

**CHARTER SCHOOL APPLICATION AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kirk A. Cullimore**

House Sponsor: \_\_\_\_\_

**LONG TITLE**

**General Description:**

This bill amends provisions related to charter school applications and creates an appeal process for applications denied by the State Charter School Board.

**Highlighted Provisions:**

This bill:

▶ requires charter school authorizers to:

- make criteria for reviewing charter school applications publically available;
- provide applicants to establish a charter school with a report of application

deficiencies; and

- provide applicants an opportunity to correct deficiencies;

▶ requires the State Charter School Board to, if an application to establish a charter school is denied:

- notify the applicant of the denial in writing; and
- provide the applicant with specific reasons for the denial in writing; and

▶ creates a process for an applicant to appeal a denial of an application to the State Board of Education.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **53G-5-205**, as last amended by Laws of Utah 2019, Chapter 293

31 **53G-5-302**, as last amended by Laws of Utah 2019, Chapter 293

32 **53G-5-304**, as last amended by Laws of Utah 2019, Chapter 293

33 **53G-5-305**, as last amended by Laws of Utah 2019, Chapter 293

34 **53G-5-306**, as last amended by Laws of Utah 2019, Chapter 293



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

37 Section 1. Section **53G-5-205** is amended to read:

38 **53G-5-205. Charter school authorizers -- Power and duties -- Charter application**  
39 **minimum standard.**

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

41 (a) the State Charter School Board;

42 (b) a local school board; or

43 (c) a board of trustees of an institution in the state system of higher education as  
44 described in Section **53B-1-102**.

45 (2) A charter school authorizer shall:

46 (a) annually review and evaluate the performance of charter schools authorized by the  
47 authorizer and hold a charter school accountable for the school's performance; [~~and~~]

48 (b) monitor charter schools authorized by the authorizer for compliance with federal  
49 and state laws, rules, and regulations[?];

50 (c) establish, and make publically available, criteria for reviewing and evaluating an  
51 application to establish a charter school;

52 (d) provide to an applicant a written report of deficiencies in an application reviewed  
53 by the authorizer, that specifies criteria described in Subsection (2)(c) that the application does  
54 not meet;

55 (e) provide to an applicant copies of internal documents used by the authorizer to  
56 review and evaluate the application; and

57 (f) provide an opportunity for an applicant to correct deficiencies identified in the  
58 report described in Subsection (2)(d) before the applicant submits a final application to

59 establish a charter school to the authorizer.

60 (3) A charter school authorizer may:

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

63 (b) make recommendations on legislation and rules pertaining to charter schools to the  
64 Legislature and state board, respectively;

65 (c) make recommendations to the state board on the funding of charter schools;

66 (d) provide technical support to charter schools and persons seeking to establish charter  
67 schools by:

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

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

70 (iii) directing charter schools and persons seeking to establish charter schools to

71 sources of funding and support; or

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

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

76 or

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

79 (4) Within 60 days after an authorizer's approval of an application for a new charter  
80 school, the state board may direct an authorizer to do the following if the authorizer or charter  
81 school applicant failed to follow statutory or state board rule requirements:

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

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

85 (5) The state board shall make rules establishing minimum standards that a charter  
86 school authorizer is required to apply when:

87 (a) evaluating a charter school application; or

88 (b) monitoring charter school compliance.

89 (6) The minimum standards described in Subsection (5) shall include:

90 (a) reasonable consequences for an authorizer that fails to comply with statute or state  
91 board rule;

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

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

94 (ii) the functioning operation of the charter school governing board of an authorized  
95 charter school;

96 (c) a process for an authorizer to review the financial viability of a proposed charter  
97 school and of an authorized charter school;

98 (d) a process to evaluate:

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

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

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

105 Section 2. Section **53G-5-302** is amended to read:

106 **53G-5-302. Charter school application -- Applicants -- Contents.**

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

108 (i) an individual;

109 (ii) a group of individuals; or

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

111 (b) An applicant described in Subsection (1)(a) shall submit an application to establish  
112 a charter school to the authorizer from which the applicant seeks authorization of a charter  
113 school.

114 [~~(b)~~] (c) An authorized charter school may apply under this chapter for a charter from  
115 another charter school authorizer.

116 (2) A charter school application shall include:

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

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

- 121 (c) a description of the governance structure of the school, including:
- 122 (i) a list of the charter school governing board members that describes the
- 123 qualifications of each member; and
- 124 (ii) an assurance that the applicant shall, within 30 days of authorization, complete a
- 125 background check for each member consistent with Section 53G-5-408;
- 126 (d) a description of the target population of the school that includes:
- 127 (i) the projected maximum number of students the school proposes to enroll;
- 128 (ii) the projected school enrollment for each of the first three years of school operation;
- 129 and
- 130 (iii) the ages or grade levels the school proposes to serve;
- 131 (e) academic goals;
- 132 (f) qualifications and policies for school employees, including policies that:
- 133 (i) comply with the criminal background check requirements described in Section
- 134 53G-5-408;
- 135 (ii) require employee evaluations;
- 136 (iii) address employment of relatives within the charter school; and
- 137 (iv) address human resource management and ensure that:
- 138 (A) at least one of the school's employees or another person is assigned human
- 139 resource management duties, as defined in Section 17B-1-805; and
- 140 (B) the assigned employee or person described in Subsection (2)(f)(iv)(A) receives
- 141 human resource management training, as defined in Section 17B-1-805;
- 142 (g) a description of how the charter school will provide, as required by state and federal
- 143 law, special education and related services;
- 144 (h) for a public school converting to charter status, arrangements for:
- 145 (i) students who choose not to continue attending the charter school; and
- 146 (ii) teachers who choose not to continue teaching at the charter school;
- 147 (i) a statement that describes the charter school's plan for establishing the charter
- 148 school's facilities, including:
- 149 (i) whether the charter school intends to lease or purchase the charter school's facilities;
- 150 and
- 151 (ii) financing arrangements;

- 152 (j) a market analysis of the community the school plans to serve;
- 153 (k) a business plan;
- 154 (l) other major issues involving the establishment and operation of the charter school;

155 and

- 156 (m) the signatures of the charter school governing board members.
- 157 (3) A charter school authorizer may require a charter school application to include:
- 158 (a) the charter school's proposed:
  - 159 (i) curriculum;
  - 160 (ii) instructional program; or
  - 161 (iii) delivery methods;
  - 162 (b) a method for assessing whether students are reaching academic goals, including, at
  - 163 a minimum, administering the statewide assessments described in Section 53E-4-301;
  - 164 (c) a proposed calendar;
  - 165 (d) sample policies;
  - 166 (e) a description of opportunities for parental involvement;
  - 167 (f) a description of the school's administrative, supervisory, or other proposed services
  - 168 that may be obtained through service providers; or
  - 169 (g) other information that demonstrates an applicant's ability to establish and operate a
  - 170 charter school.

171 (4) An authorizer may not deny an application to establish a charter school based on  
 172 the disclosure in an application of a particular proposed vendor to provide education-related  
 173 services to the charter school.

174 Section 3. Section 53G-5-304 is amended to read:

175 **53G-5-304. Charter schools authorized by the State Charter School Board --**  
 176 **Application process -- Prohibited basis of application denial.**

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

181 ~~[(b) The local school board may review the application and may offer suggestions or~~  
 182 ~~recommendations to the applicant or the State Charter School Board prior to its acting on the~~

183 application.]

184 ~~[(c) The State Charter School Board shall give due consideration to suggestions or~~  
185 ~~recommendations made by the local school board under Subsection (1)(b).]~~

186 (2) (a) The State Charter School Board may not establish a process to exclude an  
187 applicant to establish a charter school from completing the application process under this  
188 section, including a prescreening or proposal process.

189 ~~[(d)] (b) The State Charter School Board shall review and, by majority vote, either~~  
190 approve or deny the application.

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

- 194 (i) an enrollment decline;  
195 (ii) a decrease in funding; or  
196 (iii) a modification of programs or services.

197 (d) If the State Charter School Board votes to deny an application, the State Charter  
198 School Board shall provide to the applicant:

- 199 (i) written notice of the denial;  
200 (ii) a written document that identifies the reasons for the denial, including the specific  
201 criteria described in Section 53G-5-302 and Subsection (5) that the application does not meet;  
202 and

203 (iii) if applicable, the written report described in Subsection 53G-5-205(2)(d).

204 ~~[(2)] (3) The state board shall make a rule providing a timeline for the opening of a~~  
205 charter school following the approval of a charter school application by the State Charter  
206 School Board.

207 ~~[(3)] (4) After approval of a charter school application and in accordance with Section~~  
208 ~~53G-5-303, the applicant and the State Charter School Board shall set forth the terms and~~  
209 conditions for the operation of the charter school in a written charter agreement.

210 ~~[(4)] (5) The State Charter School Board shall, in accordance with state board rules,~~  
211 establish and make public the State Charter School Board's:

- 212 (a) application requirements, in accordance with Section 53G-5-302;  
213 (b) application process, including review criteria and timelines, in accordance with this

214 section; and

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

216 (6) (a) An applicant may appeal a denial of an application under Subsection (2) by  
 217 submitting an appeal to the state board within 30 days after the day on which an applicant  
 218 receives the notice described in Subsection (2)(d)(i), and in accordance with the rules  
 219 established by the state board under Subsection (6)(b).

220 (b) The state board shall:

221 (i) within 30 days after the day on which the state board receives an appeal described in  
 222 Subsection (6)(a), appoint an appeals officer to review the denied application that:

223 (A) is not a member of, or employed by, the state board or State Charter School Board;

224 and

225 (B) has expertise or experience in developing or administering a charter school; and

226 (ii) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative  
 227 Rulemaking Act, for a process to submit an appeal to the state board.

228 (c) The appeals officer described in Subsection (6)(b) shall:

229 (i) evaluate whether the denied application meets the criteria described in Section  
 230 53G-5-302 and Subsection (5); and

231 (ii) within 30 days after the day on which the state board appoints the appeals officer,  
 232 schedule a hearing to review:

233 (A) the application denied by the State Charter School Board; and

234 (B) the documents described in Subsection (2)(d).

235 (d) If the appeals officer decides that an application denied by the State Charter School  
 236 Board meets the criteria described in Section 53G-5-302 and Subsection (5):

237 (i) the decision of the State Charter School Board to deny the application is overturned;

238 and

239 (ii) the State Charter School Board shall enter into a charter agreement with the  
 240 applicant under Section 53G-5-303.

241 Section 4. Section 53G-5-305 is amended to read:

242 **53G-5-305. Charters authorized by local school boards -- Application process --**  
 243 **Local school board responsibilities.**

244 (1) (a) An applicant identified in Section 53G-5-302 may submit an application to a



245 local school board to establish and operate a charter school within the geographical boundaries  
246 of the school district administered by the local school board.

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

250 (A) If the entire school is applying for charter status, at least two-thirds of the licensed  
251 educators employed at the school and at least two-thirds of the parents of students enrolled at  
252 the school must have signed a petition approving the application prior to its submission to the  
253 charter school authorizer.

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

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

258 (A) students opting not to attend the proposed converted school would have access to a  
259 comparable public education alternative; and

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

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

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

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

270 (b) Any other charter school authorized by a local school board may contract with the  
271 local school board to receive some or all of the services referred to in Subsection (2)(a).

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

275 (3) (a) A local school board that receives an application for a charter school under this

276 section shall, within 45 days, either accept or reject the application.

277 (b) If the local school board rejects the application, it shall notify the applicant in  
278 writing of the reason for the rejection.

279 (c) The applicant may submit a revised application for reconsideration by the local  
280 school board.

281 (d) If the local school board refuses to authorize the applicant, the applicant may seek a  
282 charter from another authorizer.

283 (4) The state board shall make a rule providing for a timeline for the opening of a  
284 charter school following the approval of a charter school application by a local school board.

285 (5) After approval of a charter school application and in accordance with Section  
286 [53G-5-303](#), the applicant and the local school board shall set forth the terms and conditions for  
287 the operation of the charter school in a written charter agreement.

288 (6) A local school board may terminate a charter school it authorizes as provided in  
289 Sections [53G-5-501](#) and [53G-5-503](#).

290 (7) In addition to the exemptions described in Sections [53G-5-405](#), [53G-7-202](#), and  
291 [53G-5-407](#), a charter school authorized by a local school board is:

292 (a) not required to separately submit a report or information required under this public  
293 education code to the state board if the information is included in a report or information that is  
294 submitted by the local school board or school district; and

295 (b) exempt from the requirement under Section [53G-5-404](#) that a charter school shall  
296 be organized and managed under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation  
297 Act.

298 (8) Before a local school board accepts a charter school application, the local school  
299 board shall, in accordance with state board rules, establish and make public the local school  
300 board's:

301 (a) application requirements, in accordance with Section [53G-5-302](#);

302 (b) application process, including review criteria and timelines, in accordance with this  
303 section; and

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

305 Section 5. Section [53G-5-306](#) is amended to read:

306 **[53G-5-306](#). Charter schools authorized by a board of trustees of a higher**

307 **education institution -- Application process -- Board of trustees responsibilities.**

308 (1) Except as provided in Subsection (6), an applicant identified in Section [53G-5-302](#)  
309 may enter into an agreement with a board of trustees of a higher education institution  
310 authorizing the applicant to establish and operate a charter school.

311 (2) ~~[(a)]~~ An applicant applying for authorization from a board of trustees to establish  
312 and operate a charter school shall provide a copy of the application to the State Charter School  
313 Board and the local school board of the school district in which the proposed charter school  
314 will be located either before or at the same time the applicant files the application with the  
315 board of trustees.

316 ~~[(b) The State Charter School Board and the local school board may review the  
317 application and offer suggestions or recommendations to the applicant or the board of trustees  
318 before acting on the application.]~~

319 ~~[(c) The board of trustees shall give due consideration to suggestions or  
320 recommendations made by the State Charter School Board or the local school board under  
321 Subsection (2)(b).]~~

322 (3) The state board shall make a rule providing a timeline for the opening of a charter  
323 school following the approval of a charter school application by a board of trustees.

324 (4) After approval of a charter school application, the applicant and the board of  
325 trustees shall set forth the terms and conditions for the operation of the charter school in a  
326 written charter agreement.

327 (5) (a) The school's charter agreement may include a provision that the charter school  
328 pay an annual fee for the board of trustees' costs in providing oversight of, and technical  
329 support to, the charter school in accordance with Section [53G-5-205](#).

330 (b) In the first two years that a charter school is in operation, an annual fee described in  
331 Subsection (5)(a) may not exceed the product of 3% of the revenue the charter school receives  
332 from the state in the current fiscal year.

333 (c) Beginning with the third year that a charter school is in operation, an annual fee  
334 described in Subsection (5)(a) may not exceed the product of 1% of the revenue a charter  
335 school receives from the state in the current fiscal year.

336 (d) An annual fee described in Subsection (5)(a) shall be:

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

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

339 (6) (a) In addition to complying with the requirements of this section, a technical  
340 college board of directors described in Section 53B-2a-108 shall obtain the approval of the  
341 Utah System of Technical Colleges Board of Trustees before entering into an agreement to  
342 establish and operate a charter school.

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

346 (c) The Utah System of Technical Colleges Board of Trustees shall, by majority vote,  
347 within 60 days of receipt of an application described in Subsection (6)(b), approve or deny the  
348 application.

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

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

- 355 (i) an enrollment decline;
- 356 (ii) a decrease in funding; or
- 357 (iii) a modification of programs or services.

358 (7) (a) Subject to the requirements of this chapter and other related provisions, a  
359 technical college board of directors may establish:

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

362 (b) The Utah System of Technical Colleges Board of Trustees may not establish policy  
363 governing the procedures or criteria described in Subsection (7)(a).

364 (8) Before a technical college board of directors accepts a charter school application,  
365 the technical college board of directors shall, in accordance with state board rules, establish and  
366 make public:

- 367 (a) application requirements, in accordance with Section 53G-5-302;
- 368 (b) the application process, including review criteria and timelines, in accordance with

369 this section; and

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