the enrollment provisions of Chapter 2, Part 2, District of Residency, subject to space availability.
  - (b) Normal application deadlines shall be disregarded under Subsection (7)(a).
- (8) Subject to the requirements of Subsection (3), an authorizer may terminate a charter pursuant to Subsection (1)(c) under the same circumstances that local educational agencies are required to implement alternative governance arrangements under 20 U.S.C. Sec. 6316.

Amended by Chapter 449, 2015 General Session

***Effective 11/1/2017***

**53A-1a-510 Termination of a charter.**

- (1) Subject to the requirements of Subsection (3), a charter school authorizer may terminate a school's charter for any of the following reasons:
  - (a) failure of the charter school to meet the requirements stated in the charter;
  - (b) failure to meet generally accepted standards of fiscal management;
  - (c) subject to Subsection (8), failure to make adequate yearly progress under the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.;
  - (d)
    - (i) designation as a low performing school under Chapter 1, Part 12, School Turnaround and Leadership Development Act; and
    - (ii) failure to improve the school's grade under the conditions described in Chapter 1, Part 12, School Turnaround and Leadership Development Act;
  - (e) violation of requirements under this part or another law; or
  - (f) other good cause shown.
- (2)
  - (a) The authorizer shall notify the following of the proposed termination in writing, state the grounds for the termination, and stipulate that the governing board may request an informal hearing before the authorizer:
    - (i) the governing board of the charter school; and
    - (ii) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.

- (b) Except as provided in Subsection (2)(e), the authorizer shall conduct the hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act, within 30 days after receiving a written request under Subsection (2)(a).
- (c) If the authorizer, by majority vote, approves a motion to terminate a charter school, the governing board of the charter school may appeal the decision to the State Board of Education.
- (d)
  - (i) The State Board of Education shall hear an appeal of a termination made pursuant to Subsection (2)(c).
  - (ii) The State Board of Education's action is final action subject to judicial review.
- (e)
  - (i) If the authorizer proposes to terminate the charter of a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, the authorizer shall conduct a hearing described in Subsection (2)(b) 120 days or more after notifying the following of the proposed termination:
    - (A) the governing board of the qualifying charter school; and
    - (B) the Utah Charter School Finance Authority.
  - (ii) Prior to the hearing described in Subsection (2)(e)(i), the Utah Charter School Finance Authority shall meet with the authorizer to determine whether the deficiency may be remedied in lieu of termination of the qualifying charter school's charter.
- (3) An authorizer may not terminate the charter of a qualifying charter school with outstanding bonds issued in accordance with Chapter 20b, Part 2, Charter School Credit Enhancement Program, without mutual agreement of the Utah Charter School Finance Authority and the authorizer.
- (4)
  - (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules that require a charter school to report any threats to the health, safety, or welfare of its students to the State Charter School Board in a timely manner.
  - (b) The rules under Subsection (4)(a) shall also require the charter school report to include what steps the charter school has taken to remedy the threat.
- (5) Subject to the requirements of Subsection (3), the authorizer may terminate a charter immediately if good cause has been shown or if the health, safety, or welfare of the students at the school is threatened.
- (6) If a charter is terminated during a school year, the following entities may apply to the charter school's authorizer to assume operation of the school:
  - (a) the school district where the charter school is located;
  - (b) the governing board of another charter school; or
  - (c) a private management company.
- (7)
  - (a) If a charter is terminated, a student who attended the school may apply to and shall be enrolled in another public school under the enrollment provisions of Chapter 2, Part 2, District of Residency, subject to space availability.
  - (b) Normal application deadlines shall be disregarded under Subsection (7)(a).
- (8) Subject to the requirements of Subsection (3), an authorizer may terminate a charter pursuant to Subsection (1)(c) under the same circumstances that local educational agencies are required to implement alternative governance arrangements under 20 U.S.C. Sec. 6316.

Amended by Chapter 378, 2017 General Session

**53A-1a-510.5 Charter school closure.**

- (1) If a charter school is closed for any reason, including the termination of a charter in accordance with Section 53A-1a-510 or the conversion of a charter school to a private school, the provisions of this section apply.
- (2) A decision to close a charter school is made:
  - (a) when a charter school authorizer approves a motion to terminate described in Subsection 53A-1a-510(2)(c);
  - (b) when the State Board of Education takes final action described in Subsection 53A-1a-510(2)(d)(ii); or
  - (c) when a charter school provides notice to the charter school's authorizer that the charter school is relinquishing the charter school's charter.
- (3)
  - (a) No later than 10 days after the day on which a decision to close a charter school is made, the charter school shall:
    - (i) provide notice to the following, in writing, of the decision:
      - (A) if the charter school made the decision to close, the charter school's authorizer;
      - (B) the State Charter School Board;
      - (C) if the State Board of Education did not make the decision to close, the State Board of Education;
      - (D) parents of students enrolled at the charter school;
      - (E) the charter school's creditors;
      - (F) the charter school's lease holders;
      - (G) the charter school's bond issuers;
      - (H) other entities that may have a claim to the charter school's assets;
      - (I) the school district in which the charter school is located and other charter schools located in that school district; and
      - (J) any other person that the charter school determines to be appropriate; and
    - (ii) post notice of the decision on the Utah Public Notice Website, created in Section 63F-1-701.
  - (b) The notice described in Subsection (3)(a) shall include:
    - (i) the proposed date of the charter school closure;
    - (ii) the charter school's plans to help students identify and transition into a new school; and
    - (iii) contact information for the charter school during the transition.
- (4) After a decision to close a charter school is made, the closing charter school shall:
  - (a) designate a custodian for the protection of student files and school business records;
  - (b) maintain a base of operation throughout the charter school closing, including:
    - (i) an office;
    - (ii) hours of operation;
    - (iii) operational telephone service with voice messaging stating the hours of operation; and
    - (iv) a designated individual to respond to questions or requests during the hours of operation;
  - (c) maintain insurance coverage and risk management coverage throughout the transition to closure and for a period following closure of the charter school as specified by the charter school's authorizer;
  - (d) complete a financial audit or other procedure required by board rule immediately after the decision to close is made;
  - (e) inventory all assets of the charter school; and
  - (f) list all creditors of the charter school and specifically identify secured creditors and assets that are security interests.

- (5) The closing charter school's authorizer shall oversee the closing charter school's compliance with Subsection (4).
- (6)
  - (a) A closing charter school shall return any assets remaining, after all liabilities and obligations of the closing charter school are paid or discharged, to the closing charter school's authorizer.
  - (b) The closing charter school's authorizer shall liquidate assets at fair market value or assign the assets to another public school.
- (7) The closing charter school's authorizer shall oversee liquidation of assets and payment of debt in accordance with board rule.
- (8) The closing charter school shall:
  - (a) comply with all state and federal reporting requirements; and
  - (b) submit all documentation and complete all state and federal reports required by the closing charter school's authorizer or the State Board of Education, including documents to verify the closing charter school's compliance with procedural requirements and satisfaction of all financial issues.
- (9) When the closing charter school's financial affairs are closed out and dissolution is complete, the authorizer shall ensure that a final audit of the charter school is completed.
- (10) On or before January 1, 2017, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall, after considering suggestions from charter school authorizers, make rules that:
  - (a) provide additional closure procedures for charter schools; and
  - (b) establish a charter school closure process.

Amended by Chapter 213, 2016 General Session

**53A-1a-511 Waivers from state board rules -- Application of statutes and rules to charter schools.**

- (1) A charter school shall operate in accordance with its charter and is subject to Title 53A, State System of Public Education, and other state laws applicable to public schools, except as otherwise provided in this part.
- (2)
  - (a) A charter school or any other public school or school district may apply to the State Board of Education for a waiver of any state board rule that inhibits or hinders the school or the school district from accomplishing its mission or educational goals set out in its strategic plan or charter.
  - (b) The state board may grant the waiver, unless:
    - (i) the waiver would cause the school district or the school to be in violation of state or federal law; or
    - (ii) the waiver would threaten the health, safety, or welfare of students in the district or at the school.
  - (c) If the State Board of Education denies the waiver, the reason for the denial shall be provided in writing to the waiver applicant.
- (3)
  - (a) Except as provided in Subsection (3)(b), State Board of Education rules governing the following do not apply to a charter school:
    - (i) school libraries;
    - (ii) required school administrative and supervisory services; and
    - (iii) required expenditures for instructional supplies.

- (b) A charter school shall comply with rules implementing statutes that prescribe how state appropriations may be spent.
- (4) The following provisions of Title 53A, State System of Public Education, and rules adopted under those provisions, do not apply to a charter school:
  - (a) Sections 53A-1a-108 and 53A-1a-108.5, requiring the establishment of a school community council and school improvement plan;
  - (b) Section 53A-3-420, requiring the use of activity disclosure statements;
  - (c) Section 53A-12-207, requiring notification of intent to dispose of textbooks;
  - (d) Section 53A-13-107, requiring annual presentations on adoption;
  - (e) Sections 53A-19-103 and 53A-19-105 pertaining to fiscal procedures of school districts and local school boards; and
  - (f) Section 53A-14-107, requiring an independent evaluation of instructional materials.
- (5) For the purposes of Title 63G, Chapter 6a, Utah Procurement Code, a charter school is considered an educational procurement unit as defined in Section 63G-6a-103.
- (6) Each charter school shall be subject to:
  - (a) Title 52, Chapter 4, Open and Public Meetings Act; and
  - (b) Title 63G, Chapter 2, Government Records Access and Management Act.
- (7) A charter school is exempt from Section 51-2a-201.5, requiring accounting reports of certain nonprofit corporations. A charter school is subject to the requirements of Section 53A-1a-507.
- (8)
  - (a) The State Charter School Board shall, in concert with the charter schools, study existing state law and administrative rules for the purpose of determining from which laws and rules charter schools should be exempt.
  - (b)
    - (i) The State Charter School Board shall present recommendations for exemption to the State Board of Education for consideration.
    - (ii) The State Board of Education shall consider the recommendations of the State Charter School Board and respond within 60 days.

Amended by Chapter 355, 2016 General Session

Amended by Chapter 363, 2016 General Session

**53A-1a-512 Employees of charter schools.**

- (1) A charter school shall select its own employees.
- (2) The school's governing board shall determine the level of compensation and all terms and conditions of employment, except as otherwise provided in Subsections (7) and (8) and under this part.
- (3) The following statutes governing public employees and officers do not apply to a charter school:
  - (a) Chapter 8a, Public Education Human Resource Management Act; and
  - (b) Title 52, Chapter 3, Prohibiting Employment of Relatives.
- (4)
  - (a) To accommodate differentiated staffing and better meet student needs, a charter school, under rules adopted by the State Board of Education, shall employ teachers who:
    - (i) are licensed; or
    - (ii) on the basis of demonstrated competency, would qualify to teach under alternative certification or authorization programs.
  - (b) The school's governing board shall disclose the qualifications of its teachers to the parents of its students.

- (5) State Board of Education rules governing the licensing or certification of administrative and supervisory personnel do not apply to charter schools.
- (6)
  - (a) An employee of a school district may request a leave of absence in order to work in a charter school upon approval of the local school board.
  - (b) While on leave, the employee may retain seniority accrued in the school district and may continue to be covered by the benefit program of the district if the charter school and the locally elected school board mutually agree.
- (7)
  - (a) A proposed or authorized charter school may elect to participate as an employer for retirement programs under:
    - (i) Title 49, Chapter 12, Public Employees' Contributory Retirement Act;
    - (ii) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act; and
    - (iii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act.
  - (b) An election under this Subsection (7):
    - (i) shall be documented by a resolution adopted by the governing board of the charter school; and
    - (ii) applies to the charter school as the employer and to all employees of the charter school.
  - (c) The governing board of a charter school may offer employee benefit plans for its employees:
    - (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or
    - (ii) under any other program.
- (8) A charter school may not revoke an election to participate made under Subsection (7).
- (9) The governing board of a charter school shall ensure that, prior to the beginning of each school year, each of its employees signs a document acknowledging that the employee:
  - (a) has received:
    - (i) the disclosure required under Section 63A-4-204.5 if the charter school participates in the Risk Management Fund; or
    - (ii) written disclosure similar to the disclosure required under Section 63A-4-204.5 if the charter school does not participate in the Risk Management Fund; and
  - (b) understands the legal liability protection provided to the employee and what is not covered, as explained in the disclosure.

Amended by Chapter 363, 2014 General Session

**53A-1a-512.5 Criminal background checks on school personnel.**

The following individuals are required to submit to a criminal background check and ongoing monitoring as provided in Section 53A-15-1503:

- (1) an employee of a charter school who does not hold a current Utah educator license issued by the State Board of Education under Title 53A, Chapter 6, Educator Licensing and Professional Practices Act;
- (2) a volunteer for a charter school who is given significant unsupervised access to a student in connection with the volunteer's assignment;
- (3) a contract employee, as defined in Section 53A-15-1502, who works at a charter school; and
- (4) a charter school governing board member.

Amended by Chapter 389, 2015 General Session

**53A-1a-513 Funding for charter schools.**

- (1) As used in this section:
- (a) "Basic program" means the same as that term is defined in Section 53A-17a-103.
  - (b) "Charter school students' average local revenues" means the amount determined as follows:
    - (i) for each student enrolled in a charter school on the previous October 1, calculate the district per pupil local revenues of the school district in which the student resides;
    - (ii) sum the district per pupil local revenues for each student enrolled in a charter school on the previous October 1; and
    - (iii) divide the sum calculated under Subsection (1)(b)(ii) by the number of students enrolled in charter schools on the previous October 1.
  - (c) "Charter school levy per pupil revenues" means the same as that term is defined in Section 53A-1a-513.1.
  - (d) "District local property tax revenues" means the sum of a school district's revenue received from the following:
    - (i) a voted local levy imposed under Section 53A-17a-133;
    - (ii) a board local levy imposed under Section 53A-17a-164, excluding revenues expended for:
      - (A) pupil transportation, up to the amount of revenue generated by a .0003 per dollar of taxable value of the school district's board local levy; and
      - (B) the K-3 Reading Improvement Program, up to the amount of revenue generated by a .000121 per dollar of taxable value of the school district's board local levy;
    - (iii) a capital local levy imposed under Section 53A-16-113; and
    - (iv) a guarantee described in Section 53A-17a-133, 53A-17a-164, 53A-21-202, or 53A-21-302.
  - (e) "District per pupil local revenues" means, using data from the most recently published school district annual financial reports and state superintendent's annual report, an amount equal to district local property tax revenues divided by the sum of:
    - (i) a school district's average daily membership; and
    - (ii) the average daily membership of a school district's resident students who attend charter schools.
  - (f) "Resident student" means a student who is considered a resident of the school district under Title 53A, Chapter 2, Part 2, District of Residency.
  - (g) "Statewide average debt service revenues" means the amount determined as follows, using data from the most recently published state superintendent's annual report:
    - (i) sum the revenues of each school district from the debt service levy imposed under Section 11-14-310; and
    - (ii) divide the sum calculated under Subsection (1)(g)(i) by statewide school district average daily membership.
- (2)
- (a) Charter schools shall receive funding as described in this section, except Subsections (3) through (8) do not apply to charter schools described in Subsection (2)(b).
  - (b) Charter schools authorized by local school boards that are converted from district schools or operate in district facilities without paying reasonable rent shall receive funding as prescribed in Section 53A-1a-515.
- (3)
- (a) Except as provided in Subsections (3)(b) and (3)(c), a charter school shall receive state funds, as applicable, on the same basis as a school district receives funds.
  - (b) For the 2015-16 school year, the number of weighted pupil units assigned to a charter school for the kindergarten and grades 1 through 12 programs of the Basic School Program shall be:
    - (i) based on the higher of:
      - (A) October 1 enrollment in the current school year; or



- (B) average daily membership in the prior school year plus growth as determined under Section 53A-17a-106; and
- (ii) weighted as provided in Subsection (3)(c).
- (c) In distributing funds under Chapter 17a, Minimum School Program Act, to charter schools, charter school pupils shall be weighted, where applicable, as follows:
  - (i) .55 for kindergarten pupils;
  - (ii) .9 for pupils in grades 1 through 6;
  - (iii) .99 for pupils in grades 7 through 8; and
  - (iv) 1.2 for pupils in grades 9 through 12.
- (4)
  - (a)
    - (i) A school district shall allocate a portion of school district revenues for each resident student of the school district who is enrolled in a charter school on the previous October 1 equal to 25% of the district per pupil local revenues excluding the amount of revenues:
      - (A) described in Subsection (1)(d)(iv) collected by the district; and
      - (B) expended by the school district for recreational facilities and activities authorized under Title 11, Chapter 2, Playgrounds.
    - (ii) Nothing in this Subsection (4)(a) affects the school bond guarantee program established under Chapter 28, Utah School Bond Guaranty Act.
  - (b) The State Board of Education shall:
    - (i) deduct an amount equal to the allocation provided under Subsection (4)(a) from state funds the school district is authorized to receive under Chapter 17a, Minimum School Program Act; and
    - (ii) remit the money to the student's charter school.
  - (c) Notwithstanding the method used to transfer school district revenues to charter schools as provided in Subsection (4)(b), a school district may deduct the allocations to charter schools under this section from:
    - (i) unrestricted revenues available to the school district; or
    - (ii) the revenue sources listed in Subsection (1)(d) based on the portion of the allocations to charter schools attributed to each of the revenue sources listed in Subsection (1)(d).
  - (d)
    - (i) Subject to future budget constraints, the Legislature shall provide an appropriation for charter schools for each student enrolled on October 1 to supplement the allocation of school district revenues under Subsection (4)(a).
    - (ii) Except as provided in Subsection (4)(d)(iii), the amount of money provided by the state for a charter school student shall be the sum of:
      - (A) charter school students' average local revenues minus the allocation of school district revenues under Subsection (4)(a); and
      - (B) statewide average debt service revenues.
    - (iii) If the total of a school district's allocation for a charter school student under Subsection (4)(a) and the amount provided by the state under Subsection (4)(d)(ii) is less than \$1427, the state shall provide an additional supplement so that a charter school receives at least \$1427 per student under this Subsection (4).
  - (iv)
    - (A) If the appropriation provided under this Subsection (4)(d) is less than the amount prescribed by Subsection (4)(d)(ii) or (4)(d)(iii), the appropriation shall be allocated among charter schools in proportion to each charter school's enrollment as a percentage of the total enrollment in charter schools.

- (B) If the State Board of Education makes adjustments to Minimum School Program allocations as provided under Section 53A-17a-105, the allocation provided in Subsection (4)(d)(iv)(A) shall be determined after adjustments are made under Section 53A-17a-105.
- (e)
- (i) Except as provided in Subsection (4)(e)(ii), of the money provided to a charter school under this Subsection (4), 10% shall be expended for funding school facilities only.
  - (ii) Subsection (4)(e)(i) does not apply to an online charter school.
- (f) This Subsection (4) is repealed July 1, 2017.
- (5)
- (a) As described in Section 53A-1a-513.1, the State Board of Education shall distribute charter school levy per pupil revenues to charter schools.
  - (b)
    - (i) Subject to future budget constraints, the Legislature shall provide an appropriation for charter schools for each charter school student enrolled on October 1 to supplement the allocation of charter school levy per pupil revenues described in Subsection (5)(a).
    - (ii) Except as provided in Subsection (5)(b)(iii), the amount of money provided by the state for a charter school student shall be the sum of:
      - (A) charter school students' average local revenues minus the charter school levy per pupil revenues; and
      - (B) statewide average debt service revenues.
    - (iii) If the total of charter school levy per pupil revenues and the amount provided by the state under Subsection (5)(b)(ii) is less than \$1,427, the state shall provide an additional supplement so that a charter school receives at least \$1,427 per student under this Subsection (5).
  - (iv)
    - (A) If the appropriation provided under this Subsection (5)(b) is less than the amount prescribed by Subsection (5)(b)(ii) or (5)(b)(iii), the appropriation shall be allocated among charter schools in proportion to each charter school's enrollment as a percentage of the total enrollment in charter schools.
    - (B) If the State Board of Education makes adjustments to Minimum School Program allocations as provided under Section 53A-17a-105, the allocation provided in Subsection (5)(b)(iv)(A) shall be determined after adjustments are made under Section 53A-17a-105.
- (c)
- (i) Of the money provided to a charter school under this Subsection (5), 10% shall be expended for funding school facilities only.
  - (ii) Subsection (5)(c)(i) does not apply to an online charter school.
- (d) This Subsection (5) is effective July 1, 2017.
- (6) Charter schools are eligible to receive federal funds if they meet all applicable federal requirements and comply with relevant federal regulations.
- (7) The State Board of Education shall distribute funds for charter school students directly to the charter school.
- (8)
- (a) Notwithstanding Subsection (3), a charter school is not eligible to receive state transportation funding.
  - (b) The board shall also adopt rules relating to the transportation of students to and from charter schools, taking into account Sections 53A-2-210 and 53A-17a-127.
  - (c) The governing board of the charter school may provide transportation through an agreement or contract with the local school board, a private provider, or parents.

- (9)
  - (a)
    - (i) In accordance with Section 53A-1a-513.5, the State Charter School Board may allocate grants for start-up costs to charter schools from money appropriated for charter school start-up costs.
    - (ii) The governing board of a charter school that receives money from a grant under Section 53A-1a-513.5 shall use the grant for expenses for planning and implementation of the charter school.
  - (b) The State Board of Education shall coordinate the distribution of federal money appropriated to help fund costs for establishing and maintaining charter schools within the state.
- (10)
  - (a) A charter school may receive, hold, manage and use any devise, bequest, grant, endowment, gift, or donation of any property made to the school for any of the purposes of this part.
  - (b) It is unlawful for any person affiliated with a charter school to demand or request any gift, donation, or contribution from a parent, teacher, employee, or other person affiliated with the charter school as a condition for employment or enrollment at the school or continued attendance at the school.

Amended by Chapter 229, 2016 General Session

**53A-1a-513.1 Charter school levy.**

- (1) As used in this section:
  - (a) "Board" means the State Board of Education.
  - (b) "Charter School Levy Account" means the Charter School Levy Account created in Section 53A-1a-513.2.
  - (c) "Charter school levy per district revenues" means the product of:
    - (i) a school district's district per pupil local revenues; and
    - (ii) the number of charter school students in the school district who are resident students.
  - (d) "Charter school levy per pupil revenues" means an amount equal to the following:
    - (i) charter school levy total local revenues for a given fiscal year, adjusted if necessary as described in Subsection (4); divided by
    - (ii) the number of students enrolled in a charter school on October 1 of the prior school year.
  - (e) "Charter school levy revenues" means the charter school levy revenues generated by a charter school levy rate described in Subsection (2)(b)(i).
  - (f) "Charter school levy total local revenues" means the sum of charter school levy per district revenues for every school district in the state for the same given fiscal year.
  - (g) "District per pupil local revenues" means the same as that term is defined in Section 53A-1a-513.
  - (h) "Resident student" means the same as that term is defined in Section 53A-1a-513.
- (2)
  - (a) Beginning with the taxable year beginning on January 1, 2017, the state shall annually impose a charter school levy as described in this Subsection (2).
  - (b)
    - (i) For each school district, before June 22, the State Tax Commission shall certify a rate for the charter school levy described in Subsection (2)(a) to generate an amount of revenue within a school district equal to 25% of the charter school levy per district revenues excluding the amount of revenues:
      - (A) described in Subsection 53A-1a-513(1)(d)(iv); and

- (B) expended by the school district for recreational facilities and activities authorized under Title 11, Chapter 2, Playgrounds.
- (ii) To calculate a charter school levy rate for a school district, the State Tax Commission shall use the calculation method described in Subsection 59-2-924(3)(c)(ii).
- (c) The charter school levy shall be separately stated on a tax notice.
- (3)
  - (a) A county treasurer shall collect the charter school levy revenues for all school districts located within the county treasurer's county and remit the money monthly to the state treasurer.
  - (b) The state treasurer shall deposit the charter school levy revenues received from a county treasurer into the Charter School Levy Account.
- (4)
  - (a) For each charter school student, the board shall distribute the charter school per pupil levy revenues from the Charter School Levy Account to the student's charter school in accordance with this Subsection (4).
  - (b) For a given fiscal year, if the actual charter school levy total local revenues are more than the estimated charter school levy total local revenues the board shall:
    - (i) deduct the amount of revenue that exceeds the estimated charter school levy total local revenues from the actual charter school levy total local revenues; and
    - (ii) use the remaining amount to calculate the charter school per pupil levy revenues.
  - (c) For a given fiscal year, if the actual charter school total local revenues are less than the estimated charter school levy total local revenues, the board shall:
    - (i) if sufficient funds are available in the Charter School Levy Account, add an amount of funds from the Charter School Levy Account to the charter school levy total local revenues to equal the estimated charter school levy total local revenues; and
    - (ii) if sufficient funds are not available in the Charter School Levy Account, calculate the charter school per pupil levy revenues using the actual amount of the charter school levy total local revenues.

Enacted by Chapter 229, 2016 General Session

**53A-1a-513.2 Charter School Levy Account.**

- (1) As used in this section, "account" means the Charter School Levy Account created in this section.
- (2) There is created within the Education Fund a restricted account known as the "Charter School Levy Account."
- (3) The account shall be funded by amounts deposited into the account in accordance with Section 53A-1a-513.1.
- (4) Upon appropriation from the Legislature, the State Board of Education shall distribute funds from the account as described in Section 53A-1a-513.1.
- (5) The account shall earn interest.
- (6) Interest earned on the account shall be deposited into the account.
- (7) Funds in the account are nonlapsing.

Enacted by Chapter 229, 2016 General Session

**53A-1a-513.5 Charter school start-up costs.**

- (1)

- (a) The State Charter School Board shall use money appropriated for charter school start-up costs to provide grants to charter schools to pay for expenses for the planning and implementation of a charter school.
- (b) The State Charter School Board:
  - (i) may use up to 8% of the money appropriated for charter school start-up costs for financial monitoring of new charter schools and to provide professional development or technical assistance for governing board members and staff of new charter schools; and
  - (ii) in accordance with rules adopted by the State Board of Education, may use up to \$200,000 of the money appropriated for charter school start-up costs for a mentoring program for new and existing charter schools.
- (2) The amount of a grant for charter school start-up costs shall be based on the authorized enrollment of the charter school.
- (3) The State Board of Education shall make rules consistent with this section specifying:
  - (a) procedures for applying for and awarding grants for charter school start-up costs;
  - (b) permitted uses of grant money; and
  - (c) requirements for a charter school to submit the following to the State Charter School Board:
    - (i) a budget for the grant money; and
    - (ii) a final report on the expenditure of the grant money.
- (4) The State Board of Education shall make rules establishing a mentoring program for new and existing charter schools.

Enacted by Chapter 318, 2012 General Session

**53A-1a-514 Tort liability.**

- (1) An employee of a charter school is a public employee and the governing board is a public employer in the same manner as a local school board for purposes of tort liability.
- (2) The governing board of a charter school, the nonprofit corporation under which the charter school is organized and managed, and the school are solely liable for any damages resulting from a legal challenge involving the operation of the school.

Amended by Chapter 363, 2014 General Session

**53A-1a-515 Charters authorized by local school boards -- Application process -- Local school board responsibilities.**

- (1)
  - (a) An applicant identified in Section 53A-1a-504 may submit an application to a local school board to establish and operate a charter school within the geographical boundaries of the school district administered by the local school board.
  - (b)
    - (i) The principal, teachers, or parents of students at an existing public school may submit an application to the local school board to convert the school or a portion of the school to charter status.
      - (A) If the entire school is applying for charter status, at least two-thirds of the licensed educators employed at the school and at least two-thirds of the parents or guardians of students enrolled at the school must have signed a petition approving the application prior to its submission to the charter school authorizer.
      - (B) If only a portion of the school is applying for charter status, the percentage is reduced to a simple majority.

- (ii) The local school board may not approve an application submitted under Subsection (1)(b)(i) unless the local school board determines that:
  - (A) students opting not to attend the proposed converted school would have access to a comparable public education alternative; and
  - (B) current teachers who choose not to teach at the converted charter school or who are not retained by the school at the time of its conversion would receive a first preference for transfer to open teaching positions for which they qualify within the school district, and, if no positions are open, contract provisions or board policy regarding reduction in staff would apply.
- (2)
  - (a) An existing public school that converts to charter status under a charter granted by a local school board may:
    - (i) continue to receive the same services from the school district that it received prior to its conversion; or
    - (ii) contract out for some or all of those services with other public or private providers.
  - (b) Any other charter school authorized by a local school board may contract with the board to receive some or all of the services referred to in Subsection (3)(a).
  - (c) Except as specified in a charter agreement, local school board assets do not transfer to an existing public school that converts to charter status under a charter granted by a local school board under this section.
- (3)
  - (a)
    - (i) A public school that converts to a charter school under a charter granted by a local school board shall receive funding:
      - (A) through the school district; and
      - (B) on the same basis as it did prior to its conversion to a charter school.
    - (ii) The school may also receive federal money designated for charter schools under any federal program.
  - (b)
    - (i) A local school board-authorized charter school operating in a facility owned by the school district and not paying reasonable rent to the school district shall receive funding:
      - (A) through the school district; and
      - (B) on the same basis that other district schools receive funding.
    - (ii) The school may also receive federal money designated for charter schools under any federal program.
  - (c) Subject to the provisions in Section 53A-1a-502.5, a charter school authorized by a local school board shall receive funding as provided in Section 53A-1a-513.
  - (d)
    - (i) A charter school authorized by a local school board, but not described in Subsection (3)(a), (b), or (c) shall receive funding:
      - (A) through the school district; and
      - (B) on the same basis that other district schools receive funding.
    - (ii) The school may also receive federal money designated for charter schools under any federal program.
- (4)
  - (a) A local school board that receives an application for a charter school under this section shall, within 45 days, either accept or reject the application.

- (b) If the board rejects the application, it shall notify the applicant in writing of the reason for the rejection.
  - (c) The applicant may submit a revised application for reconsideration by the board.
  - (d) If the local school board refuses to authorize the applicant, the applicant may seek a charter from the State Charter School Board under Section 53A-1a-505.
- (5) The State Board of Education shall make a rule providing for a timeline for the opening of a charter school following the approval of a charter school application by a local school board.
- (6) After approval of a charter school application and in accordance with Section 53A-1a-508, the applicant and the local school board shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.
- (7) A local school board shall:
- (a) annually review and evaluate the performance of charter schools authorized by the local school board and hold the schools accountable for their performance;
  - (b) monitor charter schools authorized by the local school board for compliance with federal and state laws, rules, and regulations; and
  - (c) provide technical support to charter schools authorized by the local school board to assist them in understanding and performing their charter obligations.
- (8) A local school board may terminate a charter school it authorizes as provided in Sections 53A-1a-509 and 53A-1a-510.
- (9) In addition to the exemptions described in Sections 53A-1a-511 and 53A-1a-512, a charter school authorized by a local school board is:
- (a) not required to separately submit a report or information required under this title to the State Board of Education if the information is included in a report or information that is submitted by the local school board or school district; and
  - (b) exempt from the requirement under Section 53A-1a-507 that a charter school shall be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- (10) Before a local school board accepts a charter school application, the local school board shall, in accordance with State Board of Education rules, establish and make public the local school board's:
- (a) application requirements, in accordance with Section 53A-1a-504;
  - (b) application process, including timelines, in accordance with this section; and
  - (c) minimum academic, financial, and enrollment standards.

Amended by Chapter 363, 2014 General Session

**53A-1a-517 Charter school assets.**

- (1)
- (a) A charter school may receive, hold, manage, and use any devise, bequest, grant, endowment, gift, or donation of any asset made to the school for any of the purposes of this part.
  - (b) Unless a donor or grantor specifically provides otherwise in writing, all assets described in Subsection (1) shall be presumed to be made to the charter school and shall be included in the charter school's assets.
- (2) It is unlawful for any person affiliated with a charter school to demand or request any gift, donation, or contribution from a parent, teacher, employee, or other person affiliated with the charter school as a condition for employment or enrollment at the school or continued attendance at the school.
- (3) All assets purchased with charter school funds shall be included in the charter school's assets.

- (4) A charter school may not dispose of its assets in violation of the provisions of this part, state board rules, policies of its charter school authorizer, or its charter, including the provisions governing the closure of a charter school under Section 53A-1a-510.5.

Amended by Chapter 363, 2014 General Session

**53A-1a-518 Regulated transactions and relationships -- Definitions -- Rulemaking.**

(1) As used in this section:

(a) "Charter school officer" means:

- (i) a member of a charter school's governing board;
- (ii) a member of a board or an officer of a nonprofit corporation under which a charter school is organized and managed; or
- (iii) the chief administrative officer of a charter school.

(b)

- (i) "Employment" means a position in which a person's salary, wages, pay, or compensation, whether as an employee or contractor, is paid from charter school funds.
- (ii) "Employment" does not include a charter school volunteer.

(c) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

(2)

- (a) Except as provided in Subsection (2)(b), a relative of a charter school officer may not be employed at a charter school.
- (b) If a relative of a charter school officer is to be considered for employment in a charter school, the charter school officer shall:
  - (i) disclose the relationship, in writing, to the other charter school officers;
  - (ii) submit the employment decision to the charter school's governing board for the approval, by majority vote, of the charter school's governing board;
  - (iii) abstain from voting on the issue; and
  - (iv) be absent from any meeting when the employment is being considered and determined.

(3)

- (a) Except as provided in Subsections (3)(b) and (3)(c), a charter school officer or a relative of a charter school officer may not have a financial interest in a contract or other transaction involving a charter school in which the charter school officer serves as a charter school officer.
- (b) If a charter school's governing board considers entering into a contract or executing a transaction in which a charter school officer or a relative of a charter school officer has a financial interest, the charter school officer shall:
  - (i) disclose the financial interest, in writing, to the other charter school officers;
  - (ii) submit the contract or transaction decision to the charter school's governing board for the approval, by majority vote, of the charter school's governing board;
  - (iii) abstain from voting on the issue; and
  - (iv) be absent from any meeting when the contract or transaction is being considered and determined.
- (c) The provisions in Subsection (3)(a) do not apply to a reasonable contract of employment for:
  - (i) the chief administrative officer of a charter school; or
  - (ii) a relative of the chief administrative officer of a charter school whose employment is approved in accordance with the provisions in Subsection (2).



(4) The State Board of Education or State Charter School Board may not operate a charter school.

Amended by Chapter 162, 2010 General Session

**53A-1a-519 Charter school students' participation in extracurricular activities at other public schools.**

- (1) A charter school student is eligible to participate in an extracurricular activity not offered by the student's charter school at:
  - (a) the school within whose attendance boundaries the student's custodial parent or legal guardian resides;
  - (b) the public school from which the student withdrew for the purpose of attending a charter school; or
  - (c) a public school that is not a charter school if the student's charter school is located on the campus of the public school or has local school board approval to locate on the campus of the public school.
- (2) In addition to the public schools listed in Subsection (1), the State Board of Education may establish rules to allow a charter school student to participate in an extracurricular activity at a public school other than a public school listed in Subsection (1).
- (3) A school other than a school described in Subsection (1)(a), (b), or (c) may allow a charter school student to participate in extracurricular activities other than:
  - (a) interschool competitions of athletic teams sponsored and supported by a public school; or
  - (b) interschool contests or competitions for music, drama, or forensic groups or teams sponsored and supported by a public school.
- (4) A charter school student is eligible for extracurricular activities at a public school consistent with eligibility standards as applied to full-time students of the public school.
- (5) A school district or public school may not impose additional requirements on a charter school student to participate in extracurricular activities that are not imposed on full-time students of the public school.
- (6)
  - (a) The State Board of Education shall make rules establishing fees for charter school students' participation in extracurricular activities at school district schools.
  - (b) The rules shall provide that:
    - (i) charter school students pay the same fees as other students to participate in extracurricular activities;
    - (ii) charter school students are eligible for fee waivers pursuant to Section 53A-12-103;
    - (iii) for each charter school student who participates in an extracurricular activity at a school district school, the charter school shall pay a share of the school district's costs for the extracurricular activity; and
    - (iv) a charter school's share of the costs of an extracurricular activity shall reflect state and local tax revenues expended, except capital facilities expenditures, for an extracurricular activity in a school district or school divided by total student enrollment of the school district or school.
  - (c) In determining a charter school's share of the costs of an extracurricular activity under Subsections (6)(b)(iii) and (iv), the State Board of Education may establish uniform fees statewide based on average costs statewide or average costs within a sample of school districts.

- (7) When selection to participate in an extracurricular activity at a public school is made on a competitive basis, a charter school student is eligible to try out for and participate in the activity as provided in this section.

Amended by Chapter 433, 2011 General Session

**53A-1a-520 Accountability -- Rules.**

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and after consultation with chartering entities, the State Board of Education shall make rules that:

- (1) require a charter school to develop an accountability plan, approved by its charter school authorizer, during its first year of operation;
- (2) require an authorizer to:
  - (a) visit a charter school at least once during:
    - (i) its first year of operation; and
    - (ii) the review period described under Subsection (3); and
  - (b) provide written reports to its charter schools after the visits; and
- (3) establish a review process that is required of a charter school once every five years by its authorizer.

Amended by Chapter 363, 2014 General Session

***Superseded 7/1/2017***

**53A-1a-521 Charter schools authorized by a board of trustees of a higher education institution -- Application process -- Board of trustees responsibilities.**

- (1) Subject to the approval of the State Board of Education and except as provided in Subsection (8), an applicant identified in Section 53A-1a-504 may enter into an agreement with a board of trustees of a higher education institution authorizing the applicant to establish and operate a charter school.
- (2)
  - (a) An applicant applying for authorization from a board of trustees to establish and operate a charter school shall provide a copy of the application to the State Charter School Board and the local school board of the school district in which the proposed charter school shall be located either before or at the same time the applicant files the application with the board of trustees.
  - (b) The State Charter School Board and the local school board may review the application and offer suggestions or recommendations to the applicant or the board of trustees before acting on the application.
  - (c) The board of trustees shall give due consideration to suggestions or recommendations made by the State Charter School Board or the local school board under Subsection (2)(b).
- (3)
  - (a) If a board of trustees approves an application to establish and operate a charter school, the board of trustees shall submit the application to the State Board of Education.
  - (b) The State Board of Education shall, by majority vote, within 60 days of receipt of the application, approve or deny an application approved by a board of trustees.
  - (c) The State Board of Education's action under Subsection (3)(b) is final action subject to judicial review.
- (4) The State Board of Education shall make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by a board of trustees.

- (5) After approval of a charter school application, the applicant and the board of trustees shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.
- (6)
  - (a) The school's charter may include a provision that the charter school pay an annual fee for the board of trustees' costs in providing oversight of, and technical support to, the charter school in accordance with Subsection (7).
  - (b) In the first two years that a charter school is in operation, an annual fee described in Subsection (6)(a) may not exceed the product of 3% of the revenue the charter school receives from the state in the current fiscal year.
  - (c) Beginning with the third year that a charter school is in operation, an annual fee described in Subsection (6)(a) may not exceed the product of 1% of the revenue a charter school receives from the state in the current fiscal year.
  - (d) An annual fee described in Subsection (6)(a) shall be:
    - (i) paid to the board of trustees' higher education institution; and
    - (ii) expended as directed by the board of trustees.
- (7) A board of trustees shall:
  - (a) annually review and evaluate the performance of charter schools authorized by the board of trustees and hold the schools accountable for their performance;
  - (b) monitor charter schools authorized by the board of trustees for compliance with federal and state laws, rules, and regulations; and
  - (c) provide technical support to charter schools authorized by the board of trustees to assist them in understanding and performing their charter obligations.
- (8)
  - (a) In addition to complying with the requirements of this section, a board of directors of an applied technology college within the Utah College of Applied Technology shall obtain the approval of the Utah College of Applied Technology Board of Trustees before entering into an agreement to establish and operate a charter school.
  - (b) If a board of directors of an applied technology college within the Utah College of Applied Technology approves an application to establish and operate a charter school, the applied technology college board of directors shall submit the application to the Utah College of Applied Technology Board of Trustees.
  - (c) The Utah College of Applied Technology Board of Trustees shall, by majority vote, within 60 days of receipt of the application, approve or deny the application approved by the applied technology college board of directors.
  - (d) The Utah College of Applied Technology Board of Trustees may deny an application approved by an applied technology college board of directors if the proposed charter school does not accomplish a purpose of charter schools as provided in Section 53A-1a-503.
  - (e) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:
    - (i) an enrollment decline;
    - (ii) a decrease in funding; or
    - (iii) a modification of programs or services.
- (9)
  - (a) Subject to the requirements of this part, an applied technology college board of directors may establish:
    - (i) procedures for submitting applications to establish and operate a charter school; and

- (ii) criteria for approval of an application to establish and operate a charter school.
- (b) The Utah College of Applied Technology Board of Trustees may not establish policy governing the procedures or criteria described in Subsection (9)(a).
- (10) Before an applied technology college board of directors accepts a charter school application, the applied technology college board of directors shall, in accordance with State Board of Education rules, establish and make public:
  - (a) application requirements, in accordance with Section 53A-1a-504;
  - (b) application process, including timelines, in accordance with this section; and
  - (c) minimum academic, financial, and enrollment standards.

Amended by Chapter 236, 2016 General Session

***Effective 7/1/2017***

**53A-1a-521 Charter schools authorized by a board of trustees of a higher education institution -- Application process -- Board of trustees responsibilities.**

- (1) Subject to the approval of the State Board of Education and except as provided in Subsection (8), an applicant identified in Section 53A-1a-504 may enter into an agreement with a board of trustees of a higher education institution authorizing the applicant to establish and operate a charter school.
- (2)
  - (a) An applicant applying for authorization from a board of trustees to establish and operate a charter school shall provide a copy of the application to the State Charter School Board and the local school board of the school district in which the proposed charter school will be located either before or at the same time the applicant files the application with the board of trustees.
  - (b) The State Charter School Board and the local school board may review the application and offer suggestions or recommendations to the applicant or the board of trustees before acting on the application.
  - (c) The board of trustees shall give due consideration to suggestions or recommendations made by the State Charter School Board or the local school board under Subsection (2)(b).
- (3)
  - (a) If a board of trustees approves an application to establish and operate a charter school, the board of trustees shall submit the application to the State Board of Education.
  - (b) The State Board of Education shall, by majority vote, within 60 days of receipt of the application, approve or deny an application approved by a board of trustees.
  - (c) The State Board of Education's action under Subsection (3)(b) is final action subject to judicial review.
- (4) The State Board of Education shall make a rule providing a timeline for the opening of a charter school following the approval of a charter school application by a board of trustees.
- (5) After approval of a charter school application, the applicant and the board of trustees shall set forth the terms and conditions for the operation of the charter school in a written charter agreement.
- (6)
  - (a) The school's charter may include a provision that the charter school pay an annual fee for the board of trustees' costs in providing oversight of, and technical support to, the charter school in accordance with Subsection (7).

- (b) In the first two years that a charter school is in operation, an annual fee described in Subsection (6)(a) may not exceed the product of 3% of the revenue the charter school receives from the state in the current fiscal year.
  - (c) Beginning with the third year that a charter school is in operation, an annual fee described in Subsection (6)(a) may not exceed the product of 1% of the revenue a charter school receives from the state in the current fiscal year.
  - (d) An annual fee described in Subsection (6)(a) shall be:
    - (i) paid to the board of trustees' higher education institution; and
    - (ii) expended as directed by the board of trustees.
- (7) A board of trustees shall:
- (a) annually review and evaluate the performance of charter schools authorized by the board of trustees and hold the schools accountable for their performance;
  - (b) monitor charter schools authorized by the board of trustees for compliance with federal and state laws, rules, and regulations; and
  - (c) provide technical support to charter schools authorized by the board of trustees to assist them in understanding and performing their charter obligations.
- (8)
- (a) In addition to complying with the requirements of this section, a technical college board of directors described in Section 53B-2a-108 shall obtain the approval of the Utah System of Technical Colleges Board of Trustees before entering into an agreement to establish and operate a charter school.
  - (b) If a technical college board of directors approves an application to establish and operate a charter school, the technical college board of directors shall submit the application to the Utah System of Technical Colleges Board of Trustees.
  - (c) The Utah System of Technical Colleges Board of Trustees shall, by majority vote, within 60 days of receipt of an application described in Subsection (8)(b), approve or deny the application.
  - (d) The Utah System of Technical Colleges Board of Trustees may deny an application approved by a technical college board of directors if the proposed charter school does not accomplish a purpose of charter schools as provided in Section 53A-1a-503.
  - (e) A charter school application may not be denied on the basis that the establishment of the charter school will have any or all of the following impacts on a public school, including another charter school:
    - (i) an enrollment decline;
    - (ii) a decrease in funding; or
    - (iii) a modification of programs or services.
- (9)
- (a) Subject to the requirements of this part, a technical college board of directors may establish:
    - (i) procedures for submitting applications to establish and operate a charter school; or
    - (ii) criteria for approval of an application to establish and operate a charter school.
  - (b) The Utah System of Technical Colleges Board of Trustees may not establish policy governing the procedures or criteria described in Subsection (9)(a).
- (10) Before a technical college board of directors accepts a charter school application, the technical college board of directors shall, in accordance with State Board of Education rules, establish and make public:
- (a) application requirements, in accordance with Section 53A-1a-504;
  - (b) the application process, including timelines, in accordance with this section; and
  - (c) minimum academic, financial, and enrollment standards.

Amended by Chapter 382, 2017 General Session

**53A-1a-522 Charter School Revolving Account.**

- (1) As used in this section, "account" means the Charter School Revolving Account.
- (2)
  - (a) There is created within the Uniform School Fund a restricted account known as the "Charter School Revolving Account" to provide assistance to charter schools to:
    - (i) meet school building construction and renovation needs; and
    - (ii) pay for expenses related to the start up of a new charter school or the expansion of an existing charter school.
  - (b) The State Board of Education, in consultation with the State Charter School Board, shall administer the Charter School Revolving Account in accordance with rules adopted by the State Board of Education.
- (3) The Charter School Revolving Account shall consist of:
  - (a) money appropriated to the account by the Legislature;
  - (b) money received from the repayment of loans made from the account; and
  - (c) interest earned on money in the account.
- (4) The state superintendent of public instruction shall make loans to charter schools from the account to pay for the costs of:
  - (a) planning expenses;
  - (b) constructing or renovating charter school buildings;
  - (c) equipment and supplies; or
  - (d) other start-up or expansion expenses.
- (5) Loans to new charter schools or charter schools with urgent facility needs may be given priority.
- (6)
  - (a) The State Board of Education shall establish a committee to:
    - (i) review requests by charter schools for loans under this section; and
    - (ii) make recommendations regarding approval or disapproval of the loan applications to the State Charter School Board and the State Board of Education.
  - (b)
    - (i) A committee established under Subsection (6)(a) shall include individuals who have expertise or experience in finance, real estate, or charter school administration.
    - (ii) Of the members appointed to a committee established under Subsection (6)(a):
      - (A) one member shall be nominated by the governor; and
      - (B) the remaining members shall be selected from a list of nominees submitted by the State Charter School Board.
  - (c) If the committee recommends approval of a loan application under Subsection (6)(a)(ii), the committee's recommendation shall include:
    - (i) the recommended amount of the loan;
    - (ii) the payback schedule; and
    - (iii) the interest rate to be charged.
  - (d) A committee member may not:
    - (i) be a relative, as defined in Section 53A-1a-518, of a loan applicant; or
    - (ii) have a pecuniary interest, directly or indirectly, with a loan applicant or any person or entity that contracts with a loan applicant.
- (7) A loan under this section may not be made unless the State Board of Education, in consultation with the State Charter School Board, approves the loan.

- (8) The term of a loan to a charter school under this section may not exceed five years.
- (9) The State Board of Education may not approve loans to charter schools under this section that exceed a total of \$2,000,000 in any fiscal year.
- (10)
  - (a) On March 16, 2011, the assets of the Charter School Building Subaccount administered by the State Board of Education shall be deposited into the Charter School Revolving Account.
  - (b) Beginning on March 16, 2011, loan payments for loans made from the Charter School Building Subaccount shall be deposited into the Charter School Revolving Account.

Enacted by Chapter 30, 2011 General Session

**53A-1a-523 Property tax exemption for property owned by a charter school.**

For purposes of a property tax exemption for property of school districts under Subsection 59-2-1101(3)(a)(ii)(B), a charter school is considered to be a school district.

Enacted by Chapter 436, 2011 General Session

**53A-1a-524 Safe technology utilization and digital citizenship.**

A charter school governing board, or a council formed by a charter school governing board to prepare a plan for the use of School LAND Trust Program money under Section 53A-16-101.5:

- (1) shall provide for education and awareness on safe technology utilization and digital citizenship that empowers:
  - (a) a student to make smart media and online choices; and
  - (b) a parent or guardian to know how to discuss safe technology use with the parent's or guardian's child;
- (2) shall partner with the school's principal and other administrators to ensure that adequate on and off campus Internet filtering is installed and consistently configured to prevent viewing of harmful content by students and school personnel, in accordance with charter school governing board policy and Subsection 53A-1-706(3); and
- (3) may partner with one or more non-profit organizations to fulfill the duties described in Subsections (1) and (2).

Amended by Chapter 220, 2016 General Session