

Charter Schools: Charter School Sponsorships

Sponsorship of Charter Schools—

The Utah Legislature has authorized school districts to contract with individuals and entities to sponsor charter schools within the district's boundaries, whether the charter school is converted from an existing district school or is a new school. This policy establishes the Board's procedures for approval and amendment of charter agreements, requests for the Board to become an existing charter school's authorizer, expansion of charter schools, and establishment of satellite charter schools. The application approval process must be submitted to and approved by the State Board of Education before new charter schools may be approved for or after the 2021-2022 school year. It also establishes procedures for oversight of charter schools authorized by the Board. The remediation policy established herein shall be submitted to the State Board of Education by January 1, 2020.

[Utah Code § 53G-5-305\(1\) \(2019\)](#)

Utah Admin. Rules R277-552-3(2), (4) (February 9, 2021)

Utah Admin. Rules R277-553-3(1) (May 26, 2020)

Acceptance of Applications for Charter School Authorization—

The Board hereby elects to receive applications from individuals and organizations for the Board to authorize charter schools within the boundaries of the District. The requirements and process for obtaining Board authorization are set forth in this policy.

[Utah Code § 53G-5-305\(8\) \(2019\)](#)

Application to Convert an Existing Public School to a Charter School—

With the necessary authorization, the principal, teachers, or parents of students at an existing District school may submit an application to the Board to convert all or part of the school to a charter school. Before an application to convert the entire school may be submitted, a petition approving that application must be signed by at least two-thirds of the licensed educators employed at the school and by at least two-thirds of the parents of students enrolled at the school. A petition approving an application to convert a portion of the school must be approved by a majority of the licensed educators employed at the school and a majority of the parents or guardians of students enrolled at the school.

Before the Board may approve a conversion application, it must determine that the students opting not to attend the proposed converted school would have access to a comparable public education alternative and that current teachers who choose not to teach at the converted school would receive a first preference for transfer to open teaching positions for which they qualify within the District or that applicable policy or agreements regarding staff reduction would apply.

[Utah Code § 53G-5-305\(1\)\(b\) \(2019\)](#)

Contents of Application—

An application requesting the Board to authorize a charter school shall include the following with regard to the proposed school:

1. The purpose and mission of the school;
2. A description of the governance structure of the school, including:
 - a. A list of the charter school governing board members describing the qualifications of each member and
 - b. An assurance that the applicant shall, within 30 days of authorization, complete a background check for each governing board member consistent with [Utah Code § 53G-5-408](#);
3. A description of the target population of the school that includes:
 - a. The projected maximum number of students the school proposes to enroll;
 - b. The projected school enrollment for each of the first three years of school operation; and
 - c. The ages or grade levels the school proposes to serve;
4. Academic goals;
5. Qualifications and policies for school employees, including policies that:
 - a. Comply with the criminal background check requirements described in [Utah Code § 53G-5-408](#);
 - b. Require employee evaluations;
 - c. Address employment of relatives within the charter school; and
 - d. Address human resource management and ensure that:
 - i. At least one of the school's employees or another person is assigned human resource management duties, as defined in [Utah Code § 17B-1-805](#); and
 - ii. That this assigned person receives human resource management training, as defined in [Utah Code § 17B-1-805](#);
6. A description of how the charter school will provide special education and related services (as required by federal law);
7. If the proposed charter school is a public school converting to a charter status, arrangements for:
 - a. Students who choose not to continue attending the charter school; and
 - b. Teachers who choose not to continue teaching at the charter school;

8. A statement that describes the plan for establishing the charter school's facilities, including:
 - a. Whether the school intends to lease or purchase the school's facilities; and
 - b. Financing arrangements;
9. A market analysis of the community the school plans to serve;
10. A business plan;
11. A description of the school's proposed curriculum, instructional program, and instructional delivery methods;
12. The proposed methods for assessing whether students are reaching academic goals (which at a minimum shall include administering the statewide assessments described in [Utah Code § 53E-4-301](#));
13. A proposed calendar;
14. Sample policies;
15. A description of opportunities for parental involvement;
16. A description of any administrative, supervisory, or other proposed services that may be obtained through service providers;
17. Other information that demonstrates an applicant's ability to establish and operate a charter school;
18. The proposed pre-operational plan, including proposed implementation of required policies, student data systems, reporting, and financial management;
19. Other identified major issues involving the establishment and operation of the school;
20. A proposed charter agreement; and
21. The signatures of the charter school governing board members.

[Utah Code § 53G-5-302\(2\), \(3\) \(2019\)](#)

Contents of Charter Agreement—

An approved charter agreement is a contract between the charter school applicant and the Board of Education which describes the rights and responsibilities of the applicant and the Board of Education and when approved allows for the operation of the proposed charter school. To be approved by the Board, a proposed charter agreement must include each of the following components and do so in a manner satisfactory to the Board:

1. The name of the charter school and the name of the charter school applicant;
2. The mission statement and purpose of the charter school;
3. The charter school's opening date;

4. The grade levels the charter school will serve;
5. The maximum number of students to be served by the school or by all satellite schools (subject to [Utah Code § 53G-6-504](#));
6. A description of the structure of the charter school's governing board, including the number of board members, how members of the board are appointed, and the terms of office of board members;
7. Assurances that:
 - a. The charter school's governing board shall comply with the charter school's bylaws and articles of incorporation and applicable federal and state law and State Board of Education rules;
 - b. The charter school's governing board will meet all reporting requirements described in [Utah Code § 53G-5-404](#); and
 - c. That except as provided for under the Charter School Credit Enhancement Program ([Title 53G, Chapter 5, Part 6](#)), neither the Board of Education nor the State or any agency of the State is liable for the debts or financial obligations of the charter school or a person who operates the charter school;
8. Which administrative rules the State Board of Education will waive for the charter school;
9. The minimum financial standards for operating the charter school;
10. The minimum standards for student achievement; and
11. The signatures of the charter school's governing board members and (upon approval by the Board) the signature of the president of the Board of Education.

[Utah Code § 53G-5-303 \(2019\)](#)

Upon approval of the charter agreement and execution by both the charter school's governing board and by the Board, the Board shall maintain the original and official signed copy of the charter agreement.

Utah Admin. Rules R277-552-3(7) (February 9, 2021)

Application Review—

Upon receipt of an application for authorization of a new charter school, the Board, or a committee established by the Board, shall review the application and evaluate:

1. The proposed governing board, including:
 - a. Reviewing the resumes of and background information of proposed governing board members; and
 - b. Conducting a capacity interview of the proposed governing board;

2. The school's financial viability, including:
 - a. Reviewing and assessing the submitted market analysis;
 - b. Anticipated enrollment; and
 - c. Anticipated and break-even budgets;
3. The school's academic program and academic standards by which the Board will hold the school accountable;
4. The school's proposed pre-operational plan, including implementation of:
 - a. applicable legal requirements for public schools;
 - b. required policies;
 - c. student data systems, including student data privacy requirements;
 - d. reporting; and
 - e. financial management; and
5. The school's plan for mandatory pre-operational and other trainings.

The Board or committee evaluating the application shall also solicit and consider feedback from existing schools and parent groups within the District and in particular in the area where the proposed charter school will be located.

Utah Admin. Rules R277-552-3(8), (9) (February 9, 2021)

Acceptance or Rejection of Application—

The Board shall act to accept or reject the application for charter school status within forty-five (45) days after initial submission.

If the Board rejects the application, it shall state in writing the specific reasons for rejection.

A rejected applicant may modify its application and resubmit for reconsideration by the Board or may appeal the denial under the procedure set out below.

[Utah Code § 53G-5-305\(3\) \(2019\)](#)

Funding Requirements—

After an application has been approved, in order to receive state start-up funds, the charter school shall sign the approved charter agreement (including academic goals) with the Board and shall demonstrate to the Board's satisfaction that it has completed all required financial documents and completed background checks for each governing board member. The Board shall then certify the completion of these requirements to the State Board of Education.

Utah Admin. Rules R277-552-4(2) (February 9, 2021)

In addition, in order to receive state funds for operation, the charter school shall, no later than June 1 prior to the school's first operational year, demonstrate to the Board's satisfaction that:

1. The school's governing board has adopted all policies required by statute or State Board of Education rule, including a draft special education policies and procedures manual;
2. The school's governing board has adopted an annual calendar in an open meeting and has submitted the calendar to the State Superintendent;
3. The Board has received the school's facility contract as required by [Utah Code § 53G-5-404\(9\)](#);
4. The school's building is scheduled for completion, including all required inspections, prior to occupancy and that
 - a. If the facility is a new facility or an existing facility requiring major renovation, the construction was commenced no later than January 1 of the year the school is scheduled to open; or
 - b. If the facility is one which requires only minimal renovation, the school has entered into an agreement for such renovation no later than May 1 of the year the school is scheduled to open;
5. Either:
 - a. The school has hired an executive director and a business administrator; or
 - b. The school governing board has both designated an executive director or business administrator employed by a third party and has also established policies regarding the school's supervision of third-party contractors;
6. The school's enrollment is on track to be sufficient to meet its financial obligations and implement the charter school agreement;
7. The school has an approved student data system that has successfully communicated with UTREx, including meeting the compatibility requirements of Utah Admin. Rules R277-484-5(3);
8. The school has a functional accounting system;
9. The school has a budgeted net lease adjusted debt burden ratio of under 30% based on the school's executed facility agreement; and
10. The school has complied with all legal requirements for new charter schools in a school's pre-operational year.

Upon determining that the charter school has met each of these requirements, the Board shall certify that completion to the State Board of Education so that the school can receive state funding. The District shall maintain documentation of the review and evaluation of these requirements.

Utah Admin. Rules R277-552-4(3), (4) (February 9, 2021)

Initial Review Period—

The Board's approval of a charter school application constitutes initial approval subject to a three-year review period which begins with the first year of the charter school's operation. Beginning with the first year of the charter school's operation, the Board shall initiate the oversight and review procedures set out below in Accountability and Review. The Board may extend the initial review period for one year, up to two times during the initial review period. At the end of the initial review period, the Board shall either grant the charter school ongoing approval or terminate the charter agreement as provided in this policy and state statute and regulation.

The Board shall, under the minimum standards described in Utah Code § 53G-5-205, base the decision to grant ongoing approval or terminate the charter agreement on:

1. the charter school's compliance with the terms of the charter agreement;
2. whether the charter school is meeting academic standards in the charter school's charter agreement;
3. the charter school's financial viability; and
4. the charter school's capacity to meet governance standards.

[Utah Code § 53G-5-307 \(2020\)](#)

Charter School Website Requirements—

Each charter school shall establish and maintain an operative and readily accessible website which contains the following information:

1. The school's governance structure, including the name, qualifications, and contact information of all governing board members;
2. The number of new students that will be admitted into the school;
3. The school calendar, which shall include:
 - a. the first and last days of school;
 - b. scheduled holidays;
 - c. scheduled professional development days; and
 - d. scheduled non-school days;
4. timelines for acceptance of new students consistent with [Utah Code § 53G-6-503](#);
5. the requirement and availability of a charter school student application;
6. the application timeline to be considered for enrollment in the school;
7. procedures for transferring to or from a charter school;

8. timelines for a transfer;
9. provisions for payment, if required, of a one-time fee per secondary school enrollment, not to exceed \$5.00, consistent with [Utah Code § 53G-6-503\(9\)](#);
10. the policies of the governing board; and
11. other items required by the Board, statute, and State Board rule.

Utah Admin. Rules R277-551-5(1) (January 9, 2019)

The school's website shall be operative at least 180 days before the proposed opening date of the school and shall continue to be maintained by the school.

Utah Admin. Rules R277-551-5(3) (January 9, 2019)

Charter Amendment Process—

An "amendment" is a change or addition to a charter agreement. A charter school authorized by the Board may request that the Board agree to an amendment. Such request shall be in writing and shall clearly identify each provision of the agreement sought to be changed, setting forth the existing provision and showing all changes to be made. It shall also clearly identify each addition to be made in the amendment. The request shall also explain the need or reason for the proposed amendment and the benefits to be obtained through the amendment.

Upon receipt of the request for amendment, the Board shall evaluate the proposed changes and determine whether the agreement as amended would continue to satisfy all requirements for a charter agreement. The Board shall also determine whether allowing the amendment is appropriate, considering the interests of the students served by the school and the other students and schools of the District.

The Board shall act to accept or reject the proposed amendment within forty-five (45) days after submission. If the Board rejects the request, it shall state in writing the specific reasons for rejection.

Utah Admin. Rules R277-550-2(1) (February 9, 2021)

Utah Admin. Rules R277-552-5 (February 9, 2021)

Charter School Expansion Requests—

An "expansion" is an increase in the number of grade levels offered by a charter school or an increase in the number of students for which the school is authorized to receive funding. A charter school authorized by the Board may request approval to expand if the school meets each of the following requirements:

1. the school is in compliance with the requirements of federal and state law, regulations, and State Board of Education rules;
2. the request is consistent with the school's charter agreement;
3. the school has maintained, for each of the last three years:

- a. a re-enrollment rate of at least 80%;
 - b. a wait list of at least 40% of its annual enrollment; or
 - c. other evidence of market demand satisfactory to the Board;
4. the school is performing:
 - a. consistent with or above the school's stated academic goals and
 - b. at or above the average student performance of other nearby schools on statewide assessments, unless the school serves a specialized population consistent with the school's charter agreement;
 5. if the proposed expansion will require additional physical facilities, the school has maintained a net lease adjusted debt burden ratio of under 25% for each of the last three years;
 6. the school's financial statements report revenues in excess of expenditures for at least three of the last four fiscal years; and
 7. the school provides any additional information or documentation requested by the Board.

The request shall be made in writing, shall include documentation of each of the foregoing requirements for expansion, and shall also address each of the factors (set forth in the following section) that the Board must find are met before granting the request.

Utah Admin. Rules R277-550-2(7) (February 9, 2021)

Utah Admin. Rules R277-552-6(2), (3), (4) (February 9, 2021)

Before approving the requested expansion, the Board must determine that each of the following requirements are met:

1. The school is meeting the terms of its charter agreement;
2. The school is academically and operationally successful, taking into consideration at least two years of academic performance data of students at the school;
3. The school:
 - a. Provides educational services consistent with state law and State Board rule;
 - b. Administers and has capacity to carry out statewide assessments (including proctoring such assessments) consistent with Utah Code § 53E-4-303 and Utah Admin. Rules R277-404; and
 - c. Provides evidence-based instruction for special populations as required by federal law;
4. The school has adequate qualified administrators and staff to meet the needs of the proposed student population at the school;

5. The school is in compliance with all applicable school legal obligations;
6. The school is financially viable, as evidenced by the school's financial records, including the school's:
 - a. Most recent annual financial report (AFR);
 - b. Annual program report (APR); and
 - c. Audited financial statement;
7. The school's proposal provides an adequate facility for the school;
8. The school has appropriately dealt with student safety issues, if any.

Utah Admin. Rules R277-552-6(4) (February 9, 2021)

Upon receipt of the request for expansion, the Board shall evaluate the proposed expansion and determine whether all requirements for expansion are met and whether the expansion should be granted.

The Board shall act to approve or reject the proposed expansion before October 1 of the state fiscal year prior to the school year that the school intends to expand. If the Board rejects the request, it shall state in writing the specific reasons for rejection.

If the Board approves the request, it shall by October 1 of the state fiscal year prior to the intended expansion date provide to the State Superintendent the total number of students by grade that the charter school is authorized to enroll.

Utah Admin. Rules R277-552-6(5) (February 9, 2021)

Request for Satellite School—

A "satellite school" is a charter school affiliated with an existing charter school authorized by the Board which has the same governing board and same authorizer as the existing school, may have a similar or different program of instruction as the existing school, but is located at a different site or in a different geographical location than the existing school and has a separate school number than the existing charter school.

Utah Admin. Rules R277-550-2(16) (February 9, 2021)

A charter school authorized by the Board may request approval of a satellite school if the school meets each of the following requirements:

1. The school is fully compliant with federal and state law and regulations and State Board rules;
2. The request is consistent with the school's charter agreement;
3. The school has maintained for each of the past three years:
 - a. A re-enrollment rate of at least 80%;
 - b. A waitlist of at least 40% of the school's annual enrollment; or

- c. Other evidence of market demand satisfactory to the Board;
4. All schools operating under the governance of the existing school are performing:
 - a. Consistent with or above the school's stated academic goals or
 - b. If no student performance goals have been established, above the standardized student assessment measurements of other comparable nearby schools;
5. The school has maintained a net least adjusted debt burden ratio of under 25% for each of the last three years;
6. The school's financial statements report revenues in excess of expenditures for at least three of the last four years;
7. The school provides a market analysis, including documentation of the school's potential for enrollment stability, covering all public schools within a ten mile radius, including analysis of whether nearby schools are at enrollment capacity; and
8. The school provides any additional information or documentation requested by the Board.

Utah Admin. Rules R277-552-7(2) (February 9, 2021)

The Board may only consider an application for a satellite school from a charter school which is authorized by the Board. The request shall be made in writing, shall include documentation of each of the foregoing requirements, and shall also address each of the following factors that the Board must find are met before granting the request:

1. The school is meeting the terms of its charter agreement;
2. There is demonstrated demand for the proposed satellite, taking into consideration the required market analysis;
3. The school is academically and operationally successful, taking into consideration at least two years of academic performance data of students at the school, including whether the school is performing at or above:
 - a. The academic goals established in the school's charter agreement; and
 - b. The average academic performance of other district and charter schools in the area or schools targeting similar populations or demographics;
4. The school has plans for the new school to:
 - a. Provide educational services consistent with state law and State Board rule;

- b. Administer and have capacity to carry out statewide assessments (including proctoring such assessments), consistent with Utah Code § 53E-4-303 and Utah Admin. Rules R277-404; and
 - c. Provide evidence-based instruction for special populations as required by federal law;
5. The school has adequate qualified administrators and staff to meet the needs of the proposed student population at the new school;
 6. The school is in compliance with all public school legal obligations;
 7. The school is in good standing with its authorizer and
 8. The school is financially viable, as evidenced by the school's financial records, including the school's:
 - a. Most recent annual financial report;
 - b. Annual program report; and
 - c. Audited financial statement.

Utah Admin. Rules R277-552-7(3), (4), (5) (February 9, 2021)

The Board shall act to approve or reject the proposed additional school before October 1 of the state fiscal year prior to the school year that the proposed school intends to first serve students. If the Board rejects the request, it shall state in writing the specific reasons for rejection.

If the Board approves the request, it shall by October 1 of the state fiscal year prior to the school year that the proposed school intends to first serve students provide to the State Superintendent the total number of students by grade that the school is authorized to enroll.

If the satellite school does not open within 36 months of approval, the approval expires. If the Board denies the application for a satellite school, the school may immediately apply for a new charter in accordance with the Board's approved processes.

Utah Admin. Rules R277-552-7(6), (8), (9) (February 9, 2021)

Application for the Board to Become the Authorizer of an Existing School—

An existing charter school authorized by an entity other than the Board may apply for the Board to become the school's authorizer. Such an application will apply to all satellite schools. The application for the transfer must be submitted to the Board at least 90 days before the proposed transfer. The application shall include:

1. The name and contact information of all current governing board members;
2. financial records that demonstrate the school's financial position, including the following:
 - a. most recent annual financial report (AFR);

- b. annual program report (APR); and
- c. audited financial statement;
3. test scores, including all state required assessments;
4. current employees and assignments;
5. board minutes for the most recent 12 months; and
6. affidavits, signed by all board members certifying that:
 - a. the school is in compliance with all state and federal laws and regulations, including documentation if requested;
 - b. all information on the transfer application is complete and accurate;
 - c. the school is current with all required school governing board policies;
 - d. the school is operating consistent with its charter agreement; and
 - e. there are no outstanding lawsuits, judgments, or liens against the school.

The school's current authorizer shall submit a position statement to the Board about the school's status, compliance with the authorizer's requirements, and unresolved concerns. The current authorizer shall also advise the Board if there is any outstanding debt to the current authorizer or to the state.

Prior to approving a request to become the authorizer of an existing charter school, the Board shall request and consider information from the State Board and the current authorizer concerning the school's financial and academic performance.

The Board shall review and make a determination on an application for the Board to become the authorizer of an existing charter school within 60 days of submission of the complete application (including all required documentation). If the Board approves the request, it shall notify the State Superintendent within 30 days.

Utah Admin. Rules R277-552-8 (February 9, 2021)

Accountability and Review—

The Board shall annually review and evaluate the performance of each of its authorized charter schools, including requiring each school to comply with its charter agreement and comply with statute and State Board rule. The annual review shall include and shall document matters specific to effective charter school operation, including financial performance, academic performance, enrollment, and governing board performance. With respect to the first year of a charter school's operation, the review shall include at least one visit to the school to ensure adherence to implementation of the charter agreement and to establish a review process for the school. Subsequent reviews shall include visits as determined in the review process. Following review visits, the Board shall provide the school a written report which sets forth the school's strengths, deficiencies, any proposed corrective actions, and the time for completing those corrective actions.

Utah Admin. Rules R277-553-2(1), (2), (3) (May 26, 2020)

For each of its authorized charter schools, the Board shall, at least once every five years, conduct and document a comprehensive review of the school's governing board's performance and of the charter agreement.

Utah Admin. Rules R277-553-2(4) (May 26, 2020)

Upon becoming aware of any claim of fraud or misuse of public assets by one of its authorized charter schools, the Board shall notify the State Superintendent of the claim and shall coordinate the investigation of the claim with the State Superintendent.

Utah Admin. Rules R277-553-2(2)(d), (e) (May 26, 2020)

The Board shall coordinate with the State Superintendent in its regular review and monitoring of its charter schools.

Utah Admin. Rules R277-553-2(5) (May 26, 2020)

[Utah Code § 53G-5-205\(2\) \(2020\)](#)

Remediation of Deficiencies—

The Board's notice to a charter school of deficiencies, required corrective action, and the time for completing corrective action shall also inform the charter school that it has a reasonable time to remedy the deficiency. (This does not apply in cases where immediate termination of the school's charter agreement is appropriate.)

If the charter school fails to remedy the deficiency or deficiencies within the established timeline, then the Board shall place the school on probation for an appropriate time which may be up to one year. Upon placing a school on probation, the Board shall establish a written plan which:

1. Outlines those provisions in the charter agreement, applicable laws, or rules and regulations with which the school is not in compliance;
2. Sets forth the terms, conditions, and timeline that the school shall follow in order to be removed from probation and;
3. Includes a plan for further remedial action if the school fails to comply with the terms of the.

Utah Admin. Rules R277-553-3(3), (4) (May 26, 2020)

The Board shall give written notice of probationary terms imposed on a charter school to the State Superintendent within 30 days.

Utah Admin. Rules R277-553-3(10) (May 26, 2020)

If the school complies with the terms of the written probation plan within the established timeline, the Board shall remove the school from probation. The school request a single extension of no more than 6 months to comply with the plan. The Board may in its discretion grant or deny an extension request. While on probation, a school may seek technical assistance from the Board or District in remedying

deficiencies. If the school fails to satisfy the probation requirements within the time allowed, the Board shall propose to terminate the school's charter agreement.

Utah Admin. Rules R277-553-3(5), (6), (7) (May 26, 2020)

At any time during probation, for good cause, or if the health, safety, or welfare of the students at the school is threatened, the Board may immediately terminate the school's charter agreement.

Utah Admin. Rules R277-553-3(9) (May 26, 2020)

Remediation of Financial or Safety Deficiencies—

Upon receiving credible information of charter school financial mismanagement or fraud, or a threat to the health, safety, or welfare of students, the Board shall direct an independent review or monitoring, as appropriate, in coordination with the State Superintendent. The Board may also direct a charter school governing board or the charter school administration to take reasonable action to protect students or state or federal funds consistent with [Utah Code § 53G-5-503](#).

Utah Admin. Rules R277-553-6(1), (2) (May 26, 2020)

Upon receipt of findings documenting a threat to the health, welfare, or safety of a school, the Board may:

1. Recommend that the State Superintendent impose corrective action against the school in accordance with Utah Admin. Rules R277-114;
2. Take immediate or subsequent corrective action with charter school governing board members or employees who are responsible for deficiencies consistent with [Utah Code § 53G-5-501](#) (including removal of a finance officer, director, or board member or appointment of an interim director or financial officer or a board member);
3. Transfer operation and control of the charter school to a high performing charter school (including reconstituting the governing board to effectuate the transfer);
4. Identify a remediation team to work with the school; or
5. Immediately terminate the school's charter agreement in accordance with [Utah Code § 53G-5-503\(5\)](#).

Utah Admin. Rules R277-553-6(3) (May 26, 2020)

[Utah Code § 53G-5-501\(2\) \(2020\)](#)

Upon receipt of findings documenting financial mismanagement or fraud by a charter school, the Board shall coordinate appropriate corrective action with the State Superintendent.

Utah Admin. Rules R277-553-6(5) (May 26, 2020)

The Board may exercise flexibility for good cause in making a recommendation regarding an identified deficiency.

Utah Admin. Rules R277-553-6(6) (May 26, 2020)

Termination of Charter School Status—

The Board may terminate its agreement with a charter school that it sponsors for the following reasons:

1. Failure to meet the requirements stated in its charter;
2. Failure to meet generally accepted standards of fiscal management;
3. Failure to provide adequate liability and other appropriate insurance as established by statute;
4. Designation of the school as a low performing school under the School Turnaround and Leadership Development Act and failure to improve the school's grade under the conditions described in the School Turnaround and Leadership Development Act;
5. Violation of law, including but not limited to violation of the requirements to
 - a. Submit an annual progress report to the Board of Education stating:
 - i. The school's progress toward achieving its goals set forth in its charter; and
 - ii. Financial records of the school, including revenues, expenditures, and employee salary and benefit levels.
 - b. Be non-sectarian in its programs, admission policies, employment practices and operations;
 - c. Not charge tuition or fees except those normally charged by public schools;
 - d. Not employ an educator whose license is suspended or revoked by the State Board of Education;
 - e. Meet all applicable health, safety, and civil rights requirements;
 - f. Submit all annual reports required of public schools, including an annual audited financial report;
 - g. Meet the applicable accounting principles and reporting standards established by statute;
 - h. Meet the data and reporting standards of Utah Code § 53E-3-501;
 - i. Issue appropriate grading reports;
 - j. Inform parents of how to access the curriculum being used by the school and make the curriculum readily available and accessible for parents to view;

- k. Provide the Board with requested documents as provided by statute;
 - l. Not advocate unlawful conduct; or,
6. Other good cause shown.

[Utah Code § 53G-5-503\(1\) \(2019\)](#)

[Utah Code § 53G-5-404\(1\), \(4\), \(6\), \(8\), \(10\), \(12\), \(13\), \(14\) \(2020\)](#)

Procedure for Termination of Charter Agreement—

If the Board determines that the charter agreement of a school it sponsors should be terminated, then the following procedure shall apply:

1. The Board shall notify the charter’s school governing board in writing of the proposed termination and the grounds for termination. This notice shall also inform the school governing board that it may in writing request an informal hearing before the Board regarding the proposed termination.
2. If the school governing board requests a hearing, the Board shall conduct that hearing within 30 days of receiving the request. The hearing shall be conducted under the informal hearing procedures of the Utah Administrative Procedures Act.
3. If following the hearing the Board by majority vote determines to terminate the charter agreement, the school governing body may appeal that decision to the State Board of Education.
4. Notice of the vote to terminate the charter agreement shall be provided to the State Superintendent.

[Utah Code § 53G-5-503\(2\) \(2019\)](#)

Utah Admin. Rules R277-553-3(9), (11) (May 26, 2020)

Notwithstanding the above, the Board may terminate a charter agreement immediately if good cause therefore is shown or if the health, safety, or welfare of the students at the charter school is threatened, except as provided below for schools with qualifying outstanding bonds.

[Utah Code § 53G-5-503\(5\) \(2019\)](#)

Actions to Protect Assets or Address Inability to Pay Government—

The Board may petition the district court to appoint a receiver for a charter school authorized by the Board if:

1. The school is subject to closure under this policy and
2. Either:
 - a. The school has disposed of its assets in violation of statutes or regulations or there is a demonstrated risk that this will occur, or
 - b. The school cannot make repayment of amounts owed to the federal government or the state, or there is a demonstrated risk that this will occur.

The receiver will have the duties and powers as directed by the court. If requested by the Board and directed by the court, the receiver will carry out charter school closure procedures as described in statute and State Board of Education rules and as directed by the Board.

[Utah Code § 53G-5-501\(6\)\(a\) to \(c\) \(2020\)](#)

If the above-stated circumstances exist but the Board does not request appointment of a receiver or the court does not appoint a receiver, then the Board:

1. May reconstitute the governing board of the charter school; or,
2. If a new governing board cannot be constituted, the Board shall complete the closure procedures described in Utah Code § 53G-5-504, including liquidation and assignment of assets and payment of debt in accordance with State Board of Education rule, as described in that statute.

[Utah Code § 53G-5-501\(6\)\(d\) \(2020\)](#)

However, if the charter school has qualifying outstanding bonds, the Board must obtain the consent of the Utah Charter School Finance Authority before petitioning a court to appoint a receiver, reconstituting the school's governing board, or carrying out closure procedures.

[Utah Code § 53G-5-501\(6\)\(e\) \(2020\)](#)

Procedures Applicable to Charter Schools With Outstanding Bonds—

The procedures for remedying deficiencies and for terminating a charter school's charter agreement are modified where the school has outstanding bonds issued under the Charter School Credit Enhancement Program, as follows.

The notice of deficiencies shall also be given to the Utah Charter School Finance Authority. The Board must also give notice to that agency before it may take one of the actions other than termination. Where the Board seeks to terminate the school's charter agreement, the notice of proposed termination and grounds for termination is also provided to the Utah Charter School Finance Authority. The hearing on termination is held at least 120 days after the notice is given to the Authority and the charter school governing board (rather than 30 days). Before the hearing is held, the Authority will meet with the Board to determine whether the deficiency may be remedied in lieu of termination of the charter agreement. If after the hearing the Board votes to terminate the charter agreement, termination nevertheless may not be effected without the agreement of the Authority. Similarly, where immediate termination of a charter agreement might be appropriate, such termination cannot be effected without the agreement of the Authority.

[Utah Code § 53G-5-501\(1\)\(b\), \(4\) \(2020\)](#)

[Utah Code § 53G-5-503\(2\)\(a\)\(ii\), \(2\)\(e\), \(3\) \(2019\)](#)

Appeals from Board Actions—

Subject to and pursuant to the rules and procedures established by the State Board of Education, the following actions may be appealed to the State Board:

1. Termination of a charter agreement;
2. Denial of proposed amendments to a charter agreement;
3. Denial or withholding of funds from the charter school governing board; and
4. Denial of a charter application.

In taking any of these actions, the Board shall provide written notice to the charter school governing board chair or authorized agent of the action and of appeal rights and timelines. (An appeal must be submitted to the State Superintendent within 14 calendar days of the challenged action.) The Board shall also post information about the appeals process on its website and shall provide training to charter school governing board members and authorized agents regarding the appeals process.

Utah Admin. Rules R277-553-7(1), (2), (3) (May 26, 2020)

School Operation Following Termination—

If a charter agreement is terminated, then the District may either assume management and operation of the charter school or may upon application permit the governing board of another charter school, a private management company, or the governing board of a nonprofit corporation to operate the school.

[Utah Code § 53G-5-503\(6\) \(2020\)](#)