

Senator J. Stuart Adams proposes the following substitute bill:

PUBLIC SCHOOL REVISIONS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This bill amends provisions related to public schools.

Highlighted Provisions:

This bill:

- ▶ allows an individual to report a violation of statute or rule to the State Board of Education;
- ▶ amends definitions;
- ▶ modifies State Charter School Board membership provisions;
- ▶ enacts and consolidates provisions related to the powers and duties of charter school authorizers;
- ▶ requires the State Board of Education to adopt rules establishing minimum standards for a charter school application or charter school compliance;
- ▶ amends provisions related to the status and powers of the State Charter School Board;
- ▶ repeals outdated provisions;
- ▶ repeals provisions related to State Board of Education approval of an application for a charter school authorized by:
 - the State Charter School Board; or



- 26 • a board of trustees of a higher education institution; and
- 27 ▶ makes technical corrections.

28 **Money Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 This bill provides a special effective date.

32 **Utah Code Sections Affected:**

33 AMENDS:

- 34 **53E-3-401**, as renumbered and amended by Laws of Utah 2018, Chapter 1
- 35 **53F-2-702**, as renumbered and amended by Laws of Utah 2018, Chapter 2
- 36 **53F-2-704**, as enacted by Laws of Utah 2018, Chapter 2
- 37 **53G-5-102**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 38 **53G-5-201**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 39 **53G-5-202**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 40 **53G-5-302**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 41 **53G-5-304**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 42 **53G-5-305**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 43 **53G-5-306**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 44 **53G-5-409**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 45 **53G-5-502**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 46 **53G-5-503**, as renumbered and amended by Laws of Utah 2018, Chapter 3
- 47 **53G-5-504**, as renumbered and amended by Laws of Utah 2018, Chapter 3

48 ENACTS:

49 **53G-5-205**, Utah Code Annotated 1953



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

52 Section 1. Section **53E-3-401** is amended to read:

53 **53E-3-401. Powers of State Board of Education -- Adoption of rules --**

54 **Enforcement -- Attorney.**

55 (1) As used in this section:

56 (a) "Board" means the State Board of Education.

- 57 (b) "Education entity" means:
- 58 (i) an entity that receives a distribution of state funds through a grant program managed
- 59 by the board under this public education code;
- 60 (ii) an entity that enters into a contract with the board to provide an educational good or
- 61 service;
- 62 (iii) a school district; or
- 63 (iv) a charter school.
- 64 (c) "Educational good or service" means a good or service that is required or regulated
- 65 under:
- 66 (i) this public education code; or
- 67 (ii) a rule authorized under this public education code.
- 68 (d) "Local education agency" or "LEA" means:
- 69 (i) a school district;
- 70 (ii) a charter school; or
- 71 (iii) the Utah Schools for the Deaf and the Blind.
- 72 (2) (a) The State Board of Education has general control and supervision of the state's
- 73 public education system.
- 74 (b) "General control and supervision" as used in Utah Constitution, Article X, Section
- 75 3, means directed to the whole system.
- 76 (3) The board may not govern, manage, or operate school districts, institutions, and
- 77 programs, unless granted that authority by statute.
- 78 (4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 79 the board may make rules to execute the board's duties and responsibilities under the Utah
- 80 Constitution and state law.
- 81 (b) The board may delegate the board's statutory duties and responsibilities to board
- 82 employees.
- 83 (5) (a) The board may sell any interest it holds in real property upon a finding by the
- 84 board that the property interest is surplus.
- 85 (b) The board may use the money it receives from a sale under Subsection (5)(a) for
- 86 capital improvements, equipment, or materials, but not for personnel or ongoing costs.
- 87 (c) If the property interest under Subsection (5)(a) was held for the benefit of an agency

88 or institution administered by the board, the money may only be used for purposes related to
89 the agency or institution.

90 (d) The board shall advise the Legislature of any sale under Subsection (5)(a) and
91 related matters during the next following session of the Legislature.

92 (6) The board shall develop policies and procedures related to federal educational
93 programs in accordance with Part 8, Implementing Federal or National Education Programs.

94 (7) On or before December 31, 2010, the State Board of Education shall review
95 mandates or requirements provided for in board rule to determine whether certain mandates or
96 requirements could be waived to remove funding pressures on public schools on a temporary
97 basis.

98 (8) (a) If an education entity violates this public education code or rules authorized
99 under this public education code, the board may, in accordance with the rules described in
100 Subsection (8)(c):

101 (i) require the education entity to enter into a corrective action agreement with the
102 board;

103 (ii) temporarily or permanently withhold state funds from the education entity;

104 (iii) require the education entity to pay a penalty; or

105 (iv) require the education entity to reimburse specified state funds to the board.

106 (b) Except for temporarily withheld funds, if the board collects state funds under
107 Subsection (8)(a), the board shall pay the funds into the Uniform School Fund.

108 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
109 board shall make rules:

110 (i) that require notice and an opportunity to be heard for an education entity affected by
111 a board action described in Subsection (8)(a); and

112 (ii) to administer this Subsection (8).

113 (d) (i) An individual may bring a violation of statute or board rule to the attention of
114 the board in accordance with a process described in rule adopted by the board.

115 (ii) If the board identifies a violation of statute or board rule as a result of the process
116 described in Subsection (8)(d)(i), the board may take action in accordance with this section.

117 [~~d~~] (e) The board shall report criminal conduct of an education entity to the district
118 attorney of the county where the education entity is located.

119 (9) The board may audit the use of state funds by an education entity that receives
120 those state funds as a distribution from the board.

121 (10) The board may require, by rule made in accordance with Title 63G, Chapter 3,
122 Utah Administrative Rulemaking Act, that if an LEA contracts with a third party contractor for
123 an educational good or service, the LEA shall require in the contract that the third party
124 contractor shall provide, upon request of the LEA, information necessary for the LEA to verify
125 that the educational good or service complies with:

126 (a) this public education code; and

127 (b) board rule authorized under this public education code.

128 (11) (a) The board may appoint an attorney to provide legal advice to the board and
129 coordinate legal affairs for the board and the board's employees.

130 (b) An attorney described in Subsection (11)(a) shall cooperate with the Office of the
131 Attorney General.

132 (c) An attorney described in Subsection (11)(a) may not:

133 (i) conduct litigation;

134 (ii) settle claims covered by the Risk Management Fund created in Section [63A-4-201](#);

135 or

136 (iii) issue formal legal opinions.

137 Section 2. Section **53F-2-702** is amended to read:

138 **53F-2-702. Funding for charter schools.**

139 ~~[(1)(a) Charter schools shall receive funding as described in this section, except~~
140 ~~Subsections (2) through (6) do not apply to charter schools described in Subsection (1)(b).]~~

141 ~~[(b) Charter schools authorized by local school boards that are converted from district~~
142 ~~schools or operate in district facilities without paying reasonable rent shall receive funding as~~
143 ~~prescribed in Section [53G-5-305](#).]~~

144 [(2)] (1) Except as described in Section [53F-2-302](#), a charter school shall receive state
145 funds, as applicable, on the same basis as a school district receives funds.

146 [(3)] (2) (a) As described in Section [53F-2-703](#), the State Board of Education shall
147 distribute charter school levy per pupil revenues to charter schools.

148 (b) As described in Section [53F-2-704](#), and subject to future budget constraints, the
149 Legislature shall provide an appropriation for charter schools for each charter school student

150 enrolled on October 1 to supplement the allocation of charter school levy per pupil revenues
151 described in Subsection [~~(3)~~] (2)(a).

152 [~~(4)~~] (3) Charter schools are eligible to receive federal funds if they meet all applicable
153 federal requirements and comply with relevant federal regulations.

154 [~~(5)~~] (4) The State Board of Education shall distribute funds for charter school students
155 directly to the charter school.

156 [~~(6)~~] (5) (a) Notwithstanding Subsection [~~(2)~~] (1), a charter school is not eligible to
157 receive state transportation funding.

158 (b) The board shall also adopt rules relating to the transportation of students to and
159 from charter schools, taking into account Sections 53F-2-403 and 53G-6-405.

160 (c) The governing board of the charter school may provide transportation through an
161 agreement or contract with the local school board, a private provider, or parents.

162 [~~(7)~~] (6) (a) (i) In accordance with Section 53F-2-705, the State Charter School Board
163 may allocate grants for start-up costs to charter schools from money appropriated for charter
164 school start-up costs.

165 (ii) The governing board of a charter school that receives money from a grant under
166 Section 53F-2-705 shall use the grant for expenses for planning and implementation of the
167 charter school.

168 (b) The State Board of Education shall coordinate the distribution of federal money
169 appropriated to help fund costs for establishing and maintaining charter schools within the
170 state.

171 [~~(8)~~] (7) (a) A charter school may receive, hold, manage and use any devise, bequest,
172 grant, endowment, gift, or donation of any property made to the school for any of the purposes
173 of Title 53G, Chapter 5, Charter Schools, or related provisions.

174 (b) It is unlawful for any person affiliated with a charter school to demand or request
175 any gift, donation, or contribution from a parent, teacher, employee, or other person affiliated
176 with the charter school as a condition for employment or enrollment at the school or continued
177 attendance at the school.

178 Section 3. Section 53F-2-704 is amended to read:

179 **53F-2-704. Charter school levy state guarantee.**

180 (1) As used in this section:

181 (a) "Charter school levy per pupil revenues" means the same as that term is defined in
182 Section 53F-2-703.

183 (b) "Charter school students' average local revenues" means the amount determined as
184 follows:

185 (i) for each student enrolled in a charter school on the previous October 1, calculate the
186 district per pupil local revenues of the school district in which the student resides;

187 (ii) sum the district per pupil local revenues for each student enrolled in a charter
188 school on the previous October 1; and

189 (iii) divide the sum calculated under Subsection (1)(a)(ii) by the number of students
190 enrolled in charter schools on the previous October 1.

191 (c) "District local property tax revenues" means the sum of a school district's revenue
192 received from the following:

193 (i) a voted local levy imposed under Section 53F-8-301;

194 (ii) a board local levy imposed under Section 53F-8-302, excluding revenues expended
195 for:

196 (A) pupil transportation, up to the amount of revenue generated by a .0003 per dollar of
197 taxable value of the school district's board local levy; and

198 (B) the K-3 Reading Improvement Program, up to the amount of revenue generated by
199 a .000121 per dollar of taxable value of the school district's board local levy;

200 (iii) a capital local levy imposed under Section 53F-8-303; and

201 (iv) a guarantee described in Section 53F-2-601, 53F-2-602, 53F-3-202, or 53F-3-203.

202 (d) "District per pupil local revenues" means, using data from the most recently
203 published school district annual financial reports and state superintendent's annual report, an
204 amount equal to district local property tax revenues divided by the sum of:

205 (i) a school district's average daily membership; and

206 (ii) the average daily membership of a school district's resident students who attend
207 charter schools.

208 (e) "Resident student" means a student who is considered a resident of the school
209 district under Title 53G, Chapter 6, Part 3, School District Residency.

210 (f) "Statewide average debt service revenues" means the amount determined as
211 follows, using data from the most recently published state superintendent's annual report:

212 (i) sum the revenues of each school district from the debt service levy imposed under
213 Section 11-14-310; and

214 (ii) divide the sum calculated under Subsection (1)(f)(i) by statewide school district
215 average daily membership.

216 (2) (a) Subject to future budget constraints, the Legislature shall provide an
217 appropriation for charter schools for each charter school student enrolled on October 1 to
218 supplement the allocation of charter school levy per pupil revenues described in Subsection
219 53F-2-702[(3)](2)(a).

220 (b) Except as provided in Subsection (2)(c), the amount of money provided by the state
221 for a charter school student shall be the sum of:

222 (i) charter school students' average local revenues minus the charter school levy per
223 pupil revenues; and

224 (ii) statewide average debt service revenues.

225 (c) If the total of charter school levy per pupil revenues distributed by the State Board
226 of Education and the amount provided by the state under Subsection (2)(b) is less than \$1,427,
227 the state shall provide an additional supplement so that a charter school receives at least \$1,427
228 per student under Subsection 53F-2-702[(3)](2).

229 (d) (i) If the appropriation provided under this Subsection (2) is less than the amount
230 prescribed by Subsection (2)(b) or (c), the appropriation shall be allocated among charter
231 schools in proportion to each charter school's enrollment as a percentage of the total enrollment
232 in charter schools.

233 (ii) If the State Board of Education makes adjustments to Minimum School Program
234 allocations as provided under Section 53F-2-205, the allocation provided in Subsection
235 (2)(d)(i) shall be determined after adjustments are made under Section 53F-2-205.

236 (3) (a) Except as provided in Subsection (3)(b), of the money provided to a charter
237 school under Subsection 53F-2-702[(3)](2), 10% shall be expended for funding school
238 facilities only.

239 (b) Subsection (3)(a) does not apply to an online charter school.

240 Section 4. Section 53G-5-102 is amended to read:

241 **53G-5-102. Definitions.**

242 As used in this chapter:

243 (1) "Asset" means property of all kinds, real and personal, tangible and intangible, and
244 includes:

- 245 (a) cash;
- 246 (b) stock or other investments;
- 247 (c) real property;
- 248 (d) equipment and supplies;
- 249 (e) an ownership interest;
- 250 (f) a license;
- 251 (g) a cause of action; and
- 252 (h) any similar property.

253 (2) "Board of trustees of a higher education institution" or "board of trustees" means:

- 254 (a) the board of trustees of:
 - 255 (i) the University of Utah;
 - 256 (ii) Utah State University;
 - 257 (iii) Weber State University;
 - 258 (iv) Southern Utah University;
 - 259 (v) Snow College;
 - 260 (vi) Dixie State University;
 - 261 (vii) Utah Valley University; or
 - 262 (viii) Salt Lake Community College; or
- 263 (b) the board of directors of a technical college described in Section 53B-2a-108.

264 (3) "Charter agreement" or "charter" means an agreement made in accordance with
265 Section 53G-5-303 that authorizes the operation of a charter school.

266 (4) "Charter school authorizer" or "authorizer" means [~~the State Charter School Board,~~
267 ~~a local school board, or a board of trustees of a higher education institution that authorizes the~~
268 ~~establishment of a charter school]~~ an entity listed in Section 53G-5-205 that authorizes a
269 charter school.

270 (5) "Governing board" means the board that operates a charter school.

271 Section 5. Section 53G-5-201 is amended to read:

272 **53G-5-201. State Charter School Board created.**

273 (1) As used in this section, "organization that represents Utah's charter schools" means

274 an organization, except a governmental entity, that advocates for charter schools, charter school
275 parents, or charter school students.

276 (2) (a) The State Charter School Board is created consisting of the following members
277 [~~appointed by the governor~~]:

278 (i) two members appointed by the governor who have expertise in finance or small
279 business management;

280 (ii) [~~three~~] two members appointed by the governor who:

281 (A) are nominated by an organization that represents Utah's charter schools; and

282 (B) have expertise or experience in developing or administering a charter school; and

283 (iii) [~~two~~] subject to Subsection (2)(b), three members who are [~~nominated~~] appointed
284 by the State Board of Education.

285 (b) One of the members appointed by the State Board of Education as described in
286 Subsection (2)(a)(iii) shall:

287 (i) be nominated by an organization that represents Utah's charter schools; and

288 (ii) have expertise or experience in developing or administering a charter school.

289 [~~(b)~~] (c) Each appointee shall have demonstrated dedication to the purposes of charter
290 schools as outlined in Section [53G-5-104](#).

291 [~~(c)~~] (d) At least two candidates shall be nominated for each appointment made under
292 Subsection (2)(a)(ii) or [~~(iii)~~] (2)(b).

293 [~~(d)~~] (e) The governor may seek nominations for a prospective appointment under
294 Subsection (2)(a)(ii) from one or more organizations that represent Utah's charter schools.

295 (3) (a) State Charter School Board members shall serve four-year terms.

296 (b) If a vacancy occurs, the governor shall appoint a replacement for the unexpired
297 term.

298 (4) The governor may remove a member appointed as described in Subsection (2)(a)(i)
299 or (2)(a)(ii) at any time for official misconduct, habitual or willful neglect of duty, or for other
300 good and sufficient cause.

301 (5) The State Board of Education may remove a member appointed as described in
302 Subsection (2)(a)(iii) at any time for official misconduct, habitual or willful neglect of duty, or
303 for other good and sufficient cause.

304 [~~(5)~~] (6) (a) The State Charter School Board shall annually elect a chair from its

305 membership.

306 (b) Four members of the board shall constitute a quorum.

307 (c) Meetings may be called by the chair or upon request of three members of the board.

308 ~~[(6)]~~ (7) A member may not receive compensation or benefits for the member's service,

309 but may receive per diem and travel expenses in accordance with:

310 (a) Section 63A-3-106;

311 (b) Section 63A-3-107; and

312 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and

313 63A-3-107.

314 Section 6. Section 53G-5-202 is amended to read:

315 **53G-5-202. Status and powers of State Charter School Board.**

316 ~~[(1) The State Charter School Board shall:]~~

317 ~~[(a) authorize and promote the establishment of charter schools, subject to the~~
318 ~~provisions in this chapter and other related provisions;]~~

319 ~~[(b) annually review and evaluate the performance of charter schools authorized by the~~
320 ~~State Charter School Board and hold the schools accountable for their performance;]~~

321 ~~[(c) monitor charter schools authorized by the State Charter School Board for~~
322 ~~compliance with federal and state laws, rules, and regulations;]~~

323 ~~[(d) provide technical support to charter schools and persons seeking to establish~~
324 ~~charter schools by:]~~

325 ~~[(i) identifying and promoting successful charter school models;]~~

326 ~~[(ii) facilitating the application and approval process for charter school authorization;]~~

327 ~~[(iii) directing charter schools and persons seeking to establish charter schools to~~
328 ~~sources of private funding and support;]~~

329 ~~[(iv) reviewing and evaluating proposals to establish charter schools for the purpose of~~
330 ~~supporting and strengthening proposals before an application for charter school authorization is~~
331 ~~submitted to a charter school authorizer; and]~~

332 ~~[(v) assisting charter schools to understand and carry out their charter obligations;]~~

333 ~~[(e) provide technical support, as requested, to a charter school authorizer relating to~~
334 ~~charter schools;]~~

335 ~~[(f) make recommendations on legislation and rules pertaining to charter schools to the~~

336 Legislature and State Board of Education, respectively; and]
337 [~~(g)~~ make recommendations to the State Board of Education on the funding of charter
338 schools.]

339 [~~(2)~~] The State Charter School Board may:

340 [~~(a)~~ contract;]

341 (1) enter into contracts;

342 [~~(b)~~] (2) sue and be sued; and

343 [~~(c)~~ (i)] (3) (a) at the discretion of the charter school, provide administrative services
344 to, or perform other school functions for, charter schools authorized by the State Charter
345 School Board; and

346 [~~(i)~~] (b) charge fees for the provision of services or functions.

347 Section 7. Section **53G-5-205** is enacted to read:

348 **53G-5-205. Charter school authorizers -- Power and duties -- Charter application**
349 **minimum standard.**

350 (1) The following entities are eligible to authorize charter schools:

351 (a) the State Charter School Board;

352 (b) a local school board; or

353 (c) a board of trustees of an institution in the state system of higher education as
354 described in Section [53B-1-102](#).

355 (2) A charter school authorizer shall:

356 (a) annually review and evaluate the performance of charter schools authorized by the
357 authorizer and hold a charter school accountable for the school's performance; and

358 (b) monitor charter schools authorized by the authorizer for compliance with federal
359 and state laws, rules, and regulations.

360 (3) A charter school authorizer may:

361 (a) authorize and promote the establishment of charter schools, subject to the
362 provisions in this part;

363 (b) make recommendations on legislation and rules pertaining to charter schools to the
364 Legislature and State Board of Education, respectively;

365 (c) make recommendations to the State Board of Education on the funding of charter
366 schools;

367 (d) provide technical support to charter schools and persons seeking to establish charter
368 schools by:

369 (i) identifying and promoting successful charter school models;

370 (ii) facilitating the application and approval process for charter school authorization;

371 (iii) directing charter schools and persons seeking to establish charter schools to
372 sources of funding and support;

373 (iv) reviewing and evaluating proposals to establish charter schools for the purpose of
374 supporting and strengthening proposals before an application for charter school authorization is
375 submitted to a charter school authorizer; or

376 (v) assisting charter schools to understand and carry out their charter obligations; or

377 (e) provide technical support, as requested, to another charter school authorizer relating
378 to charter schools.

379 (4) Within 60 days after an authorizer's approval of an application for a new charter
380 school, the State Board of Education may direct an authorizer to do the following if the
381 authorizer or charter school applicant failed to follow statutory or board rule requirements:

382 (a) reconsider the authorizer's approval of an application for a new charter school; and

383 (b) correct deficiencies in the charter school application or authorizer's application
384 process as described in statute or board rule before approving the new application.

385 (5) The State Board of Education shall, in accordance with Title 63, Chapter 3, Utah
386 Administrative Rulemaking Act, make rules establishing minimum standards that a charter
387 school authorizer is required to apply when:

388 (a) evaluating a charter school application; or

389 (b) monitoring charter school compliance.

390 (6) The minimum standards described in Subsection (1) shall include:

391 (a) reasonable consequences for an authorizer that fails to comply with statute or board
392 rule;

393 (b) a process for an authorizer to review:

394 (i) the skill and expertise of a proposed charter school's governing board; and

395 (ii) the functioning operation of the charter school governing board of an authorized
396 charter school;

397 (c) a process for an authorizer to review the financial viability of a proposed charter

398 school and of an authorized charter school;

399 (d) a process to evaluate:

400 (i) how well an authorizer's authorized charter school complies with the charter
401 school's charter agreement;

402 (ii) whether an authorizer's authorized charter school maintains reasonable academic
403 standards; and

404 (iii) standards that an authorizer is required to meet to demonstrate the authorizer's
405 capacity to oversee, monitor, and evaluate the charter schools the authorizer authorizes.

406 Section 8. Section **53G-5-302** is amended to read:

407 **53G-5-302. Charter school application -- Applicants -- Contents.**

408 (1) (a) An application to establish a charter school may be submitted by:

409 (i) an individual;

410 (ii) a group of individuals; or

411 (iii) a nonprofit legal entity organized under Utah law.

412 (b) An authorized charter school may apply under this chapter for a charter from
413 another charter school authorizer.

414 (2) A charter school application shall include:

415 (a) the purpose and mission of the school;

416 (b) except for a charter school authorized by a local school board, a statement that,
417 after entering into a charter agreement, the charter school will be organized and managed under
418 Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act;

419 (c) a description of the governance structure of the school, including:

420 (i) a list of the governing board members that describes the qualifications of each
421 member; and

422 (ii) an assurance that the applicant shall, within 30 days of authorization, [~~provide the~~
423 ~~authorizer with the results of~~] complete a background check for each member consistent with
424 Section 53G-5-408;

425 (d) a description of the target population of the school that includes:

426 (i) the projected maximum number of students the school proposes to enroll;

427 (ii) the projected school enrollment for each of the first three years of school operation;

428 and

- 429 (iii) the ages or grade levels the school proposes to serve;
- 430 (e) academic goals;
- 431 (f) qualifications and policies for school employees, including policies that:
- 432 (i) comply with the criminal background check requirements described in Section
- 433 [53G-5-408](#);
- 434 (ii) require employee evaluations; and
- 435 (iii) address employment of relatives within the charter school;
- 436 (g) a description of how the charter school will provide, as required by state and federal
- 437 law, special education and related services;
- 438 (h) for a public school converting to charter status, arrangements for:
- 439 (i) students who choose not to continue attending the charter school; and
- 440 (ii) teachers who choose not to continue teaching at the charter school;
- 441 (i) a statement that describes the charter school's plan for establishing the charter
- 442 school's facilities, including:
- 443 (i) whether the charter school intends to lease or purchase the charter school's facilities;
- 444 and
- 445 (ii) financing arrangements;
- 446 (j) a market analysis of the community the school plans to serve;
- 447 [~~(k) a capital facility plan;~~]
- 448 [~~(l)~~] (k) a business plan;
- 449 [~~(m)~~] (l) other major issues involving the establishment and operation of the charter
- 450 school; and
- 451 [~~(n)~~] (m) the signatures of the governing board members of the charter school.
- 452 (3) A charter school authorizer may require a charter school application to include:
- 453 (a) the charter school's proposed:
- 454 (i) curriculum;
- 455 (ii) instructional program; or
- 456 (iii) delivery methods;
- 457 (b) a method for assessing whether students are reaching academic goals, including, at
- 458 a minimum, administering the statewide assessments described in Section [53E-4-301](#);
- 459 (c) a proposed calendar;

- 460 (d) sample policies;
- 461 (e) a description of opportunities for parental involvement;
- 462 (f) a description of the school's administrative, supervisory, or other proposed services
- 463 that may be obtained through service providers; or
- 464 (g) other information that demonstrates an applicant's ability to establish and operate a
- 465 charter school.

466 Section 9. Section 53G-5-304 is amended to read:

467 **53G-5-304. Charter schools authorized by the State Charter School Board --**

468 **Application process -- Prohibited basis of application denial.**

469 (1) (a) An applicant seeking authorization of a charter school from the State Charter
470 School Board shall provide a copy of the application to the local school board of the school
471 district in which the proposed charter school shall be located either before or at the same time it
472 files its application with the State Charter School Board.

473 (b) The local board may review the application and may offer suggestions or
474 recommendations to the applicant or the State Charter School Board prior to its acting on the
475 application.

476 (c) The State Charter School Board shall give due consideration to suggestions or
477 recommendations made by the local school board under Subsection (1)(b).

478 (d) The State Charter School Board shall review and, by majority vote, either approve
479 or deny the application.

480 ~~[(e) The State Board of Education shall, by majority vote, within 60 days after action~~
481 ~~by the State Charter School Board under Subsection (1)(d):]~~

482 ~~[(i) approve or deny an application approved by the State Charter School Board; or]~~

483 ~~[(ii) hear an appeal, if any, of an application denied by the State Charter School Board.]~~

484 ~~[(f) The State Board of Education's action under Subsection (1)(d) is final action~~
485 ~~subject to judicial review.]~~

486 ~~[(g)]~~ (e) A charter school application may not be denied on the basis that the
487 establishment of the charter school will have any or all of the following impacts on a public
488 school, including another charter school:

- 489 (i) an enrollment decline;
- 490 (ii) a decrease in funding; or

491 (iii) a modification of programs or services.

492 (2) The State Board of Education shall, in accordance with Title 63G, Chapter 3, Utah
493 Administrative Rulemaking Act, make a rule providing a timeline for the opening of a charter
494 school following the approval of a charter school application by the State Charter School
495 Board.

496 (3) After approval of a charter school application and in accordance with Section
497 [53G-5-303](#), the applicant and the State Charter School Board shall set forth the terms and
498 conditions for the operation of the charter school in a written charter agreement.

499 (4) The State Charter School Board shall, in accordance with State Board of Education
500 rules, establish and make public the State Charter School Board's:

- 501 (a) application requirements, in accordance with Section [53G-5-302](#);
- 502 (b) application process, including timelines, in accordance with this section; and
- 503 (c) minimum academic, financial, and enrollment standards.

504 Section 10. Section [53G-5-305](#) is amended to read:

505 **[53G-5-305. Charters authorized by local school boards -- Application process --](#)**
506 **Local school board responsibilities.**

507 (1) (a) An applicant identified in Section [53G-5-302](#) may submit an application to a
508 local school board to establish and operate a charter school within the geographical boundaries
509 of the school district administered by the local school board.

510 (b) (i) The principal, teachers, or parents of students at an existing public school may
511 submit an application to the local school board to convert the school or a portion of the school
512 to charter status.

513 (A) If the entire school is applying for charter status, at least two-thirds of the licensed
514 educators employed at the school and at least two-thirds of the parents or guardians of students
515 enrolled at the school must have signed a petition approving the application prior to its
516 submission to the charter school authorizer.

517 (B) If only a portion of the school is applying for charter status, the percentage is
518 reduced to a simple majority.

519 (ii) The local school board may not approve an application submitted under Subsection
520 (1)(b)(i) unless the local school board determines that:

521 (A) students opting not to attend the proposed converted school would have access to a

522 comparable public education alternative; and

523 (B) current teachers who choose not to teach at the converted charter school or who are
524 not retained by the school at the time of its conversion would receive a first preference for
525 transfer to open teaching positions for which they qualify within the school district, and, if no
526 positions are open, contract provisions or board policy regarding reduction in staff would
527 apply.

528 (2) (a) An existing public school that converts to charter status under a charter granted
529 by a local school board may:

530 (i) continue to receive the same services from the school district that it received prior to
531 its conversion; or

532 (ii) contract out for some or all of those services with other public or private providers.

533 (b) Any other charter school authorized by a local school board may contract with the
534 board to receive some or all of the services referred to in Subsection ~~[(3)]~~ (2)(a).

535 (c) Except as specified in a charter agreement, local school board assets do not transfer
536 to an existing public school that converts to charter status under a charter granted by a local
537 school board under this section.

538 ~~[(3) (a) (i) A public school that converts to a charter school under a charter granted by a
539 local school board shall receive funding:]~~

540 ~~[(A) through the school district; and]~~

541 ~~[(B) on the same basis as it did prior to its conversion to a charter school.]~~

542 ~~[(ii) The school may also receive federal money designated for charter schools under
543 any federal program.]~~

544 ~~[(b) (i) A local school board-authorized charter school operating in a facility owned by
545 the school district and not paying reasonable rent to the school district shall receive funding:]~~

546 ~~[(A) through the school district; and]~~

547 ~~[(B) on the same basis that other district schools receive funding.]~~

548 ~~[(ii) The school may also receive federal money designated for charter schools under
549 any federal program.]~~

550 ~~[(c) Subject to the provisions in Section [53G-6-504](#), a charter school authorized by a
551 local school board shall receive funding as provided in Title 53F, Chapter 2, Part 7, Charter
552 School Funding.]~~

553 ~~[(d) (i) A charter school authorized by a local school board, but not described in~~
554 ~~Subsection (3)(a), (b), or (c) shall receive funding.]~~

555 ~~[(A) through the school district; and]~~

556 ~~[(B) on the same basis that other district schools receive funding.]~~

557 ~~[(ii) The school may also receive federal money designated for charter schools under~~
558 ~~any federal program.]~~

559 ~~[(4)]~~ (3) (a) A local school board that receives an application for a charter school under
560 this section shall, within 45 days, either accept or reject the application.

561 (b) If the board rejects the application, it shall notify the applicant in writing of the
562 reason for the rejection.

563 (c) The applicant may submit a revised application for reconsideration by the board.

564 (d) If the local school board refuses to authorize the applicant, the applicant may seek a
565 charter from ~~[the State Charter School Board under Section 53G-5-304]~~ another authorizer.

566 ~~[(5)]~~ (4) The State Board of Education shall make a rule providing for a timeline for
567 the opening of a charter school following the approval of a charter school application by a local
568 school board.

569 ~~[(6)]~~ (5) After approval of a charter school application and in accordance with Section
570 53G-5-303, the applicant and the local school board shall set forth the terms and conditions for
571 the operation of the charter school in a written charter agreement.

572 ~~[(7) A local school board shall:]~~

573 ~~[(a) annually review and evaluate the performance of charter schools authorized by the~~
574 ~~local school board and hold the schools accountable for their performance;]~~

575 ~~[(b) monitor charter schools authorized by the local school board for compliance with~~
576 ~~federal and state laws, rules, and regulations; and]~~

577 ~~[(c) provide technical support to charter schools authorized by the local school board to~~
578 ~~assist them in understanding and performing their charter obligations.]~~

579 ~~[(8)]~~ (6) A local school board may terminate a charter school it authorizes as provided
580 in Sections 53G-5-501 and 53G-5-503.

581 ~~[(9)]~~ (7) In addition to the exemptions described in Sections 53G-5-405, 53G-7-202,
582 and 53G-5-407, a charter school authorized by a local school board is:

583 (a) not required to separately submit a report or information required under this public

584 education code to the State Board of Education if the information is included in a report or
585 information that is submitted by the local school board or school district; and

586 (b) exempt from the requirement under Section 53G-5-404 that a charter school shall
587 be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation
588 Act.

589 [(10)] (8) Before a local school board accepts a charter school application, the local
590 school board shall, in accordance with State Board of Education rules, establish and make
591 public the local school board's:

592 (a) application requirements, in accordance with Section 53G-5-302;

593 (b) application process, including timelines, in accordance with this section; and

594 (c) minimum academic, financial, and enrollment standards.

595 Section 11. Section 53G-5-306 is amended to read:

596 **53G-5-306. Charter schools authorized by a board of trustees of a higher**
597 **education institution -- Application process -- Board of trustees responsibilities.**

598 (1) [~~Subject to the approval of the State Board of Education and except~~] Except as
599 provided in Subsection [(8)] (6), an applicant identified in Section 53G-5-302 may enter into
600 an agreement with a board of trustees of a higher education institution authorizing the applicant
601 to establish and operate a charter school.

602 (2) (a) An applicant applying for authorization from a board of trustees to establish and
603 operate a charter school shall provide a copy of the application to the State Charter School
604 Board and the local school board of the school district in which the proposed charter school
605 will be located either before or at the same time the applicant files the application with the
606 board of trustees.

607 (b) The State Charter School Board and the local school board may review the
608 application and offer suggestions or recommendations to the applicant or the board of trustees
609 before acting on the application.

610 (c) The board of trustees shall give due consideration to suggestions or
611 recommendations made by the State Charter School Board or the local school board under
612 Subsection (2)(b).

613 [(3)] (a) ~~If a board of trustees approves an application to establish and operate a charter~~
614 ~~school, the board of trustees shall submit the application to the State Board of Education.]~~

615 ~~[(b) The State Board of Education shall, by majority vote, within 60 days of receipt of~~
616 ~~the application, approve or deny an application approved by a board of trustees.]~~

617 ~~[(c) The State Board of Education's action under Subsection (3)(b) is final action~~
618 ~~subject to judicial review.]~~

619 ~~[(4)] (3) The State Board of Education shall make a rule providing a timeline for the~~
620 ~~opening of a charter school following the approval of a charter school application by a board of~~
621 ~~trustees.~~

622 ~~[(5)] (4) After approval of a charter school application, the applicant and the board of~~
623 ~~trustees shall set forth the terms and conditions for the operation of the charter school in a~~
624 ~~written charter agreement.~~

625 ~~[(6)] (5) (a) The school's charter may include a provision that the charter school pay an~~
626 ~~annual fee for the board of trustees' costs in providing oversight of, and technical support to,~~
627 ~~the charter school in accordance with [Subsection (7)] [Section 53G-5-205](#).~~

628 ~~(b) In the first two years that a charter school is in operation, an annual fee described in~~
629 ~~Subsection [(6)] (5)(a) may not exceed the product of 3% of the revenue the charter school~~
630 ~~receives from the state in the current fiscal year.~~

631 ~~(c) Beginning with the third year that a charter school is in operation, an annual fee~~
632 ~~described in Subsection [(6)] (5)(a) may not exceed the product of 1% of the revenue a charter~~
633 ~~school receives from the state in the current fiscal year.~~

634 ~~(d) An annual fee described in Subsection [(6)] (5)(a) shall be:~~

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

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

637 ~~[(7) A board of trustees shall:]~~

638 ~~[(a) annually review and evaluate the performance of charter schools authorized by the~~
639 ~~board of trustees and hold the schools accountable for their performance;]~~

640 ~~[(b) monitor charter schools authorized by the board of trustees for compliance with~~
641 ~~federal and state laws, rules, and regulations; and]~~

642 ~~[(c) provide technical support to charter schools authorized by the board of trustees to~~
643 ~~assist them in understanding and performing their charter obligations.]~~

644 ~~[(8)] (6) (a) In addition to complying with the requirements of this section, a technical~~
645 ~~college board of directors described in [Section 53B-2a-108](#) shall obtain the approval of the~~

646 Utah System of Technical Colleges Board of Trustees before entering into an agreement to
647 establish and operate a charter school.

648 (b) If a technical college board of directors approves an application to establish and
649 operate a charter school, the technical college board of directors shall submit the application to
650 the Utah System of Technical Colleges Board of Trustees.

651 (c) The Utah System of Technical Colleges Board of Trustees shall, by majority vote,
652 within 60 days of receipt of an application described in Subsection ~~[(8)]~~ (6)(b), approve or deny
653 the application.

654 (d) The Utah System of Technical Colleges Board of Trustees may deny an application
655 approved by a technical college board of directors if the proposed charter school does not
656 accomplish a purpose of charter schools as provided in Section 53G-5-104.

657 (e) A charter school application may not be denied on the basis that the establishment
658 of the charter school will have any or all of the following impacts on a public school, including
659 another charter school:

- 660 (i) an enrollment decline;
- 661 (ii) a decrease in funding; or
- 662 (iii) a modification of programs or services.

663 ~~[(9)]~~ (7) (a) Subject to the requirements of this chapter and other related provisions, a
664 technical college board of directors may establish:

- 665 (i) procedures for submitting applications to establish and operate a charter school; or
- 666 (ii) criteria for approval of an application to establish and operate a charter school.

667 (b) The Utah System of Technical Colleges Board of Trustees may not establish policy
668 governing the procedures or criteria described in Subsection ~~[(9)]~~ (7)(a).

669 ~~[(10)]~~ (8) Before a technical college board of directors accepts a charter school
670 application, the technical college board of directors shall, in accordance with State Board of
671 Education rules, establish and make public:

- 672 (a) application requirements, in accordance with Section 53G-5-302;
- 673 (b) the application process, including timelines, in accordance with this section; and
- 674 (c) minimum academic, financial, and enrollment standards.

675 Section 12. Section 53G-5-409 is amended to read:

676 **53G-5-409. Regulated transactions and relationships -- Definitions --**

677 **Rulemaking.**

678 (1) As used in this section:

679 (a) "Charter school officer" means:

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

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

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

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

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

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

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

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

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

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

697 (iii) abstain from voting on the issue; and

698 (iv) be absent from [~~any~~] the portion of the meeting [~~when~~] where the employment is
699 being considered and determined.

700 (3) (a) Except as provided in Subsections (3)(b) and (3)(c), a charter school officer or a
701 relative of a charter school officer may not have a financial interest in a contract or other
702 transaction involving a charter school in which the charter school officer serves as a charter
703 school officer.

704 (b) If a charter school's governing board considers entering into a contract or executing
705 a transaction in which a charter school officer or a relative of a charter school officer has a
706 financial interest, the charter school officer shall:

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

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

710 (iii) abstain from voting on the issue; and

711 (iv) be absent from ~~[any]~~ the portion of the meeting ~~[when]~~ where the contract or
712 transaction is being considered and determined.

713 (c) The provisions in Subsection (3)(a) do not apply to a reasonable contract of
714 employment for:

715 (i) the chief administrative officer of a charter school; or

716 (ii) a relative of the chief administrative officer of a charter school whose employment
717 is approved in accordance with the provisions in Subsection (2).

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

720 Section 13. Section **53G-5-502** is amended to read:

721 **53G-5-502. Voluntary school improvement process.**

722 (1) As used in this section, "high performing charter school" means a charter school
723 that:

724 (a) satisfies all requirements of state law and State Board of Education rules;

725 (b) has operated for at least three years meeting the terms of the school's charter
726 agreement; and

727 ~~[(c) has students performing at or above the academic performance standard in the~~
728 ~~school's charter agreement.]~~

729 (c) is in good standing with the charter school's authorizer.

730 (2) (a) Subject to Subsection (2)(b), a governing board may voluntarily request the
731 charter school's authorizer to place the school in a school improvement process.

732 (b) A governing board shall provide notice and a hearing on the governing board's
733 intent to make a request under Subsection (2)(a) to parents and guardians of students enrolled
734 in the charter school.

735 (3) An authorizer may grant a governing board's request to be placed in a school
736 improvement process if the governing board has provided notice and a hearing under
737 Subsection (2)(b).

738 (4) An authorizer that has entered into a school improvement process with a governing

739 board shall:

740 (a) enter into a contract with the governing board on the terms of the school

741 improvement process;

742 (b) notify the State Board of Education that the authorizer has entered into a school

743 improvement process with the governing board;

744 (c) make a report to a committee of the State Board of Education regarding the school

745 improvement process; and

746 (d) notify the Utah Charter School Finance Authority that the authorizer has entered

747 into a school improvement process with the governing board if the charter school is a

748 qualifying charter school with outstanding bonds issued in accordance with Part 6, Charter

749 School Credit Enhancement Program.

750 (5) Upon notification under Subsection (4)(b), and after the report described in

751 Subsection (4)(c), the State Board of Education shall notify charter schools and the school

752 district in which the charter school is located that the governing board has entered into a school

753 improvement process with the charter school's authorizer.

754 (6) A high performing charter school or the school district in which the charter school

755 is located may apply to the governing board to assume operation and control of the charter

756 school that has been placed in a school improvement process.

757 (7) A governing board that has entered into a school improvement process shall review

758 applications submitted under Subsection (6) and submit a proposal to the charter school's

759 authorizer to:

760 (a) terminate the school's charter, notwithstanding the requirements of Section

761 [53G-5-503](#); and

762 (b) transfer operation and control of the charter school to:

763 (i) the school district in which the charter school is located; or

764 (ii) a high performing charter school.

765 (8) Except as provided in Subsection (9) and subject to Subsection (10), an authorizer

766 may:

767 (a) approve a governing board's proposal under Subsection (7); or

768 (b) (i) deny a governing board's proposal under Subsection (7); and

769 (ii) (A) terminate the school's charter in accordance with Section [53G-5-503](#);

770 (B) allow the governing board to submit a revised proposal; or

771 (C) take no action.

772 (9) An authorizer may not take an action under Subsection (8) for a qualifying charter
773 school with outstanding bonds issued in accordance with Part 6, Charter School Credit
774 Enhancement Program, without mutual agreement of the Utah Charter School Finance
775 Authority and the authorizer.

776 (10) (a) An authorizer that intends to transfer operation and control of a charter school
777 as described in Subsection (7)(b) shall request approval from the State Board of Education.

778 (b) (i) The State Board of Education shall consider an authorizer's request under
779 Subsection (10)(a) within 30 days of receiving the request.

780 (ii) If the State Board of Education denies an authorizer's request under Subsection
781 (10)(a), the authorizer may not transfer operation and control of the charter school as described
782 in Subsection (7)(b).

783 (iii) If the State Board of Education does not take action on an authorizer's request
784 under Subsection (10)(a) within 30 days of receiving the request, an authorizer may proceed to
785 transfer operation and control of the charter school as described in Subsection (7)(b).

786 Section 14. Section **53G-5-503** is amended to read:

787 **53G-5-503. Termination of a charter.**

788 (1) Subject to the requirements of Subsection (3), a charter school authorizer may
789 terminate a school's charter for any of the following reasons:

790 (a) failure of the charter school to meet the requirements stated in the charter;

791 (b) failure to meet generally accepted standards of fiscal management;

792 ~~[(c) subject to Subsection (8), failure to make adequate yearly progress under the No~~
793 ~~Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.;~~]

794 ~~[(d)]~~ (c) (i) designation as a low performing school under Title 53E, Chapter 5, Part 3,
795 School Turnaround and Leadership Development; and

796 (ii) failure to improve the school's grade under the conditions described in Title 53E,
797 Chapter 5, Part 3, School Turnaround and Leadership Development;

798 ~~[(e)]~~ (d) violation of requirements under this chapter or another law; or

799 ~~[(f)]~~ (e) other good cause shown.

800 (2) (a) The authorizer shall notify the following of the proposed termination in writing,

801 state the grounds for the termination, and stipulate that the governing board may request an
802 informal hearing before the authorizer:

803 (i) the governing board of the charter school; and

804 (ii) if the charter school is a qualifying charter school with outstanding bonds issued in
805 accordance with Part 6, Charter School Credit Enhancement Program, the Utah Charter School
806 Finance Authority.

807 (b) Except as provided in Subsection (2)(e), the authorizer shall conduct the hearing in
808 accordance with Title 63G, Chapter 4, Administrative Procedures Act, within 30 days after
809 receiving a written request under Subsection (2)(a).

810 (c) If the authorizer, by majority vote, approves a motion to terminate a charter school,
811 the governing board of the charter school may appeal the decision to the State Board of
812 Education.

813 (d) (i) The State Board of Education shall hear an appeal of a termination made
814 pursuant to Subsection (2)(c).

815 (ii) The State Board of Education's action is final action subject to judicial review.

816 (e) (i) If the authorizer proposes to terminate the charter of a qualifying charter school
817 with outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement
818 Program, the authorizer shall conduct a hearing described in Subsection (2)(b) 120 days or
819 more after notifying the following of the proposed termination:

820 (A) the governing board of the qualifying charter school; and

821 (B) the Utah Charter School Finance Authority.

822 (ii) Prior to the hearing described in Subsection (2)(e)(i), the Utah Charter School
823 Finance Authority shall meet with the authorizer to determine whether the deficiency may be
824 remedied in lieu of termination of the qualifying charter school's charter.

825 (3) An authorizer may not terminate the charter of a qualifying charter school with
826 outstanding bonds issued in accordance with Part 6, Charter School Credit Enhancement
827 Program, without mutual agreement of the Utah Charter School Finance Authority and the
828 authorizer.

829 (4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
830 the State Board of Education shall make rules that require a charter school to report any threats
831 to the health, safety, or welfare of its students to the State Charter School Board in a timely

832 manner.

833 (b) The rules under Subsection (4)(a) shall also require the charter school report to
834 include what steps the charter school has taken to remedy the threat.

835 (5) Subject to the requirements of Subsection (3), the authorizer may terminate a
836 charter immediately if good cause has been shown or if the health, safety, or welfare of the
837 students at the school is threatened.

838 (6) If a charter is terminated during a school year, the following entities may apply to
839 the charter school's authorizer to assume operation of the school:

840 (a) the school district where the charter school is located;

841 (b) the governing board of another charter school; or

842 (c) a private management company.

843 (7) (a) If a charter is terminated, a student who attended the school may apply to and
844 shall be enrolled in another public school under the enrollment provisions of Chapter 6, Part 3,
845 School District Residency, subject to space availability.

846 (b) Normal application deadlines shall be disregarded under Subsection (7)(a).

847 ~~[(8) Subject to the requirements of Subsection (3), an authorizer may terminate a~~
848 ~~charter pursuant to Subsection (1)(c) under the same circumstances that local educational~~
849 ~~agencies are required to implement alternative governance arrangements under 20 U.S.C. Sec.~~
850 ~~6316.]~~

851 Section 15. Section **53G-5-504** is amended to read:

852 **53G-5-504. Charter school closure.**

853 (1) If a charter school is closed for any reason, including the termination of a charter in
854 accordance with Section **53G-5-503** or the conversion of a charter school to a private school,
855 the provisions of this section apply.

856 (2) A decision to close a charter school is made:

857 (a) when a charter school authorizer approves a motion to terminate described in
858 Subsection **53G-5-503(2)(c)**;

859 (b) when the State Board of Education takes final action described in Subsection
860 **53G-5-503(2)(d)(ii)**; or

861 (c) when a charter school provides notice to the charter school's authorizer that the
862 charter school is relinquishing the charter school's charter.

863 (3) (a) No later than 10 days after the day on which a decision to close a charter school
864 is made, the charter school shall:

865 (i) provide notice to the following, in writing, of the decision:

866 (A) if the charter school made the decision to close, the charter school's authorizer;

867 (B) the State Charter School Board;

868 (C) if the State Board of Education did not make the decision to close, the State Board
869 of Education;

870 (D) parents of students enrolled at the charter school;

871 (E) the charter school's creditors;

872 (F) the charter school's lease holders;

873 (G) the charter school's bond issuers;

874 (H) other entities that may have a claim to the charter school's assets;

875 (I) the school district in which the charter school is located and other charter schools
876 located in that school district; and

877 (J) any other person that the charter school determines to be appropriate; and

878 (ii) post notice of the decision on the Utah Public Notice Website, created in Section
879 [63F-1-701](#).

880 (b) The notice described in Subsection (3)(a) shall include:

881 (i) the proposed date of the charter school closure;

882 (ii) the charter school's plans to help students identify and transition into a new school;

883 and

884 (iii) contact information for the charter school during the transition.

885 (4) ~~[After a decision to close a charter school is made]~~ No later than 10 days after the
886 day on which a decision to close a charter school is made, the closing charter school shall:

887 (a) designate a custodian for the protection of student files and school business records;

888 (b) ~~[maintain]~~ designate a base of operation that will be maintained throughout the
889 charter school closing, including:

890 (i) an office;

891 (ii) hours of operation;

892 (iii) operational telephone service with voice messaging stating the hours of operation;

893 and

894 (iv) a designated individual to respond to questions or requests during the hours of
895 operation;

896 (c) assure that the charter school will maintain insurance coverage and risk
897 management coverage throughout the transition to closure and for a period following closure of
898 the charter school as specified by the charter school's authorizer;

899 (d) assure that the charter school will complete by the set deadlines for all fiscal years
900 in which funds are received or expended by the charter school a financial audit [~~or~~] and any
901 other procedure required by board rule [~~immediately after the decision to close is made~~];

902 (e) inventory all assets of the charter school; and

903 (f) list all creditors of the charter school and specifically identify secured creditors and
904 assets that are security interests.

905 (5) The closing charter school's authorizer shall oversee the closing charter school's
906 compliance with Subsection (4).

907 (6) (a) A closing charter school shall return any assets remaining, after all liabilities
908 and obligations of the closing charter school are paid or discharged, to the closing charter
909 school's authorizer.

910 (b) The closing charter school's authorizer shall liquidate assets at fair market value or
911 assign the assets to another public school.

912 (7) The closing charter school's authorizer shall oversee liquidation of assets and
913 payment of debt in accordance with board rule.

914 (8) The closing charter school shall:

915 (a) comply with all state and federal reporting requirements; and

916 (b) submit all documentation and complete all state and federal reports required by the
917 closing charter school's authorizer or the State Board of Education, including documents to
918 verify the closing charter school's compliance with procedural requirements and satisfaction of
919 all financial issues.

920 (9) When the closing charter school's financial affairs are closed out and dissolution is
921 complete, the authorizer shall ensure that a final audit of the charter school is completed.

922 (10) On or before January 1, 2017, in accordance with Title 63G, Chapter 3, Utah
923 Administrative Rulemaking Act, the State Board of Education shall, after considering
924 suggestions from charter school authorizers, make rules that:

925 (a) provide additional closure procedures for charter schools; and

926 (b) establish a charter school closure process.

927 Section 16. **Effective date.**

928 This bill takes effect on January 1, 2019.