

**AUTHORIZATION OF CHARTER SCHOOLS BY HIGHER  
EDUCATION INSTITUTIONS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: J. Stuart Adams**

House Sponsor: Gregory H. Hughes

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**LONG TITLE**

**General Description:**

This bill modifies provisions regarding the authorization of a charter school by a higher education institution.

**Highlighted Provisions:**

This bill:

~~§→ [→ removes the requirement to obtain the approval of the Utah College of Applied Technology Board of Trustees before a campus board of directors enters into an agreement authorizing an individual or not-for-profit entity to establish and operate a charter school;]~~

► establishes procedures and criteria for the approval of a charter school application by the Utah College of Applied Technology Board of Trustees;

► provides that a charter school application may not be denied due to certain impacts to a public school; ←§

► allows a campus board of directors of a college campus within the Utah College of Applied Technology to establish procedures and criteria related to charter school applications; and

§→► modifies an annual fee for payment of a board of trustee's costs in providing oversight and technical support to a charter school §→ [; and ←§

~~→ prohibits a higher education institution from operating a charter school] ←§ .~~

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

§→ [None] This bill provides an immediate effective date. ←§



26 **Utah Code Sections Affected:**

27 AMENDS:

28 ~~§~~ → [—53A-1a-518, as last amended by Laws of Utah 2010, Chapter 162] ← ~~§~~

29 53A-1a-521, as last amended by Laws of Utah 2012, Chapter 139



31 *Be it enacted by the Legislature of the state of Utah:*

32 ~~§~~ → [Section 1. Section 53A-1a-518 is amended to read:

33 ~~53A-1a-518. Regulated transactions and relationships -- Definitions -- Entities~~  
34 ~~prohibited from operating a charter school.~~

35 ~~(1) As used in this section:~~

36 ~~(a) "Charter school officer" means:~~

37 ~~(i) a member of a charter school's governing board;~~

38 ~~(ii) a member of a board or an officer of a nonprofit corporation under which a charter~~  
39 ~~school is organized and managed; or~~

40 ~~(iii) the chief administrative officer of a charter school.~~

41 ~~(b) (i) "Employment" means a position in which a person's salary, wages, pay, or~~  
42 ~~compensation, whether as an employee or contractor, is paid from charter school funds.~~

43 ~~(ii) "Employment" does not include a charter school volunteer.~~

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

47 ~~(2) (a) Except as provided in Subsection (2)(b), a relative of a charter school officer~~  
48 ~~may not be employed at a charter school.~~

49 ~~(b) If a relative of a charter school officer is to be considered for employment in a~~  
50 ~~charter school, the charter school officer shall:~~

51 ~~(i) disclose the relationship, in writing, to the other charter school officers;~~

52 ~~(ii) submit the employment decision to the charter school's governing board for the~~  
53 ~~approval, by majority vote, of the charter school's governing board;~~

54 ~~(iii) abstain from voting on the issue; and~~

55 ~~(iv) be absent from any meeting when the employment is being considered and~~  
56 ~~determined.~~

57 ~~(3) (a) Except as provided in Subsections (3)(b) and (3)(c), a charter school officer or a~~  
58 ~~relative of a charter school officer may not have a financial interest in a contract or other] ← ~~§~~~~

59 ~~§→ [transaction involving a charter school in which the charter school officer serves as a charter~~  
 60 ~~school officer:~~

61 ~~—— (b) If a charter school's governing board considers entering into a contract or executing~~  
 62 ~~a transaction in which a charter school officer or a relative of a charter school officer has a~~  
 63 ~~financial interest, the charter school officer shall:~~

64 ~~—— (i) disclose the financial interest, in writing, to the other charter school officers;~~

65 ~~—— (ii) submit the contract or transaction decision to the charter school's governing board~~  
 66 ~~for the approval, by majority vote, of the charter school's governing board;~~

67 ~~—— (iii) abstain from voting on the issue; and~~

68 ~~—— (iv) be absent from any meeting when the contract or transaction is being considered~~  
 69 ~~and determined:~~

70 ~~—— (c) The provisions in Subsection (3)(a) do not apply to a reasonable contract of~~  
 71 ~~employment for:~~

72 ~~—— (i) the chief administrative officer of a charter school; or~~

73 ~~—— (ii) a relative of the chief administrative officer of a charter school whose employment~~  
 74 ~~is approved in accordance with the provisions in Subsection (2):~~

75 ~~—— (4) The [State Board of Education or State Charter School Board] following entities~~  
 76 ~~may not operate a charter school[-]:~~

77 ~~—— (a) the State Board of Education;~~

78 ~~—— (b) the State Charter School Board; and~~

79 ~~—— (c) a higher education institution listed in Section 53B-2-101.~~

80 ~~—— Section 2] Section 1 ←§ . Section 53A-1a-521 is amended to read:~~

81 **53A-1a-521. Authorization of a charter school by a board of trustees of a higher**  
 82 **education institution.**

83 (1) Subject to the approval of the State Board of Education ~~§→~~ [f] and except as provided in  
 84 Subsection (8)[f] ~~←§~~ , an individual or entity identified in Section 53A-1a-504 may enter into an  
 85 agreement with a board of trustees of a higher education institution authorizing the individual  
 86 or entity to establish and operate a charter school.

87 (2) (a) An individual or entity identified in Section 53A-1a-504 applying for  
 88 authorization from a board of trustees of a higher education institution to establish and operate  
 89 a charter school shall provide a copy of the application to the State Charter School Board and

90 the local school board of the school district in which the proposed charter school shall be  
 91 located either before or at the same time it files its application with the board of trustees.

92 (b) The State Charter School Board and the local school board may review the  
 93 application and may offer suggestions or recommendations to the applicant or the board of  
 94 trustees of a higher education institution prior to its acting on the application.

95 (c) The board of trustees of a higher education institution shall give due consideration  
 96 to suggestions or recommendations made by the State Charter School Board or the local school  
 97 board under Subsection (2)(b).

98 (3) (a) If a board of trustees of a higher education institution approves an application to  
 99 establish and operate a charter school, the board of trustees shall submit the application to the  
 100 State Board of Education.

101 (b) The State Board of Education shall, by majority vote, within 60 days of receipt of  
 102 the application approve or deny an application approved by a board of trustees of a higher  
 103 education institution.

104 (c) The State Board of Education's action under Subsection (3)(b) is final action subject  
 105 to judicial review.

106 (4) The State Board of Education shall make a rule providing a timeline for the  
 107 opening of a charter school following the approval of a charter school application by a board of  
 108 trustees of a higher education institution.

109 (5) (a) After approval of a charter school application, the applicant and the board of  
 110 trustees of a higher education institution shall set forth the terms and conditions for the  
 111 operation of the charter school in a written contractual agreement.

112 (b) The agreement is the school's charter.

113 (6) (a) The school's charter may include a provision that the charter school pay an  
 114 annual fee for the board of trustees' costs in providing oversight of, and technical support to,  
 115 the charter school in accordance with Subsection (7).

116 (b) In the first two years that a charter school is in operation, an annual fee described in  
 117 Subsection (6)(a) may not exceed the product of ~~§~~ [;

118 ~~(i)]~~ ~~←~~ ~~§~~ 3% of the revenue the charter school receives from the state in the current fiscal  
 119 year ~~§~~ [; and

120 ~~(ii) the October 1 enrollment count of the charter school for the current fiscal year]~~ ~~←~~ ~~§~~ .

121 (c) Beginning with the third year that a charter school is in operation, an annual fee  
 122 described in Subsection (6)(a) may not exceed the product of ~~§~~ [:

123 ~~——(i) ←§~~ 1% of the revenue a charter school receives from the state in the current fiscal  
 123a year ~~§~~ [;

124 ~~and]~~

125 ~~[(ii) the October 1 enrollment count of the charter school for the current fiscal year] ←§ .~~

126 (d) An annual fee described in Subsection (6)(a) shall be:

127 (i) paid to the board of trustees' higher education institution; and

128 (ii) expended as directed by the board of trustees.

129 (7) A board of trustees of a higher education institution shall:

130 (a) annually review and evaluate the performance of charter schools authorized by the  
 131 board of trustees and hold the schools accountable for their performance;

132 (b) monitor charter schools authorized by the board of trustees for compliance with  
 133 federal and state laws, rules, and regulations; and

134 (c) provide technical support to charter schools authorized by the board of trustees to  
 135 assist them in understanding and performing their charter obligations.

136 ~~§~~ [f](8) (a) In addition to complying with the requirements of this section, a campus board  
 137 of directors of a college campus within the Utah College of Applied Technology shall obtain  
 138 the approval of the Utah College of Applied Technology Board of Trustees before entering into  
 139 an agreement to establish and operate a charter school. [f] ←§

139a ~~§~~ **(b) If a campus board of directors of a college campus with the Utah College of**  
 139b **Applied Technology approves an application to establish and operate a charter school, the**  
 139c **campus board of directors of the college campus shall submit the application to the Utah**  
 139d **College of Applied Technology Board of Trustees.**

139e **(c) The Utah College of Applied Technology Board of Trustees shall, by majority vote,**  
 139f **within 60 days or receipt of the application, approve or deny the application approved by the**  
 139g **campus board of directors.**

139h **(d) The Utah College of Applied Technology Board of Trustees may deny an**  
 139i **application approved by a campus board of directors if the proposed charter school does not**  
 139j **accomplish a purpose of charter schools as provided in Section 53A-1a-503.**

139k **(e) A charter school application may not be denied on the basis that the establishment**  
 139l **of the charter school will have any or all of the following impacts on a public school, including**  
 139m **another charter school:**

139n **(i) an enrollment decline;**

139o **(ii) a decrease in funding; or**

139p **(iii) a modification of programs or services.** ←§

140 ~~[(b) The Utah College of Applied Technology Board of Trustees shall establish a~~

141 ~~policy for granting approval to a campus board of directors to enter into an agreement to~~  
 142 ~~establish and operate a charter school.]~~

143 §→ [(8)] (9) ←§ (a) Subject to the requirements of this part, a campus board of directors of  
 143a a college

144 campus within the Utah College of Applied Technology may establish:

145 (i) procedures for submitting applications to establish and operate a charter school to a  
 146 campus board of directors of a college campus within the Utah College of Applied Technology;  
 147 and

148 (ii) criteria for a campus board of directors' approval of an application to establish and  
 149 operate a charter school.

150 (b) The Utah College of Applied Technology Board of Trustees may not establish  
 151 policy governing the procedures or criteria described in Subsection §→ [(8)] (9) ←§ (a).

151a **§→ Section 3. Effective date.**

151b **If approved by two-thirds of all the members elected to each house, this bill takes effect**  
 151c **upon approval by the governor, or the day following the constitutional time limit of Utah**  
 151d **Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,**  
 151e **the date of veto override. ←§**

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**Legislative Review Note**  
**as of 1-18-13 4:06 PM**

**Office of Legislative Research and General Counsel**