

**R277. Education, Administration.**

**R277-552. Charter School Timelines and Approval Processes.**

**R277-552-1. Authority and Purpose.**

- (1) This rule is authorized by:
  - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
  - (b) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities;
  - (c) Subsection 53G-6-504(5), which requires the Board to make rules regarding a charter school expansion or satellite campus;
  - (d) Sections 53G-5-304 through 53G-5-306, which require the Board to make a rule providing a timeline for the opening of a charter school;
  - (e) Section 53F-2-702, which directs the Board to distribute funds for charter school students directly to the charter school;
  - (f) the Charter School Expansion Act of 1998, 20 U.S.C. Sec. 8063, which directs the Board to submit specific information before a charter school's receipt of federal funds; and
  - (g) Subsection 53G-5-205(5), which requires the Board to make rules establishing minimum standards that an authorizer is required to apply in authorizing and monitoring charter schools.
- (2) The purpose of this rule is to:
  - (a) establish procedures for timelines and approval processes for new charter schools; and
  - (b) provide criteria and standards for consideration of high performing charter schools to expand and request new schools that are satellite schools.

**R277-552-2. Definitions.**

- (1) "Large expansion" means a charter school's request for expansion if the expansion request:
  - (a) is for more than 50 students;
  - (b) would necessitate significant renovation; or

(c) is for more than one additional grade level.

(2) "Market analysis" means a qualitative and quantitative analysis of the educational market near a proposed charter school, including:

(a) the school's target demographics;

(b) population and development trends in the area;

(c) nearby competing public schools;

(d) the proposed school's own forecasts, along with supporting data; and

(e) any risks, barriers, or regulations that may impact a proposed school's success.

(3) "Significant school remodel" means new construction or a renovation that requires:

(i) a building permit from a local municipality or county; or

(ii) a project number from the Board as described in Rule R277-471.

(4) "Small expansion request" means a charter school's request for expansion if the expansion request:

(a) is for 50 or fewer students;

(b) would not necessitate a significant renovation; and

(c) is for no more than one additional grade.

### **R277-552-3. Charter School Authorization Process.**

(1) An individual or non-profit organization as described in Subsection 53G-5-302(2)(b) may apply to open a charter school from any statutorily approved authorizer.

(2) An authorizer shall submit a process to the Board for approval of:

(a) a new charter school;

(b) a request from a school to change authorizers;

(c) a charter school expansion; or

(d) a satellite school.

(3) A new authorizer shall submit a new charter school application process to the Board for approval at least six months before accepting applications for a new charter school.

(4) An existing authorizer may not authorize a new charter school for the 2021-22 school year and beyond until the Board approves the authorizer's application process.

(5)(a) The Board shall approve or deny an authorizer's proposed application process, including expansion and satellite approval processes, within 90 days of receipt of the proposed process from an authorizer.

(b) If the Board denies an application process, the Superintendent shall provide a written explanation of the reasons for the denial to the applicant within 45 days.

(c) If an authorizer's application process is denied, the authorizer may submit a revised application process for approval at any time.

(6) An authorizer shall have an application and charter agreement, which shall include all elements required by Title 53G, Chapter 5, Part 3, Charter School Authorization.

(7) An authorizer shall maintain the official signed charter agreement, which shall presumptively be the final, and complete agreement between a school and the school's authorizer.

(8) An authorizer's review process for a new charter school shall include:

(a) a plan for mandatory pre-operational and other trainings;

(b) an evaluation of the school's governing board, including:

(i) a review of the resumes of and background information of proposed governing board members; and

(ii) a capacity interview of the proposed governing board;

(c) an evaluation of the school's financial viability, including:

(i) a market analysis;

(ii) anticipated enrollment; and

(iii) anticipated and break even budgets;

(d) an evaluation of the school's academic program and academic standards by which the authorizer will hold the school accountable; and

(e) an evaluation of the school's proposed pre-operational plan, including implementation of:

(i) applicable legal requirements for public schools;

- (ii) required policies;
- (iii) student data systems, including student data privacy requirements;
- (iv) reporting; and
- (v) financial management.

(9) An authorizer's review process shall include contacting the school district in which a proposed charter school will be located and consideration of any feedback provided by the district.

(10) An authorizer shall design its approval process so that the authorizer notifies the Superintendent of an authorizer approval of a request identified in Subsection (2) no later than October 1, one fiscal year before the state fiscal year the charter school intends to serve students.

#### **R277-552-4. Timelines - Charter School Starting Date and Facilities.**

(1) A charter school may receive state start-up funds if the charter school is approved as a new charter school by October 1, one fiscal year before the state fiscal year the charter school intends to serve students.

(2) Before receiving state start-up funds an authorizer, other than the State Charter School Board, shall certify in writing to the State Charter School Board that a charter school has:

- (a) completed all required financial documents;
- (b) completed background checks for each governing board member; and
- (c) executed a signed charter agreement, which includes academic goals.

(3) Before an LEA receives state start-up funds, the State Charter School Board shall require the LEA to submit documentation supporting the information required in Subsections (2)(a) and (c) to the Superintendent.

(4) A charter school may receive state funds, including minimum school program funds, if the charter school authorizer certifies in writing to the Superintendent by June 30 before the school's first operational year that:

- (a) the charter school meets the requirements of Subsection (2);

(b) the charter school's governing board has adopted all policies required by statute or Board rule, including a draft special education policies and procedures manual;

(c) the charter school's governing board has adopted an annual calendar in an open meeting and has submitted the calendar to the Superintendent;

(d) the authorizer has received the charter school's facility contract as required by Subsection 53G-5-404(9);

(e) the charter school has met the requirements of Subsections (5) and (6) and that the school's building is scheduled for completion, including all required inspections, before occupancy;

(f)(i) the charter school has hired an executive director and a business administrator; or

(ii)(A) the charter school governing board has designated an executive director or business administrator employed by a third party; and

(B) the charter school governing board has established policies regarding the charter school's supervision of the charter school's third-party contractors;

(g) the charter school's enrollment is on track to be sufficient to meet the school's financial obligations and implement the charter school agreement;

(h) the charter school has an approved student data system that has successfully communicated with UTREx, including meeting the compatibility requirements of Subsection R277-484-5(3);

(i) the charter school has a functional accounting system; and

(j) the charter school has a budgeted net lease adjusted debt burden ratio of under 30% based on the school's executed facility agreement; and

(k) the charter school has complied with all legal requirements for new charter schools in a school's pre-operational year.

(5) An authorizer shall:

(a) create a process to verify the requirements in Subsection (4);

(b) maintain documentation of Subsection (5)(a); and

(c) provide the documentation described in Subsection (5)(b) to the Superintendent upon request; and

(d) submit a copy of the process required in Subsection (5)(a) to the Board for approval along with the authorizer's process for approving new charters under Subsection R277-552-3(2).

(6) A charter school shall begin construction on a new or existing facility requiring significant renovation no later than January 1 of the year the charter school is scheduled to open.

(7) A charter school that intends to occupy a facility requiring only minimal renovation, such as renovation not requiring a project number according to Rule R277-471, shall enter into a written agreement no later than May 1 of the calendar year the charter school is scheduled to open.

(8) If a charter school fails to meet the requirements of this section within 36 months of approval, the approval of the charter school shall expire.

#### **R277-552-5. Charter Amendment Requests.**

(1) An authorizer shall have a policy establishing a process for consideration of proposed amendments to a school's charter agreement.

(2) An authorizer's timeline for consideration of an amendment to a charter agreement may not conflict with any funding deadline established in Board rule.

#### **R277-552-6. Charter School Small Expansion Requests.**

(1) An authorization process developed by an authorizer in accordance with Subsection R277-552-3(2) shall comply with Sections R277-552-6 and R277-552-7 for a charter school expansion.

(2) An authorizer may approve a small expansion request in accordance with an authorizer's standards and established criteria.

(3) An authorizer may approve an application from a charter school for a large expansion if the charter school meets the requirements for a satellite school described in Section R277-552-7.

(4) An authorizer may provide additional requirements in addition to the requirements described in Sections R277-552-6 and R277-552-7.

(5) An authorizer shall provide documentation of an applicant school's eligibility for an expansion under Subsection (2) or Section R277-552-7 to the Superintendent upon request.

(6) An authorizer shall:

(a) approve a proposed expansion before October 1 of the state fiscal year before the school year that the charter school intends to expand; and

(b) provide the total number of students by grade that the charter school expansion is authorized to enroll to the Superintendent on or before October 1 of the state fiscal year before the school year that the school intends to expand.

### **R277-552-7. Requests for a New Satellite School or Large Expansion.**

(1) An authorization process developed by an authorizer in accordance with Subsection R277-552-3(2) shall comply with this Section R277-552-7 for a satellite school or large expansion request.

(2) An authorizer may not consider an application for a satellite school from a charter school governed by a different authorizer.

(3) An authorizer may only approve an application from a charter school for a satellite school or large expansion if:

(a) the charter school is in compliance with the requirements of federal and state law, regulations, and Board rule;

(b) the charter school meets the academic and other standards and requirements of the charter school authorizer, and is in good standing according to the standards established by the charter school's authorizer in the authorizer's process for charter school expansion or satellite school described in Subsection R277-552-3(2), including whether the charter LEA, as a whole, qualifies as high performing under the charter school's authorizer's approved definition of high performing;

(d) subject to Subsection (4), the charter school is operationally successful, taking into consideration at least two years of data for every school under the charter agreement;

(e) the charter school has plans for the new satellite school or large expansion to:

- (i) provide educational services consistent with state law and Board rule;
  - (ii) administer and have capacity to carry out statewide assessments including proctoring statewide assessments, consistent with Section 53E-4-303 and Rule R277-404; and
  - (iii) provide evidence-based instruction for special populations as required by federal law;
  - (f) the charter school has adequate qualified administrators and staff to meet the needs of the proposed student population at the new school;
  - (g) the school is in compliance with all public school legal obligations;
  - (h) the charter school is in good standing with its authorizer;
  - (i) the charter school has no outstanding corrective action that has not yet been resolved by the completion of a corrective action plan;
  - (j) the charter school provides a market analysis, including documentation of the school's potential for enrollment stability; and
  - (k) the charter school provides any additional information or documentation requested by the authorizer.
- (4)(a) For purposes of this Subsection (4), "debt coverage ratio" means:
- (i) a debt coverage ratio calculated using  $(\text{revenue} - \text{expenditures} + \text{interest cost} + \text{depreciation})$  divided by annual debt service; or
  - (ii) if the charter school's facilities are leased and not owned, a debt coverage ratio calculated using  $(\text{revenue} - \text{expenditures} + \text{facility lease payment} + \text{real property taxes} + \text{depreciation})$  divided by annual debt service.
- (b) A charter school is considered to be operationally successful if:
- (i) for each of the schools under the charter agreement, the charter school meets the following criteria:
    - (A) for a school with 350 or less students enrolled in the school, at least 120% debt coverage ratio for each of the three years before the request for a satellite;
    - (B) for a school with between 351 and 499 students enrolled in the school, at least 115% debt coverage ratio for each of the three years before the request for a satellite;



(C) for a school with between 500 and 750 students enrolled in the school, at least 110% debt coverage ratio for each of the three years before the request for a satellite; or

(D) for a school with more than 750 students enrolled in the school, at least 105% debt coverage ratio for each of the three years before the request for a satellite;

(ii) the charter school is financially viable, as evidenced by the charter school's financial records, including the charter school's:

(A) most recent annual financial report (AFR);

(B) annual program report (APR); and

(C) audited financial statements;

(iii) the charter school has maintained a net lease adjusted debt burden ratio of under 25% for each of the last three years; and

(iv) the charter school's financial statements report revenues in excess of expenditures for at least three of the last four years;

(v) the charter school is meeting the terms of its charter agreement;

(vi) the charter 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) there is a demonstrated demand for the proposed satellite or large expansion, taking into consideration the market analysis required under Subsection (3)(j).

(5) An authorizer may provide additional requirements for a charter school in addition to the minimum requirements described in this Section R277-552-7.

(6) An authorizer shall provide documentation of an applicant school's eligibility for a satellite school or large expansion under Subsection (3) to the Superintendent upon request.

(7) An authorizer shall:

(a) approve a proposed large expansion request or satellite school before October 1 of the state fiscal year before the school year that the proposed school intends to first serve students;

(b) provide the total number of students by grade that the expanded or satellite school is authorized to enroll to the Superintendent on or before October 1 of the state fiscal year before the school year that the proposed school intends to first serve students; and

(c) ensure that a proposed school that will receive School LAND Trust funds has a charter trust land council and satisfies all requirements of Rule R277-477, including transparency of information for parents.

(8) A charter school and all of the charter school's satellite schools are a single LEA for purposes of public school funding and reporting.

(9) If a satellite charter school does not open within 36 months of approval, the approval shall expire.

(10) If an authorizer denies an application for a satellite school, the school may immediately apply for a new charter in accordance with an authorizer's approved processes.

#### **R277-552-8. Procedures and Timelines to Change Charter School Authorizers.**

(1) A charter school may transfer to another charter school authorizer.

(2) A charter school shall submit an application to the new charter school authorizer at least 90 days before the proposed transfer.

(3) The charter school authorizer transfer application shall include:

(a) the name and contact information of all current governing board members;

(b) financial records that demonstrate the charter school's financial position,

including the following:

(i) most recent annual financial report (AFR);

(ii) annual program report (APR); and

(iii) audited financial statements;

(c) test scores, including all state required assessments;

(d) current employees and assignments;

(e) board minutes for the most recent 12 months; and

(f) affidavits, signed by all board members certifying:

- (i) the charter school's compliance with all state and federal laws and regulations, including documentation if requested;
- (ii) all information on the transfer application is complete and accurate;
- (iii) the charter school is current with all required charter school governing board policies;
- (iv) the charter school is operating consistent with the charter school's charter agreement; and
- (v) there are no outstanding lawsuits, judgments, or liens against the charter school.

(4) The current authorizer of a charter school seeking to transfer charter school authorizers shall submit a position statement to the new charter school authorizer about:

- (a) the charter school's status;
- (b) compliance with the charter school authorizer requirements; and
- (c) unresolved concerns.

(5) If a school applies to change authorizer's, the existing authorizer shall advise the proposed authorizer if there is any outstanding debt to the existing authorizer or the state.

(6) If a school applies to change authorizers, the request shall extend to all satellite schools.

(7) A new charter school authorizer shall review an application for transferring to another charter school authorizer within 60 days of submission of a complete application, including all required documentation.

(8) Before accepting a charter school's transfer from another authorizer, the new authorizer shall request and consider information from the Board and current authorizer concerning the charter school's financial and academic performance.

(9) The Superintendent and current authorizer shall provide the information described in Subsection (7) to a new charter authorizer within 30 days of request described in Subsection (7).

(10) If an authorizer accepts the transfer of a charter school, the new authorizer shall notify the Superintendent within 30 days.

**R277-552-9. Requirements for Board Approval of Process Updates Due to Changes in Board Rule.**

(1) An authorizer with a previously Board approved process shall re-submit the authorizer's updated processes described in Subsection R277-552-3(2) within six months of the new effective date of this rule if the updates to this rule include new or amended requirements.

(2) An authorizer may submit only those portions of the processes that were impacted by the updates to this rule.

**KEY: training, timelines, expansion, satellite**

**Date of Last Change: May 23, 2023**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53G-5-205; 53F-2-702; 53G-6-503**