

1 **R277. Education, Administration.**

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

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

4 (1) This rule is authorized by:

5 (a) [Utah Constitution Article X, Section 3](#), which vests general control and supervision
6 over public education in the Board;

7 (b) Subsection [53E-3-401\(4\)](#), which allows the Board to adopt rules in accordance with
8 its responsibilities;

9 (c) Subsection [53G-6-504\(5\)](#), which requires the Board to make rules regarding a
10 charter school expansion or satellite campus;

11 (d) Sections [53G-5-304](#) through [53G-5-306](#), which require the Board to make a rule
12 providing a timeline for the opening of a charter school;

13 (e) Section [53F-2-702](#), which directs the Board to distribute funds for charter school
14 students directly to the charter school;

15 (f) the [Charter School Expansion Act of 1998](#), 20 U.S.C. Sec. 8063, which directs the
16 Board to submit specific information prior to a charter school's receipt of federal funds; and

17 (g) Subsection [53G-5-205\(5\)](#), which requires the Board to make rules establishing
18 minimum standards that an ~~[charter school]~~ authorizer is required to apply in authorizing and
19 monitoring charter schools.

20 (2) The purpose of this rule is to:

21 (a) establish procedures for timelines and approval processes for new charter schools;
22 and

23 (b) provide criteria and standards for consideration of high performing charter schools
24 to expand and request satellite schools.

25 **R277-552-2. Charter School Authorization Process.**

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

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

29 (a) a new charter school;

30 (b) a charter school expansion; or

31 (c) ~~a replication school; or~~

32 ~~——~~(d) a satellite school.

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

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

37 ~~[(4)5]~~(a) The Board shall approve or deny an authorizer's proposed application process,
38 including expansion and satellite approval processes, within ~~[65]~~ 90 days of receipt of the
39 proposed process from an authorizer.

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

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

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

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

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

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

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

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

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

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

- 57 (c) an evaluation of the school's financial viability, including:
- 58 (i) a market analysis;
- 59 (ii) anticipated enrollment; and
- 60 (iii) anticipated and break even budgets;
- 61 (d) an evaluation of the school's academic program and academic standards by which
- 62 the authorizer will hold the school accountable; and
- 63 (e) an evaluation of the school's proposed pre-operational plan, including
- 64 implementation of:
- 65 (i) applicable legal requirements for public schools;
- 66 (ii) required policies;
- 67 (iii) student data systems, including student data privacy requirements;
- 68 (i[iv]) reporting; and
- 69 (ii) financial management.
- 70 (9) An authorizer's review process shall include contacting the school district in which
- 71 a proposed charter school will be located and consideration of any feedback provided by the
- 72 district.
- 73 (10) An authorizer shall design its approval process so that the authorizer notifies the
- 74 Superintendent of an authorizer approval of a request identified in Subsection (2) no later than
- 75 October 1, one fiscal year prior to the state fiscal year the charter school intends to serve
- 76 students.

77 **R277-552-3. Timelines - Charter School Starting Date and Facilities.**

- 78 (1) A charter school may receive state start-up funds if the charter school is approved
- 79 as a new charter school by October 1, one fiscal year prior to the state fiscal year the charter
- 80 school intends to serve students.
- 81 (2) Prior to receiving state start-up funds an authorizer shall certify in writing to the
- 82 State Charter School Board that a charter school has:
- 83 (a) completed all required financial ~~[identifying]~~ documents;
- 84 (b) completed background checks for each governing board member; ~~[and]~~

85 (c) executed a signed charter agreement, which includes academic goals~~[-];~~ and
86 (d) satisfied all legal requirements for new charter schools, including those identified in
87 Subsection R277-552-5(2)(a).

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

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

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

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

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

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

101 (e) the charter school has met the requirements of Subsections (5) and (6) and that the
102 school's building is ~~[on track to be completed]~~ scheduled for completion, including all required
103 inspections, prior to occupancy;

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

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

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

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

112 (h) the charter school has an approved student data system that has successfully
113 communicated with UTREx, including meeting the compatibility requirements of Subsection
114 [R277-484-5\(3\)](#); ~~and~~

115 (i) the charter school has a functional accounting system~~[-];~~ and

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

118 (5) An authorizer shall:

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

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

121 (c) provide the documentation described in Subsection (5)(b) to the Superintendent
122 upon request.

123 (6) A charter school shall begin construction on a new or existing facility requiring major
124 renovation, such as requiring a project number consistent with Rule [R277-471](#), no later than
125 January 1 of the year the charter school is scheduled to open.

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

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

132 **R277-552-4. Charter Amendment Requests.**

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

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

137 **R277-552-5. Charter School Expansion Requests.**

- 138 ~~[(1) A charter school may request approval for an expansion if:~~
- 139 ~~—— (a) the charter school satisfies the requirements of federal and state law, regulations,~~
- 140 ~~rule, and the charter agreement; and~~
- 141 ~~—— (b)(i) the charter school's charter agreement provides for an expansion consistent with~~
- 142 ~~the request; or~~
- 143 ~~—— (ii) the charter school governing board has submitted a formal amendment request to~~
- 144 ~~the charter school authorizer consistent with the charter school authorizer's requirements.~~
- 145 ~~—— (2) If the charter school authorizer approves a charter school expansion, the expansion~~
- 146 ~~shall be approved before October 1 of the state fiscal year prior to the school's intended~~
- 147 ~~expansion date.~~
- 148 ~~—— (3) A charter school authorizer that authorizes an expansion of the authorizer's charter~~
- 149 ~~school shall provide the total number of students by grade that the charter school is authorized~~
- 150 ~~to enroll to the Superintendent on or before October 1 of the state fiscal year prior to the~~
- 151 ~~charter school's intended expansion date.~~
- 152 ~~—— (4) When considering whether to approve a charter school's request for an expansion,~~
- 153 ~~an authorizer shall consider the following:~~
- 154 ~~—— (a) the amount of time the charter school has operated successfully meeting the terms~~
- 155 ~~of its charter agreement;~~
- 156 ~~—— (b) two years of academic performance data of students at the charter school,~~
- 157 ~~including whether the charter school is performing at or above:~~
- 158 ~~—— (i) the academic goals established in the charter school's charter agreement; and~~
- 159 ~~—— (ii) the average academic performance of other district and charter schools in the area,~~
- 160 ~~or for schools targeting specific populations, schools with similar demographics;~~
- 161 ~~—— (c) the financial position of the charter school, as evidenced by the charter school's~~
- 162 ~~financial records, including the charter school's:~~
- 163 ~~—— (i) most recent annual financial report (AFR);~~
- 164 ~~—— (ii) annual program report (APR); and~~
- 165 ~~—— (iii) audited financial statement;~~
- 166 ~~—— (d) whether the charter school has a waiting list for enrollment;~~

- 167 ~~_____ (e) adequacy of the charter school's facility;~~
168 ~~_____ (f) any student safety issues; and~~
169 ~~_____ (g) ability to meet state and federal reporting requirements, including whether the~~
170 ~~charter school has regularly met Board reporting deadlines~~
171 ~~_____ (5) A charter school requesting an expansion shall provide the information described~~
172 ~~in Subsection (4) to the authorizer with the charter school's request for expansion.]~~
173 (1) An authorization process developed by an authorizer in accordance with Subsection
174 R277-552-2(2) shall comply with this Section R277-552-5 for a charter school expansion.
175 (2) An authorizer may only consider an application from a charter school for an
176 expansion if:
177 (a) the charter school is in compliance with the requirements of federal and state law,
178 regulations, and Board rule, including:
179 (i) [Title 53E, Chapter 9, Student Privacy and Data Protection](#);
180 (ii) [Title 53G, Chapter 7, Part 5, Student Fees](#);
181 (iii) [Title 53G, Chapter 9, Part 7, Suicide Prevention](#);
182 (iv) [Title 53G, Chapter 8, Discipline and Safety](#);
183 (v) [Title 52, Chapter 4, Open and Public Meetings Act](#);
184 (vi) [Title 63G, Chapter 6a, Utah Procurement Code](#); and
185 (vii) the IDEA and Rule [R277-750](#), with no unresolved audit exceptions;
186 (viii) Rule [R277-113](#), Local Education Agency (LEA) Fiscal and Auditing Policies;
187 (ix) Section [53G-9-207](#), Child sexual abuse prevention; and
188 (x) Subsection [63G-7-301\(3\)](#) and Rule [R277-322](#);
189 (b) the request is consistent with the charter school's charter agreement;
190 (c) the charter school has maintained for each of the last three years:
191 (i) a re-enrollment rate of at least 80%;
192 (ii) a wait list of at least 40% of its annual enrollment; [or](#)
193 [\(iii\) other evidence of market demand satisfactory to the authorizer.](#)
194 (d) all schools operating under the governance of the existing charter school are
195 performing;

- 196 (i) consistent with or above the charter school's stated academic goals; and
197 (ii) at or above the average student performance of other nearby schools on statewide
198 assessments, unless serving a specialized population consistent with the school's charter
199 agreement;
200 (e) if the proposed expansion will require additional physical facilities, the charter school
201 has maintained a net lease adjusted debt burden ratio of under 25% for each of the last three
202 years;
203 (f) the charter school's financial statements report revenues in excess of expenditures
204 for ~~[the last]~~ at least three of the last four fiscal years; and
205 (g) the charter school provides any additional information or documentation requested
206 by the charter school authorizer.
207 (3) An authorizer shall provide documentation of an applicant school's eligibility to apply
208 under Subsection (2) to the Superintendent upon request.
209 (4) An authorizer may only approve an application from a charter school for an
210 expansion if:
211 (a) the charter school is meeting the terms of its charter agreement;
212 (b) the charter school is academically and operationally successful, taking into
213 consideration at least two years of academic performance data of students at the charter
214 school;
215 (c) the charter school:
216 (i) provides educational services consistent with state law and Board rule;
217 (ii) administers and has capacity to carry out statewide assessments including
218 proctoring statewide assessments, consistent with Section 53E-4-303 and Rule R277-404; and
219 (iii) provides evidence-based instruction for special populations as required by federal
220 law;
221 (d) the charter school has adequate qualified administrators and staff to meet the needs
222 of the proposed student population at the school;
223 (e) the school is in compliance with all public school legal obligations;

- 224 (f) the charter school is financially viable, as evidenced by the charter school's financial
225 records, including the charter school's:
- 226 (i) most recent annual financial report;
 - 227 (ii) annual program report; and
 - 228 (iii) audited financial statement;
 - 229 (g) the charter school's proposal provides an adequate facility for the school; and
 - 230 (h) the charter school has appropriately dealt with student safety issues, if any.
- 231 (5) An authorizer shall:
- 232 (a) approve a proposed expansion before October 1 of the state fiscal year prior to the
233 school year that the intends to expand; and
 - 234 (b) provide the total number of students by grade that the charter school expansion is
235 authorized to enroll to the Superintendent on or before October 1 of the state fiscal year prior
236 to the school year that the school intends to expand.
- 237

238 **R277-552-6. Requests for a New ~~[Replication or]~~ Satellite School for an Approved**
239 **Charter School.**

- 240 ~~[(1) A charter school and all of the charter school's replication or satellite schools are~~
241 ~~a single LEA for purposes of public school funding and reporting.~~
- 242 ~~——(2) An existing charter school may submit a request to the charter school's authorizer~~
243 ~~for a replication or satellite charter school if:~~
- 244 ~~——(a) the charter school satisfies requirements of federal and state law, regulations, and~~
245 ~~rule;~~
 - 246 ~~——(b) the charter school has operated successfully for at least three years meeting the~~
247 ~~terms of its charter agreement;~~
 - 248 ~~——(c) the students at the charter school are performing on standardized assessments at~~
249 ~~or above the academic goals in the charter agreement, or, if there are no such goals in the~~
250 ~~charter agreement, are performing at or above surrounding schools;~~

251 ~~—— (d) the charter school has adequate qualified administrators and staff to meet the~~
252 ~~needs of the proposed student population at the replication or satellite charter school;~~

253 ~~—— (e) the charter school provides any additional information or documentation requested~~
254 ~~by the charter school authorizer; and~~

255 ~~—— (f) the charter school is in good standing with its authorizer.~~

256 ~~—— (3) As part of the application process, the authorizer shall review the charter school's:~~

257 ~~—— (a) educational services, assessment, and curriculum;~~

258 ~~—— (b) governing board's capacity to manage multiple campuses; and~~

259 ~~—— (c) the school's financial viability.~~

260 ~~—— (4) A replication or satellite charter school that will receive School LAND Trust funds~~
261 ~~shall have a charter trust land council and satisfy all requirements for charter trust land councils~~
262 ~~consistent with Rule R277-477.~~

263 ~~—— (5) A replication or satellite charter school may receive state funding if the authorizer~~
264 ~~approves the replication or satellite charter school by October 1 of the state fiscal year prior to~~
265 ~~the year the school intends to serve students.~~

266 ~~—— (6) If a replication or satellite charter school does not open within 36 months of~~
267 ~~approval, the approval shall expire.~~

268 ~~—— (7) A charter school authorizer that authorizes a replication or satellite charter school~~
269 ~~shall provide the total number of students by grade that the charter school is authorized to~~
270 ~~enroll to the Superintendent on or before October 1 of the state fiscal year prior to the charter~~
271 ~~school's intended expansion date.]~~

272 (1) An authorization process developed by an authorizer in accordance with Subsection
273 R277-552-2(2) shall comply with this Section R277-552-6 for a satellite school.

274 (2) An authorizer may only consider an application from a charter school for a satellite
275 school if:

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

278 (i) [Title 53E, Chapter 9, Student Privacy and Data Protection](#);

279 (ii) [Title 53G, Chapter 7, Part 5, Student Fees](#);

- 280 (iii) Title 53G, Chapter 9, Part 7, Suicide Prevention;
281 (iv) Title 53G, Chapter 8, Discipline and Safety;
282 (v) Title 52, Chapter 4, Open and Public Meetings Act;
283 (vi) Title 63G, Chapter 6a, Utah Procurement Code; and
284 (vii) the IDEA and Rule R277-750, with no unresolved audit exceptions;
285 (viii) Rule R277-113, Local Education Agency (LEA) Fiscal and Auditing Policies;
286 (ix) Section 53G-9-207, Child sexual abuse prevention; and
287 (x) Subsection 63G-7-301(3) and Rule R277-322;
288 (b) the request is consistent with the charter school's charter agreement;
289 (c) the charter school has maintained for each of the last three years:
290 (i) a reenrollment rate of at least 80%;
291 (ii) a waitlist of at least 40% of its annual enrollment; or
292 (iii) other evidence of market demand satisfactory to the authorizer.
293 (d) all schools operating under the governance of the existing charter school are
294 performing:
295 (i) consistent with or above the charter school's stated academic goals; or
296 (ii) if no student performance goals have been established, above the standardized
297 student assessment measures of other comparable nearby schools;
298 (e) the charter school has maintained a net lease adjusted debt burden ratio of under
299 25% for each of the last three years;
300 (f) the charter school's financial statements report revenues in excess of expenditures
301 for at least three of the last four years;
302 (g) the charter school provides a market analysis, covering all public schools within a
303 ten mile radius, including analysis of:
304 (i) whether nearby schools are at enrollment capacity;
305 (ii) how nearby schools are performing academically; and
306 (iii) whether nearby schools experience significant turnover; and
307 (h) the charter school provides any additional information or documentation requested
308 by the charter school authorizer.

- 309 (3) An authorizer shall provide documentation of an applicant school’s eligibility to apply
310 under Subsection (2) to the Superintendent upon request.
- 311 (4) An authorizer may only approve an application from a charter school for a satellite
312 school if:
- 313 (a) the charter school is meeting the terms of its charter agreement;
314 (b) there is a demonstrated demand for the proposed expansion, taking into
315 consideration the market analysis required under Subsection (2)(f);
- 316 (c) the charter school is academically and operationally successful, taking into
317 consideration at least two years of academic performance data of students at the charter
318 school, including whether the charter school is performing at or above:
- 319 (i) the academic goals established in the charter school’s agreement; and
320 (ii) the average academic performance of other district and charter schools in the area
321 or schools targeting similar populations or demographics;
- 322 (c) the charter school has plans for the new school to:
- 323 (i) provide educational services consistent with state law and Board rule;
324 (ii) administer and have capacity to carry out statewide assessments including
325 proctoring statewide assessments, consistent with Section [53E-4-303](#) and Rule [R277-404](#); and
326 (iii) provide evidence-based instruction for special populations as required by federal
327 law;
- 328 (e) the charter school has adequate qualified administrators and staff to meet the needs
329 of the proposed student population at the new school;
- 330 (f) the school is in compliance with all public school legal obligations;
331 (g) the charter school is in good standing with its authorizer; and
332 (h) the charter school is financially viable, as evidenced by the charter school’s financial
333 records, including the charter school’s:
- 334 (i) most recent annual financial report;
335 (ii) annual program report;
336 (iii) audited financial statement.

337 ~~[(iv) a positive change in net assets for the last three fiscal years. the charter school's~~
338 ~~financial statements report revenues in excess of expenditures for at least three of the last four~~
339 ~~years.]~~

340 (5) An authorizer shall:

341 (a) approve a proposed satellite school before October 1 of the state fiscal year prior
342 to the school year that the proposed school intends to first serve students;

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

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

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

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

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

355 **R277-552-7. Procedures and Timelines to Change Charter School Authorizers.**

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

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

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

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

361 (b) financial records that demonstrate the charter school's financial position, including
362 the following:

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

364 (ii) annual project report (APR); and

- 365 (iii) audited financial statement;
- 366 (c) test scores, including all state required assessments;
- 367 (d) current employees and assignments;
- 368 (e) board minutes for the most recent 12 months; and
- 369 (f) affidavits, signed by all board members certifying:
- 370 (i) the charter school's compliance with all state and federal laws and regulations,
371 including documentation if requested;
- 372 (ii) all information on the transfer application is complete and accurate;
- 373 (iii) the charter school is current with all required charter school governing board
374 policies;
- 375 (iv) the charter school is operating consistent with the charter school's charter
376 agreement; and
- 377 (v) there are no outstanding lawsuits, judgments, or liens against the charter school.
- 378 (4) The current authorizer of a charter school seeking to transfer charter school
379 authorizers shall submit a position statement to the new charter school authorizer about:
- 380 (a) the charter school's status;
- 381 (b) compliance with the charter school authorizer requirements; and
- 382 (c) unresolved concerns.
- 383 (5) If a school applies to change authorizer's, the existing authorizer shall advise the
384 proposed authorizer if there is any outstanding debt to the existing authorizer or the state.
- 385 ([5]6) A new charter school authorizer shall review an application for transferring to
386 another charter school authorizer [for acceptance] within 60 days of submission of a complete
387 application, including all required documentation.
- 388 (7) Prior to accepting a charter school's transfer from another authorizer, the new
389 authorizer shall request and consider information from the Board and current authorizer
390 concerning the charter school's financial and academic performance.
- 391 (8) The Superintendent and current authorizer shall provide the information described
392 in Subsection (7) to a new charter authorizer within 30 days of request described in Subsection
393 (7).

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Draft 3 - [Green - New Text](#)
Draft 4 - [Purple - New Text](#) | ~~Orange - [Deleted Text]~~

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394 ~~[(6)]~~9) If an authorizer accepts the transfer of a ~~[new]~~ charter school, the new authorizer
395 shall notify the Superintendent within 30 days.

396 ~~[(7) Prior to accepting a charter school from another authorizer, a new charter~~
397 ~~authorizer shall request and consider information from the Board and current authorizer of the~~
398 ~~charter school's financial and academic performance.]~~

399 ~~[(8) The Superintendent and current authorizer shall provide the information described~~
400 ~~in Subsection (7) to a new charter authorizer within 30 days of request described in Subsection~~
401 ~~(7).]~~

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

403 **Date of Enactment or Last Substantive Amendment: May 23, 2019**

404 **Authorizing, and Implemented or Interpreted Law: [Art X Sec 3](#); [53E-3-401](#); [53G-5-205](#);**
405 **[53F-2-702](#); [53G-6-503](#)-6-503**