

**Effective 1/24/2018**

**Chapter 5  
Charter Schools**

**Part 1  
General Provisions**

**53G-5-101 Title.**

This chapter is known as "Charter Schools."

Enacted by Chapter 3, 2018 General Session

**Superseded 7/1/2022**

**53G-5-102 Definitions.**

As used in this chapter:

- (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) a technical college board of trustees described in Section 53B-2a-108.
- (3) "Charter school authorizer" or "authorizer" means an entity listed in Section 53G-5-205 that authorizes a charter school.

Amended by Chapter 365, 2020 General Session

**Effective 7/1/2022**

**53G-5-102 Definitions.**

As used in this chapter:

- (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) Utah Tech University;
    - (vii) Utah Valley University; or
    - (viii) Salt Lake Community College; or
  - (b) a technical college board of trustees described in Section 53B-2a-108.
- (3) "Charter school authorizer" or "authorizer" means an entity listed in Section 53G-5-205 that authorizes a charter school.

Amended by Chapter 1, 2021 Special Session 2

**53G-5-103 Charter school funding.**

Unless otherwise specified, the provisions of Title 53F, Public Education System -- Funding, govern charter school funding, including Title 53F, Chapter 2, Part 7, Charter School Funding, which governs levies imposed for charter school funding.

Enacted by Chapter 3, 2018 General Session

**53G-5-104 Purpose of charter schools.**

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.

Renumbered and Amended by Chapter 3, 2018 General Session

## Part 2 State Charter School Board

### **53G-5-201 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 with the advice and consent of the Senate:
    - (i) one member who has 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;
    - (iii) two members who are nominated by the state board; and
    - (iv) one member who:
      - (A) has expertise in personalized learning, including digital teaching and learning or deliberate practice; and
      - (B) supports innovation in education.
  - (b) Each appointee shall have demonstrated dedication to the purposes of charter schools as outlined in Section 53G-5-104.
  - (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, with the advice and consent of the Senate, 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 State Charter School Board shall constitute a quorum.
  - (c) Meetings may be called by the chair or upon request of three members of the State Charter School 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 352, 2020 General Session

### **53G-5-202 Status and powers of State Charter School Board.**

- (1) The State Charter School Board may:
  - (a) enter into contracts;

- (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.
- (2) The state board shall:
  - (a) approve the annual budget and expenditures of the State Charter School Board; and
  - (b) otherwise grant autonomy to the State Charter School Board to manage the State Charter School Board's budget.

Amended by Chapter 439, 2021 General Session

**53G-5-203 State Charter School Board -- Staff director -- Facilities.**

- (1)
  - (a) The State Charter School Board, with the consent of the state superintendent, 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 state superintendent.
  - (c) The position of staff director is exempt from the career service provisions of Title 63A, Chapter 17, Utah State Personnel Management Act.
- (2) The state superintendent shall provide space for staff of the State Charter School Board in facilities occupied by the state board or the state board's employees, with costs charged for the facilities equal to those charged other sections and divisions under the state board.

Amended by Chapter 345, 2021 General Session

**53G-5-204 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 53G-5-104, 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.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-5-205 Charter school authorizers -- Power and duties -- Charter application minimum standard.**

- (1) The following entities are eligible to authorize charter schools:
  - (a) the State Charter School Board;
  - (b) a local school board; or

- (c) a board of trustees of an institution in the state system of higher education as described in Section 53B-1-102.
- (2) A charter school authorizer shall:
  - (a) annually review and evaluate the performance of charter schools authorized by the authorizer and hold a charter school accountable for the school's performance; and
  - (b) monitor charter schools authorized by the authorizer for compliance with federal and state laws, rules, and regulations.
- (3) A charter school authorizer may:
  - (a) authorize and promote the establishment of charter schools, subject to the provisions in this part;
  - (b) make recommendations on legislation and rules pertaining to charter schools to the Legislature and state board, respectively;
  - (c) make recommendations to the state board on the funding of charter schools;
  - (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 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; or
    - (v) assisting charter schools to understand and carry out their charter obligations; or
  - (e) provide technical support, as requested, to another charter school authorizer relating to charter schools.
- (4) Within 60 days after an authorizer's approval of an application for a new charter school, the state board may direct an authorizer to do the following if the authorizer or charter school applicant failed to follow statutory or state board rule requirements made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
  - (a) reconsider the authorizer's approval of an application for a new charter school; and
  - (b) correct deficiencies in the charter school application or authorizer's application process as described in statute or state board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, before approving the new application.
- (5) The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing minimum standards that a charter school authorizer is required to apply when:
  - (a) evaluating a charter school application; or
  - (b) monitoring charter school compliance.
- (6) The minimum standards described in Subsection (5) shall include:
  - (a) reasonable consequences for an authorizer that fails to comply with statute or state board rule;
  - (b) a process for an authorizer to review:
    - (i) the skill and expertise of a proposed charter school's governing board; and
    - (ii) the functioning operation of the charter school governing board of an authorized charter school;
  - (c) a process for an authorizer to review the financial viability of a proposed charter school and of an authorized charter school;
  - (d) a process to evaluate:

- (i) how well an authorizer's authorized charter school complies with the charter school's charter agreement;
- (ii) whether an authorizer's authorized charter school maintains reasonable academic standards; and
- (iii) standards that an authorizer is required to meet to demonstrate the authorizer's capacity to oversee, monitor, and evaluate the charter schools the authorizer authorizes.

Amended by Chapter 408, 2020 General Session

### **Part 3 Charter School Authorization**

#### **53G-5-301 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 53G-5-304.
- (5) The State Charter School Board and the state board 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 53G-6-504.
- (6) The state board 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.

Amended by Chapter 293, 2019 General Session

#### **53G-5-302 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 charter school governing board members that describes the qualifications of each member; and
    - (ii) an assurance that the applicant shall, within 30 days of authorization, complete a background check for each member consistent with Section 53G-5-408;
  - (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 53G-5-408;
    - (ii) require employee evaluations;
    - (iii) address employment of relatives within the charter school; and
    - (iv) address human resource management and ensure that:
      - (A) at least one of the school's employees or another person is assigned human resource management duties, as defined in Section 17B-1-805; and
      - (B) the assigned employee or person described in Subsection (2)(f)(iv)(A) receives human resource management training, as defined in Section 17B-1-805;
  - (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 business plan;
  - (l) other major issues involving the establishment and operation of the charter school; and
  - (m) the signatures of the charter school governing board members.
- (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 53E-4-301;
- (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 293, 2019 General Session

**53G-5-303 Charter agreement -- Content -- Modification.**

- (1) As used in this section:
- (2)
  - (a) "Innovation plan" means the same as that term is defined in Section 53G-7-221.
  - (b) "Satellite charter school" means a charter school affiliated with an operating charter school, which has the same charter school governing board and a similar program of instruction, but has a different school number than the affiliated charter.
- (3) 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.
- (4) 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 the charter school will serve;
  - (e)
    - (i) subject to Section 53G-6-504, the maximum number of students a charter school will serve;  
or
    - (ii) for an operating charter school with satellite charter schools, the maximum number of students of all satellite charter schools collectively served by the operating charter school;
  - (f) a description of the structure of the charter school governing board, including:
    - (i) the number of charter school governing board members;
    - (ii) how members of the charter school governing board are appointed; and
    - (iii) charter school governing board members' terms of office;
  - (g) 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 rules;
    - (ii) the charter school governing board will meet all reporting requirements described in Section 53G-5-404; and



- (iii) except as provided in Part 6, 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;
  - (h) which administrative rules the state board will waive for the charter school;
  - (i) minimum financial standards for operating the charter school;
  - (j) minimum standards for student achievement; and
  - (k) signatures of the charter school authorizer and the charter school governing board members.
- (5)
- (a) Except as provided in Subsection (5)(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 (5)(a) to:
    - (i) include an enrollment preference described in Subsection 53G-6-502(4)(h); or
    - (ii) only as described in Subsection 53G-7-221(5), include or remove an innovation plan.

Amended by Chapter 291, 2022 General Session  
Amended by Chapter 352, 2022 General Session

**53G-5-304 Charter schools authorized by the State Charter School Board -- Application process -- Prohibited basis 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 school 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) 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 shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, 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 53G-5-303, 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 rules, establish and make public the State Charter School Board's:
- (a) application requirements, in accordance with Section 53G-5-302;

- (b) application process, including timelines, in accordance with this section; and
- (c) minimum academic, financial, and enrollment standards.

Amended by Chapter 408, 2020 General Session

**53G-5-305 Charters authorized by local school boards -- Application process -- Local school board responsibilities.**

- (1)
  - (a) An applicant identified in Section 53G-5-302 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 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 local school 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 local school board to receive some or all of the services referred to in Subsection (2)(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) 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 local school 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 local school board.

- (d) If the local school board refuses to authorize the applicant, the applicant may seek a charter from another authorizer.
- (4) The state board 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.
- (5) After approval of a charter school application and in accordance with Section 53G-5-303, 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.
- (6) A local school board may terminate a charter school it authorizes as provided in Sections 53G-5-501 and 53G-5-503.
- (7) In addition to the exemptions described in Sections 53G-5-405, 53G-7-202, and 53G-5-407, a charter school authorized by a local school board is:
  - (a) not required to separately submit a report or information required under this public education code to the state board 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 53G-5-404 that a charter school shall be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.
- (8) Before a local school board accepts a charter school application, the local school board shall, in accordance with state board rules, establish and make public the local school board's:
  - (a) application requirements, in accordance with Section 53G-5-302;
  - (b) application process, including timelines, in accordance with this section; and
  - (c) minimum academic, financial, and enrollment standards.

Amended by Chapter 293, 2019 General Session

**53G-5-306 Charter schools authorized by a board of trustees of a higher education institution -- Application process -- Board of trustees responsibilities.**

- (1) Except as provided in Subsection (6), an applicant identified in Section 53G-5-302 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 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 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 local school board under Subsection (2)(b).
- (3) The state board 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.
- (4) 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.
- (5)
  - (a) The school's charter agreement 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 Section 53G-5-205.

- (b) In the first two years that a charter school is in operation, an annual fee described in Subsection (5)(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 (5)(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 (5)(a) shall be:
    - (i) paid to the board of trustees' higher education institution; and
    - (ii) expended as directed by the board of trustees.
- (6)
- (a) In addition to complying with the requirements of this section, a technical college board of trustees described in Section 53B-2a-108 shall obtain the approval of the Utah Board of Higher Education before entering into an agreement to establish and operate a charter school.
  - (b) If a technical college board of trustees approves an application to establish and operate a charter school, the technical college board of trustees shall submit the application to the Utah Board of Higher Education.
  - (c) The Utah Board of Higher Education shall, by majority vote, within 60 days of receipt of an application described in Subsection (6)(b), approve or deny the application.
  - (d) The Utah Board of Higher Education may deny an application approved by a technical college board of trustees if the proposed charter school does not accomplish a purpose of charter schools as provided in Section 53G-5-104.
  - (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.
- (7)
- (a) Subject to the requirements of this chapter and other related provisions, a technical college board of trustees 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 Board of Higher Education may not establish policy governing the procedures or criteria described in Subsection (7)(a).
- (8) Before a technical college board of trustees accepts a charter school application, the technical college board of trustees shall, in accordance with state board rules, establish and make public:
- (a) application requirements, in accordance with Section 53G-5-302;
  - (b) the application process, including timelines, in accordance with this section; and
  - (c) minimum academic, financial, and enrollment standards.

Amended by Chapter 324, 2021 General Session

**53G-5-307 Charter school authorization -- Initial review period.**

- (1) An authorizer shall grant a charter school approved under this title initial approval for a three-year review period, beginning with the first year of the charter school's operation.
- (2) Beginning in the first year of the initial review period, the authorizer shall comply with the accountability and review procedures described in Section 53G-5-406.

- (3) The authorizer may extend the initial review period for one year, up to two times during the initial review period.
- (4) At the end of the initial review period, the authorizer shall:
  - (a) grant the charter school ongoing approval; or
  - (b) terminate the charter agreement, subject to the requirements of Section 53G-5-503.
- (5) The authorizer shall, under the minimum standards described in Section 53G-5-205, base the decision to grant ongoing approval or terminate the charter agreement on:
  - (a) the charter school's compliance with the terms of the charter agreement;
  - (b) whether the charter school is meeting academic standards in the charter school's charter agreement;
  - (c) the charter school's financial viability; and
  - (d) the charter school's capacity to meet governance standards.
- (6) A charter school that is granted initial approval under this section may not participate in the Charter School Credit Enhancement Program until the authorizer grants ongoing approval of the charter school's charter.

Enacted by Chapter 192, 2020 General Session

## **Part 4 Powers and Duties**

### **53G-5-401 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 53E-3-401(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.

Renumbered and Amended by Chapter 3, 2018 General Session

### **53G-5-402 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.

Renumbered and Amended by Chapter 3, 2018 General Session

### **53G-5-403 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 chapter and other related provisions.

- (b) Unless a donor or grantor specifically provides otherwise in writing, all assets described in Subsection (1)(a) 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 chapter or other related provisions, state board rules, policies of its charter school authorizer, or its charter agreement, including the provisions governing the closure of a charter school under Section 53G-5-504.

Amended by Chapter 293, 2019 General Session

**53G-5-404 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:
    - (i) make the same annual reports required of other public schools under this public education code, including an annual financial audit report described in Section 53G-4-404;
    - (ii) ensure that the charter school meets the data and reporting standards described in Section 53E-3-501; and
    - (iii) use fund and program accounting methods and standardized account codes capable of producing financial reports that comply with:
      - (A) generally accepted accounting principles;
      - (B) the financial reporting requirements applicable to LEAs established by the state board under Section 53E-3-501; and
      - (C) accounting report standards established by the state auditor as described in Section 51-2a-301.
  - (b) Before, and as a condition for opening a charter school:
    - (i) a charter school shall:
      - (A) certify to the authorizer that the charter school's accounting methods meet the requirements described in Subsection (4)(a)(iii); or
      - (B) if the authorizer requires, conduct a performance demonstration to verify that the charter school's accounting methods meet the requirements described in Subsection (4)(a)(iii); and
    - (ii) the authorizer shall certify to the state board that the charter school's accounting methods meet the requirements described in Subsection (4)(a)(iii).
  - (c) A charter school shall file the charter school's annual financial audit report with the Office of the State Auditor within six months of the end of the fiscal year.

- (d) For the limited purpose of compliance with federal and state law governing use of public education funds, including restricted funds, and making annual financial audit reports under this section, a charter school is a government entity governed by the public education code.
- (5)
- (a) A charter school shall be accountable to the charter school's authorizer for performance as provided in the school's charter agreement.
  - (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 agreement.
  - (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 53G-5-104 or as otherwise provided in law.
- (6) A charter school may not advocate unlawful behavior.
- (7) Except as provided in Section 53G-5-305, 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, including:
- (a) general liability, errors and omissions, and directors and officers liability coverage through completion of the closure of a charter school under Section 53G-5-504; and
  - (b) tail coverage or closeout insurance covering at least one year after closure of the charter school.
- (9) Beginning on July 1, 2014, a charter school, including a charter school that has not yet opened, 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 before the charter school enters the lease, agreement, or contract.
- (10) A charter school may not employ an educator whose license is suspended or revoked by the state board under Section 53E-6-604.
- (11)
- (a) Each charter school shall register and maintain the charter school's registration as a limited purpose entity, in accordance with Section 67-1a-15.
  - (b) A charter school that fails to comply with Subsection (11)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.
  - (c) If a charter school is an operating charter school with affiliated satellite charter schools, as defined in Section 53G-5-303:
    - (i) the operating charter school shall register as a limited purpose entity as defined in Section 67-1a-15;
    - (ii) each affiliated satellite charter school is not required to register separately from the operating charter school; and
    - (iii) the operating charter school shall:
      - (A) register on behalf of each affiliated satellite charter school; and
      - (B) when submitting entity registry information under Section 67-1a-15 on behalf of each affiliated satellite charter school, identify and distinguish registry information for each affiliated satellite, including the address of each affiliated satellite charter school and the name and contact information of a primary contact for each affiliated satellite charter school.

(12)

- (a) As used in this Subsection (12), "contracting entity" means a person with which a charter school contracts.
  - (b) A charter school shall provide to the charter school's authorizer any information or documents requested by the authorizer, including documents held by a subsidiary of the charter school or a contracting entity:
    - (i) to confirm the charter school's compliance with state or federal law governing the charter school's finances or governance; or
    - (ii) to carry out the authorizer's statutory obligations, including liquidation and assignment of assets, and payment of debt in accordance with state board rule, as described in Section 53G-5-504.
  - (c) A charter school shall comply with a request described in Subsection (12)(b), including after an authorizer recommends closure of the charter school or terminates the charter school's contract.
  - (d) Documents held by a contracting entity or subsidiary of a charter school that are necessary to demonstrate the charter school's compliance with state or federal law are the property of the charter school.
  - (e) A charter school shall include in an agreement with a subsidiary of the charter school or a contracting entity a provision that stipulates that documents held by the subsidiary or a contracting entity, that are necessary to demonstrate the charter school's financial compliance with federal or state law, are the property of the charter school.
- (13) For each grading period and for each course in which a student is enrolled, a charter school shall issue a grade or performance report to the student:
- (a) that reflects the student's work, including the student's progress based on mastery, for the grading period; and
  - (b) in accordance with the charter school's adopted grading or performance standards and criteria.
- (14) A charter school shall:
- (a) make curriculum that the charter school uses readily accessible and available for a parent to view;
  - (b) annually notify a parent of a student enrolled in the charter school of how to access the information described in Subsection (14)(a); and
  - (c) include on the charter school's website information about how to access the information described in Subsection (14)(a).

Amended by Chapter 324, 2021 General Session

**53G-5-405 Application of statutes and rules to charter schools.**

- (1) A charter school shall operate in accordance with its charter agreement and is subject to this public education code and other state laws applicable to public schools, except as otherwise provided in this chapter and other related provisions.
- (2)
  - (a) Except as provided in Subsection (2)(b), state board 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.



- (3) The following provisions of this public education code, and rules adopted under those provisions, do not apply to a charter school:
  - (a) Section 53E-4-408, requiring an independent evaluation of instructional materials;
  - (b) Section 53G-4-409, requiring the use of activity disclosure statements;
  - (c) Sections 53G-7-304 and 53G-7-306, pertaining to fiscal procedures of school districts and local school boards;
  - (d) Section 53G-7-606, requiring notification of intent to dispose of textbooks;
  - (e) Section 53G-7-1202, requiring the establishment of a school community council; and
  - (f) Section 53G-10-404, requiring annual presentations on adoption.
- (4) 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.
- (5) 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.
- (6) 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 53G-5-404.
- (7)
  - (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 for consideration.
    - (ii) The state board shall consider the recommendations of the State Charter School Board and respond within 60 days.

Amended by Chapter 192, 2020 General Session

**53G-5-406 Accountability -- Rules.**

The state board shall, after consultation with chartering entities, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, 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 408, 2020 General Session

**53G-5-407 Employees of charter schools.**

- (1) A charter school shall select its own employees.
- (2) The charter school 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 chapter and other related provisions.

- (3) The following statutes governing public employees and officers do not apply to a charter school:
  - (a) Chapter 11, Part 5, School District and Utah Schools for the Deaf and the Blind Employee Requirements; 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, shall employ teachers who are licensed.
  - (b) The charter school governing board shall disclose the qualifications of its teachers to the parents of its students.
- (5)
  - (a) Except as provided in Subsection (5)(b), state board rules governing the licensing or certification of administrative and supervisory personnel do not apply to charter schools.
  - (b) A director of special education in a charter school shall hold an appropriate license issued by the state board under Title 53E, Chapter 6, Education Professional Licensure.
- (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 local 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 charter school governing board; and
    - (ii) applies to the charter school as the employer and to all employees of the charter school.
  - (c) The charter school governing board 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 charter school governing board shall ensure that, prior to the beginning of each school year:
  - (a) each of the charter school's employees signs a document acknowledging that the employee:
    - (i) has received:
      - (A) the disclosure required under Section 63A-4-204.5 if the charter school participates in the Risk Management Fund; or
      - (B) 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
    - (ii) understands the legal liability protection provided to the employee and what is not covered, as explained in the disclosure; and
  - (b)
    - (i) at least one of the charter school's employees or another person is assigned human resource management duties, as defined in Section 17B-1-805; and
    - (ii) the assigned employee or person described in Subsection (9)(b)(i) receives human resource management training, as defined in Section 17B-1-805.

Amended by Chapter 278, 2022 General Session

**53G-5-408 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 53G-11-402:

- (1) an employee of a charter school who does not hold a current Utah educator license issued by the state board under Title 53E, Chapter 6, Education Professional Licensure;
- (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 53G-11-401, who works at a charter school; and
- (4) a charter school governing board member.

Amended by Chapter 293, 2019 General Session

**53G-5-409 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 the portion of the meeting where 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 the portion of the meeting where 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 or State Charter School Board may not operate a charter school.

Amended by Chapter 293, 2019 General Session

**53G-5-410 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 53G-7-1206:

- (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 to know how to discuss safe technology use with the parent'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 53G-7-216(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 293, 2019 General Session

**53G-5-411 Charter school fiscal year -- Statistical reports.**

- (1) A charter school's fiscal year begins on July 1 and ends on June 30.
- (2)
- (a) A charter school shall forward statistical reports for the preceding school year, containing items required by law or by the state board, to the state superintendent on or before November 1 of each year.
  - (b) The reports shall include information to enable the state superintendent to complete the statement of funds required under Section 53E-1-203.
- (3) A charter school shall forward the accounting report required under Section 51-2a-201 to the state superintendent on or before October 15 of each year.

Amended by Chapter 293, 2019 General Session

Amended by Chapter 324, 2019 General Session

**53G-5-412 Contract with regional education service agencies.**

A public school that is a charter school may enter into a contract with an eligible regional education service agency, as defined in Section 53G-4-410, to receive education-related services from the eligible regional education service agency.

Amended by Chapter 253, 2020 General Session

**53G-5-413 Charter school governing board meetings -- Rules of order and procedure.**

- (1) As used in this section, "rules of order and procedure" means a set of rules that governs and prescribes in a public meeting:
  - (a) parliamentary order and procedure;
  - (b) ethical behavior; and
  - (c) civil discourse.
- (2) A charter school governing board shall:
  - (a) adopt rules of order and procedure to govern a public meeting of the charter school governing board;
  - (b) conduct a public meeting in accordance with the rules of order and procedure described in Subsection (2)(a); and
  - (c) make the rules of order and procedure described in Subsection (2)(a) available to the public:
    - (i) at each public meeting of the charter school governing board; and
    - (ii) on the charter school governing board's public website, if available.
- (3) The requirements of this section do not affect a charter school governing board's duty to comply with Title 52, Chapter 4, Open and Public Meetings Act.

Amended by Chapter 136, 2019 General Session

**53G-5-414 Required provision of period products in schools.**

- (1) As used in this section, "period products" means:
  - (a) tampons;
  - (b) sanitary napkins; or
  - (c) other similar products designed for hygiene in connection with the human menstrual cycle.
- (2) Beginning July 1, 2022, a charter school shall:
  - (a) provide period products free of charge to students in each female or unisex restroom within an elementary, middle, junior, or high school or school facility which students use; and
  - (b) inform public school students of the availability of the period products as described in this section.
- (3) To address the cost of the requirements of this section, a charter school shall:
  - (a) use funds that the Legislature appropriates specifically for the provision of period products; and
  - (b) incorporate the provision of period products into local ongoing capital operations and maintenance budgets no later than July 1, 2025.
- (4) The state board shall:
  - (a) oversee the implementation of the requirements of this section; and
  - (b) monitor compliance with this section.

Enacted by Chapter 309, 2022 General Session

**Part 5**  
**Noncompliance, Charter Termination, and Liability**

**53G-5-501 Noncompliance -- Rulemaking.**

- (1) If a charter school is found to be out of compliance with the requirements of Section 53G-5-404 or the school's charter agreement, 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 53G-5-503(4):
  - (a) the charter school governing board; and
  - (b) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, the Utah Charter School Finance Authority.
- (2)
  - (a) If the charter school does not remedy the deficiency within the established timeline, the authorizer may:
    - (i) subject to the requirements of Subsection (4), take one or more of the following actions:
      - (A) remove a charter school director or finance officer;
      - (B) remove a charter school governing board member;
      - (C) appoint an interim director, mentor, or finance officer to work with the charter school; or
      - (D) appoint a governing board member;
    - (ii) subject to the requirements of Section 53G-5-503, terminate the school's charter agreement; or
    - (iii) transfer operation and control of the charter school to a high performing charter school, as defined in Subsection 53G-5-502(1), including reconstituting the governing board to effectuate the transfer.
  - (b) The authorizer may prohibit the charter school governing board from removing an appointment made under Subsection (2)(a)(i), for a period of up to one year after the date of the appointment.
- (3) The costs of an interim director, mentor, or finance officer appointed under Subsection (2)
  - (a) shall be paid from the funds of the charter school for which the interim director, mentor, or finance officer is working.
- (4) The authorizer shall notify the Utah Charter School Finance Authority before the authorizer takes an action described in Subsection (2)(a)(i) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program.
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board 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 agreement.
- (6)
  - (a) An authorizer may petition the district court where a charter school is located or incorporated to appoint a receiver, and the district court may appoint a receiver if the authorizer establishes that the charter school:
    - (i) is subject to closure under Section 53G-5-503; and
    - (ii)
      - (A) has disposed, or there is a demonstrated risk that the charter school will dispose, of the charter school's assets in violation of Subsection 53G-5-403(4); or
      - (B) cannot, or there is a demonstrated risk that the charter school will not, make repayment of amounts owed to the federal government or the state.
  - (b) The court shall describe the powers and duties of the receiver in the court's appointing order, and may amend the order from time to time.

- (c) Among other duties ordered by the court, the receiver shall:
  - (i) ensure the protection of the charter school's assets;
  - (ii) preserve money owed to creditors; and
  - (iii) if requested by the authorizer, carry out charter school closure procedures described in Section 53G-5-504, and state board rules, as directed by the authorizer.
- (d) If the authorizer does not request, or the court does not appoint, a receiver:
  - (i) the authorizer may reconstitute the governing board of a charter school; or
  - (ii) if a new governing board cannot be reconstituted, the authorizer shall complete the closure procedures described in Section 53G-5-504, including liquidation and assignment of assets, and payment of debt in accordance with state board rule, as described in Section 53G-5-504.
- (e) For a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program, an authorizer shall obtain the consent of the Utah Charter School Finance Authority before the authorizer takes the following actions:
  - (i) petitions a district court to appoint a receiver, as described in Subsection (6)(a);
  - (ii) reconstitutes the governing board, as described in Subsection (6)(d)(i); or
  - (iii) carries out closure procedures, as described in Subsection (6)(d)(ii).

Amended by Chapter 192, 2020 General Session  
Amended by Chapter 408, 2020 General Session

**53G-5-502 Voluntary school improvement process.**

- (1) As used in this section:
  - (a) "High performing charter school" means a charter school that:
    - (i) satisfies all requirements of state law and state board rules;
    - (ii) has operated for at least three years meeting the terms of the school's charter agreement; and
    - (iii) is in good standing with the charter school's authorizer.
  - (b) "Low performing charter school" means a charter school that is designated a low performing school, as that term is defined in Section 53E-5-301.
  - (c) "School turnaround plan" means the same as that term is defined in Section 53E-5-301.
- (2)
  - (a) Subject to Subsection (2)(b), a charter school governing board may voluntarily request the charter school's authorizer to place the charter school, including a low performing charter school that has a school turnaround plan, in a school improvement process.
  - (b) A charter school governing board shall provide notice and a hearing on the charter school governing board's intent to make a request under Subsection (2)(a) to parents of students enrolled in the charter school.
- (3) An authorizer may grant a charter school governing board's request to be placed in a school improvement process if the charter school 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 charter school governing board shall:
  - (a) enter into a contract with the charter school governing board on the terms of the school improvement process;
  - (b) notify the state board that the authorizer has entered into a school improvement process with the charter school governing board;

- (c) make a report to a committee of the state board 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 charter school governing board if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement Program.
- (5) Upon notification under Subsection (4)(b), and after the report described in Subsection (4)(c), the state board shall notify charter schools and the school district in which the charter school is located that the charter school 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 charter school governing board to assume operation and control of the charter school that has been placed in a school improvement process.
- (7) A charter school 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 53G-5-503; 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 charter school governing board's proposal under Subsection (7); or
  - (b)
    - (i) deny a charter school governing board's proposal under Subsection (7); and
    - (ii)
      - (A) terminate the school's charter agreement in accordance with Section 53G-5-503;
      - (B) allow the charter school 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 Part 6, 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.
  - (b)
    - (i) The state board shall consider an authorizer's request under Subsection (10)(a) within 30 days of receiving the request.
    - (ii) If the state board 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 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).
- (11) If operation and control of a low performing charter school that has a school turnaround plan is transferred to a high performing charter school as described in Subsection (7)(b), the low performing charter school shall complete the requirements of the school turnaround plan and any other requirements imposed by the authorizer for school improvement.



Amended by Chapter 192, 2020 General Session

**53G-5-503 Termination of a charter agreement.**

- (1) Subject to the requirements of Subsection (3), a charter school authorizer may terminate a school's charter agreement for any of the following reasons:
  - (a) failure of the charter school to meet the requirements stated in the charter agreement;
  - (b) failure to meet generally accepted standards of fiscal management;
  - (c)
    - (i) designation as a low performing school under Title 53E, Chapter 5, Part 3, School Turnaround and Leadership Development; and
    - (ii) failure to improve the school's grade under the conditions described in Title 53E, Chapter 5, Part 3, School Turnaround and Leadership Development;
  - (d) violation of requirements under this chapter or another law; or
  - (e) 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 charter school governing board may request an informal hearing before the authorizer:
    - (i) the charter school governing board; and
    - (ii) if the charter school is a qualifying charter school with outstanding bonds issued in accordance with Part 6, 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 charter school governing board may appeal the decision to the state board.
  - (d)
    - (i) The state board shall hear an appeal of a termination made pursuant to Subsection (2)(c).
    - (ii) The state board's action is final action subject to judicial review.
  - (e)
    - (i) If the authorizer proposes to terminate the charter agreement of a qualifying charter school with outstanding bonds issued in accordance with Part 6, 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 charter school 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 agreement.
- (3) An authorizer may not terminate the charter agreement of a qualifying charter school with outstanding bonds issued in accordance with Part 6, 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 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 agreement 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 agreement is terminated, 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 charter school governing board of another charter school;
  - (c) a private management company; or
  - (d) the governing board of a nonprofit corporation.
- (7)
  - (a) If a charter agreement 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 6, Part 3, School District Residency, subject to space availability.
  - (b) Normal application deadlines shall be disregarded under Subsection (7)(a).

Amended by Chapter 192, 2020 General Session

Amended by Chapter 408, 2020 General Session

**53G-5-504 Charter school closure.**

- (1) As used in this section, "receiving charter school" means a charter school that an authorizer permits under Subsection (13)(a), to accept enrollment applications from students of a closing charter school.
- (2) If a charter school is closed for any reason, including the termination of a charter agreement in accordance with Section 53G-5-503 or the conversion of a charter school to a private school, the provisions of this section apply.
- (3) A decision to close a charter school is made:
  - (a) when a charter school authorizer approves a motion to terminate described in Subsection 53G-5-503(2)(c);
  - (b) when the state board takes final action described in Subsection 53G-5-503(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.
- (4)
  - (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 did not make the decision to close, the state board;
      - (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 63A-16-601.
- (b) The notice described in Subsection (4)(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.
- (5) No later than 10 days after the day on which 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) designate a base of operation that will be maintained 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) assure that the charter school will maintain private insurance coverage or risk management coverage for covered claims that arise before closure, throughout the transition to closure and for a period following closure of the charter school as specified by the charter school's authorizer;
  - (d) assure that the charter school will complete by the set deadlines for all fiscal years in which funds are received or expended by the charter school a financial audit and any other procedure required by state board rule;
  - (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.
- (6) The closing charter school's authorizer shall oversee the closing charter school's compliance with Subsection (5).
- (7)
  - (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.
- (8) The closing charter school's authorizer shall oversee liquidation of assets and payment of debt in accordance with state board rule.
- (9) 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, including documents to verify the closing charter school's compliance with procedural requirements and satisfaction of all financial issues.
- (10) 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.
- (11) On or before January 1, 2017, the state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and 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.
- (12)
- (a) Upon termination of the charter school's charter agreement:
    - (i) notwithstanding provisions to the contrary in Title 16, Chapter 6a, Part 14, Dissolution, the nonprofit corporation under which the charter school is organized and managed may be unilaterally dissolved by the authorizer; and
    - (ii) the net assets of the charter school shall revert to the authorizer as described in Subsection (7).
  - (b) The charter school and the authorizer shall mutually agree in writing on the effective date and time of the dissolution described in Subsection (12)(a).
  - (c) The effective date and time of dissolution described in Subsection (12)(b) may not exceed five years after the date of the termination of the charter agreement.
- (13) Notwithstanding the provisions of Chapter 6, Part 5, Charter School Enrollment:
- (a) an authorizer may permit a specified number of students from a closing charter school to be enrolled in another charter school, if the receiving charter school:
    - (i)
      - (A) is authorized by the same authorizer as the closing charter school; or
      - (B) is authorized by a different authorizer and the authorizer of the receiving charter school approves the increase in enrollment; and
    - (ii) agrees to accept enrollment applications from students of the closing charter school;
  - (b) a receiving charter school shall give new enrollment preference to applications from students of the closing charter school in the first school year in which the closing charter school is not operational; and
  - (c) a receiving charter school's enrollment capacity is increased by the number of students enrolled in the receiving charter school from the closing charter school under this Subsection (13).
- (14) A member of the governing board or staff of the receiving charter school that is also a member of the governing board of the receiving charter school's authorizer, shall recuse himself or herself from a decision regarding the enrollment of students from a closing charter school as described in Subsection (13).

Amended by Chapter 84, 2021 General Session

Amended by Chapter 345, 2021 General Session

**53G-5-505 Tort liability.**

- (1) An employee of a charter school is a public employee and the charter school governing board is a public employer in the same manner as a local school board for purposes of tort liability.
- (2) The charter school governing board, 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 293, 2019 General Session

**Part 6**  
**Charter School Credit Enhancement Program**

**53G-5-601 Definitions.**

As used in this part:

- (1) "Annual charter school enrollment" means the total enrollment of all students in the state enrolled in a charter school in grades kindergarten through grade 12, based on October 1 enrollment counts.
- (2) "Annual state enrollment" means the total enrollment of all students in the state enrolled in a public school in grades kindergarten through grade 12, based on October 1 enrollment counts.
- (3) "Authority" means the Utah Charter School Finance Authority created by this part.
- (4) "Board" means the governing board of the authority described in Section 53G-5-602.
- (5) "Charter school" means a school created under this chapter.
- (6) "Credit enhancement program" means the Charter School Credit Enhancement Program established in Section 53G-5-606.
- (7) "Debt service reserve fund" means the reserve fund created or established by, or for the benefit of, a qualifying charter school for the purpose of paying principal of and interest on bonds issued under the credit enhancement program as the payments become due and other money of the qualifying charter school is not available to make the payments.
- (8) "Debt service reserve fund requirement" means, as of a particular date of computation, and with respect to a particular issue of bonds, the amount required to be on deposit in the debt service reserve fund, which amount:
  - (a) may be a sum certain or as set forth in a formula; and
  - (b) may not be less than the maximum annual debt service requirement for the related bonds.
- (9)
  - (a) "Obligations" mean any notes, debentures, revenue bonds, or other evidences of financial indebtedness, except as provided in Subsection (9)(b).
  - (b) "Obligations" do not include general obligation bonds.
- (10) "Project" means:
  - (a) any building, structure, or property owned, to be acquired, or used by a charter school for any of its educational purposes and the related appurtenances, easements, rights-of-way, improvements, paving, utilities, landscaping, parking facilities, and lands; or
  - (b) any capital equipment owned, to be acquired, or used by a charter school for any of its educational purposes, interests in land, and grounds, together with the personal property necessary, convenient, or appurtenant to them.
- (11) "Qualifying charter school" means a charter school that:
  - (a) meets standards adopted by the authority for participation in the credit enhancement program; and
  - (b) is designated by the authority as a qualifying charter school for purposes of participation in the credit enhancement program.
- (12) "Reserve account" means the Charter School Reserve Account created in Section 53F-9-303.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-5-602 Utah Charter School Finance Authority created -- Members -- Compensation -- Services.**

- (1) There is created a body politic and corporate known as the Utah Charter School Finance Authority. The authority is created to provide an efficient and cost-effective method of financing charter school facilities.
- (2) The governing board of the authority shall be composed of:

- (a) the governor or the governor's designee;
  - (b) the state treasurer; and
  - (c) the state superintendent or the state superintendent's designee.
- (3) 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.
- (4) Upon request, the state board shall provide staff support to the authority.

Amended by Chapter 293, 2019 General Session

**53G-5-603 Powers and duties of authority.**

- (1) The authority shall have perpetual succession as a body politic and corporate.
- (2) The authority may:
- (a) sue and be sued in its own name;
  - (b) have, and alter at will, an official seal;
  - (c) contract with experts, advisers, consultants, and agents for needed services;
  - (d) receive and accept aid or contributions from any source, including the United States or this state, in the form of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of this part, subject to the conditions upon which the aid and contributions are made, for any purpose consistent with this part;
  - (e) exercise the powers granted to municipalities and counties pursuant to Title 11, Chapter 17, Utah Industrial Facilities and Development Act, including the power to borrow money and issue obligations, including refunding obligations, subject to the same limitations as that imposed on a municipality or county under the act, except:
    - (i) the authority may only exercise powers under the act to finance or refinance a project as defined in Section 53G-5-601; and
    - (ii) the authority's area of operation shall include all areas of the state;
  - (f) employ advisers, consultants, and agents, including financial experts, independent legal counsel, and any advisers, consultants, and agents as may be necessary in its judgment and fix their compensation;
  - (g) make and execute contracts and other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions;
  - (h) in accordance with Section 53G-5-606, designate a charter school as a qualifying charter school for purposes of participation in the credit enhancement program; and
  - (i) have and exercise any other powers or duties that are necessary or appropriate to carry out and effectuate the purposes of this part.
- (3) Except as provided in Section 53G-5-607, 53G-5-608, or 53G-5-609, the Utah Charter School Finance Authority may not exercise power in any manner which would create general or moral obligations of the state or of any agency, department, or political subdivision of the state.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-5-604 Limited obligations.**

Except as provided in Section 53G-5-607, 53G-5-608, or 53G-5-609, bonds, notes, and other obligations issued by the authority:

- (1) do not constitute a debt, moral obligation, or liability of the state, or of any county, city, town, school district, or any other political subdivision of the state;
- (2) do not constitute the loan of credit of the state or of any county, city, town, school district, or any other political subdivision of the state; and
- (3) may not be paid from funds other than loan payments or lease revenues received from a charter school or other funds pledged by a charter school.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-5-605 State to succeed to property of authority when encumbrances paid or authority dissolved.**

- (1) If the authority is dissolved at any time, for any reason, all funds, property, rights, and interests of the authority, following the satisfaction of the authority's obligations, shall immediately vest in and become the property of the state, which shall succeed to all rights of the authority subject to any encumbrances which may then exist on any particular properties.
- (2) None of the net earnings of the authority shall inure to the benefit of any private person.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-5-606 Charter School Credit Enhancement Program -- Standards for the designation of qualifying charter schools -- Debt service reserve fund requirements.**

- (1) There is created the Charter School Credit Enhancement Program to assist qualifying charter schools in obtaining favorable financing by providing a means of replenishing a qualifying charter school's debt service reserve fund.
- (2) The authority shall establish standards for a charter school to be designated as a qualifying charter school.
- (3) In establishing the standards described in Subsection (2) the authority shall consider:
  - (a) whether a charter school has received an investment grade rating, independent of any rating enhancement resulting from the issuance of bonds pursuant to the credit enhancement program;
  - (b) the location of the charter school's project;
  - (c) the operating history of the charter school;
  - (d) the financial strength of the charter school; and
  - (e) any other criteria the authority determines are relevant.
- (4) The bonds issued by the authority for a qualifying charter school are not an indebtedness of the state or of the authority but are special obligations payable solely from:
  - (a) the revenues or other funds pledged by the qualifying charter school; and
  - (b) amounts appropriated by the Legislature pursuant to Subsection (9).
- (5) The authority shall notify the authorizer of a charter school that the charter school is participating in the credit enhancement program if the authority:
  - (a) designates the charter school as a qualifying charter school; and
  - (b) issues bonds for the qualifying charter school under the credit enhancement program.
- (6) One or more debt service reserve funds shall be established for a qualifying charter school with respect to bonds issued pursuant to the credit enhancement program.
- (7)
  - (a) Except as provided in Subsection (7)(b), money in a debt service reserve fund may not be withdrawn from the debt service reserve fund if the amount withdrawn would reduce the

level of money in the debt service reserve fund to less than the debt service reserve fund requirement.

- (b) So long as the applicable bonds issued under the credit enhancement program remain outstanding, money in a debt service reserve fund may be withdrawn in an amount that would reduce the level of money in the debt service reserve fund to less than the debt service reserve fund requirement if the money is withdrawn for the purpose of:
  - (i) paying the principal of, redemption price of, or interest on a bond when due and if no other money of the qualifying charter school is available to make the payment, as determined by the authority; or
  - (ii) paying any redemption premium required to be paid when the bonds are redeemed prior to maturity if no bonds will remain outstanding upon payment from the funds in the qualifying charter school's debt service reserve fund.
- (8) Money in a qualifying charter school's debt service reserve fund that exceeds the debt service reserve fund requirement may be withdrawn by the qualifying charter school.
- (9)
  - (a) The authority shall annually, on or before December 1, certify to the governor the amount, if any, required to restore amounts on deposit in the debt service reserve funds of qualifying charter schools to the respective debt service reserve fund requirements.
  - (b) The governor shall request from the Legislature an appropriation of the certified amount to restore amounts on deposit in the debt service reserve funds of qualifying charter schools to the respective debt service reserve fund requirements.
  - (c) The Legislature may appropriate money to the authority to restore amounts on deposit in the debt service reserve funds of qualifying charter schools to the respective debt service reserve fund requirements.
  - (d) A qualifying charter school that receives money from an appropriation to restore amounts on deposit in a debt service reserve fund to the debt service reserve fund requirement, shall repay the state at the time and in the manner as the authority shall require.
- (10) The authority may create and establish other funds for its purposes.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-5-607 Charter School Reserve Account contribution requirements for qualifying charter schools.**

- (1) When bonds are issued under the credit enhancement program for a qualifying charter school, the qualifying charter school shall contribute money to the reserve account in the amount determined as provided in Subsection (2).
- (2) The authority shall determine the up-front and ongoing requirements for contributions of money to the reserve account for each qualifying charter school.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-5-608 Bond issuance.**

- (1)
  - (a) The state may not alter, impair, or limit the rights of bondholders or persons contracting with a qualifying charter school until the bonds, including interest and other contractual obligations, are fully met and discharged.



- (b) Nothing in this part precludes an alteration, impairment, or limitation if provision is made by law for the protection of bondholders or persons entering into contracts with a qualifying charter school.
- (2) The authority may require a qualifying charter school to vest in the authority the right to enforce any covenant made to secure bonds issued under the credit enhancement program by making appropriate provisions in the indenture related to the qualifying charter school's bonds.
- (3) The authority may require a qualifying charter school to make covenants and agreements in indentures or in a reimbursement agreement to protect the interests of the state and to secure repayment to the state of any money received by the qualifying charter school from an appropriation to restore amounts deposited in the qualifying charter school's debt service reserve fund to the debt service reserve fund requirement.
- (4) The authority may charge a fee to administer the issuance of bonds for a qualifying charter school.

Renumbered and Amended by Chapter 3, 2018 General Session

**53G-5-609 Limitation on participation in Charter School Credit Enhancement Program.**

- (1) In accordance with Subsection (2), on or before January 1 of each year, the authority shall determine the credit enhancement program's bond issuance limitation.
- (2) The authority may not issue bonds for a qualifying charter school under the credit enhancement program if the total par amount outstanding under the program would exceed an amount equal to the product of:
  - (a) 1.3;
  - (b) an amount equal to the quotient of:
    - (i) annual charter school enrollment; divided by
    - (ii) annual state enrollment; and
  - (c) the total par amount then outstanding under the school bond guarantee program established in Chapter 4, Part 8, School District Bond Guaranty.

Renumbered and Amended by Chapter 3, 2018 General Session