

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 authorizer is required to apply in authorizing and monitoring charter
19 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 new schools that are satellite schools.

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

26 "Market analysis" means a qualitative and quantitative analysis of the
27 educational market near a proposed charter school, including:

- 28 (1) the school's target demographics;
- 29 (2) population and development trends in the area;
- 30 (3) nearby competing public schools;
- 31 (4) the proposed school's own forecasts, along with supporting data; and
- 32 (5) any risks, barriers, or regulations that may impact a proposed school's success.

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

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

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

37 (a) a new charter school;

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

39 ~~(b)c~~ (c) a charter school expansion; or

40 ~~(e)d~~ (d) a satellite school.

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

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

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

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

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

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

54 (7) An authorizer shall maintain the official signed charter agreement, which shall

55 presumptively be the final, and complete agreement between a school and the school's
56 authorizer.

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

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

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

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

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

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

64 (i) a market analysis;

65 (ii) anticipated enrollment; and

66 (iii) anticipated and break even budgets;

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

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

71 (i) applicable legal requirements for public schools;

72 (ii) required policies;

73 (iii) student data systems, including student data privacy requirements;

74 (iv) reporting; and

75 (v) financial management.

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

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

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

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

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

90 (a) completed all required financial documents;

91 (b) completed background checks for each governing board member; and

92 (c) executed a signed charter agreement, which includes academic goals.

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

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

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

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

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

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

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

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

110 or

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

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

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

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

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

121 (j) the charter school has a budgeted net lease adjusted debt burden ratio of under
122 30% based on the school's executed facility agreement; and

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

125 (5) An authorizer shall:

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

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

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

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

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

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

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

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

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

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

147 **R277-552-6. Charter School Expansion Requests.**

148 (1) An authorization process developed by an authorizer in accordance with Subsection
149 R277-552-2(2) shall comply with this Section R277-552-5 for a charter school expansion.

150 (2) An authorizer may only consider an application from a charter school for an
151 expansion if:

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

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

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

156 (iii) [Title 53G, Chapter 9, Part 7, Suicide Prevention](#);

157 (iv) [Title 53G, Chapter 8, Discipline and Safety](#);

158 (v) [Title 52, Chapter 4, Open and Public Meetings Act](#);

159 (vi) [Title 63G, Chapter 6a, Utah Procurement Code](#); and

160 (vii) the IDEA and Rule [R277-750](#), with no unresolved audit exceptions;

161 (viii) Rule [R277-113](#), Local Education Agency (LEA) Fiscal and Auditing Policies;

162 (ix) Section [53G-9-207](#), Child sexual abuse prevention; and

163 (x) Subsection [63G-7-301\(3\)](#) and Rule [R277-322](#);

164 (b) the request is consistent with the charter school's charter agreement;

165 (c) the expanding school or LEA is performing:

- 166 (i) consistent with or above the charter school's stated academic goals; and
167 (ii) at or above the average student performance of other nearby schools on statewide
168 assessments, unless serving a specialized population consistent with the school's charter
169 agreement;
- 170 (d) if the proposed expansion will require additional physical facilities, the charter school
171 has maintained a net lease adjusted debt burden ratio of under 25% for each of the last three
172 years;
- 173 (e) the charter school's financial statements report revenues in excess of expenditures
174 for at least three of the last four fiscal years; and
- 175 (f) the charter school provides any additional information or documentation requested
176 by the charter school authorizer.
- 177 (3) An authorizer shall provide documentation of an applicant school's eligibility to apply
178 under Subsection (2) to the Superintendent upon request.
- 179 (4) An authorizer may only approve an application from a charter school for an
180 expansion if:
- 181 (a) the charter school is meeting the terms of its charter agreement;
182 (b) the charter school is academically and operationally successful, taking into
183 consideration at least two years of academic performance data of students at the charter
184 school;
- 185 (c) the charter school:
- 186 (i) provides educational services consistent with state law and Board rule;
187 (ii) administers and has capacity to carry out statewide assessments including
188 proctoring statewide assessments, consistent with Section [53E-4-303](#) and Rule [R277-404](#); and
189 (iii) provides evidence-based instruction for special populations as required by federal
190 law;
- 191 (d) the charter school has adequate qualified administrators and staff to meet the
192 needs of the proposed student population at the school;
- 193 (e) the school is in compliance with all applicable school legal obligations;

- 194 (f) the charter school has maintained for each of the last three years:
- 195 (i) a re-enrollment rate of at least 80%;
- 196 (ii) a wait list of at least 40% of its annual enrollment; or
- 197 (iii) other evidence of market demand satisfactory to the authorizer;
- 198 (g) the charter school is financially viable, as evidenced by the charter school's financial
- 199 records, including the charter school's:
- 200 (i) most recent annual financial report (AFR);
- 201 (ii) annual program report (APR); and
- 202 (iii) audited financial statements;
- 203 (g) the charter school's proposal provides an adequate facility for the school; and
- 204 (h) the charter school has appropriately dealt with student safety issues, if any.
- 205 (5) An authorizer shall:
- 206 (a) approve a proposed expansion before October 1 of the state fiscal year prior to the
- 207 school year that the intends to expand; and
- 208 (b) provide the total number of students by grade that the charter school expansion is
- 209 authorized to enroll to the Superintendent on or before October 1 of the state fiscal year prior
- 210 to the school year that the school intends to expand.

211 **R277-552-7. Requests for a New Satellite School for an Approved Charter School.**

- 212 (1) An authorization process developed by an authorizer in accordance with Subsection
- 213 R277-552-3(2) shall comply with this Section R277-552-7 for a satellite school.
- 214 (2) An authorizer may only consider an application from a charter school for a satellite
- 215 school if:
- 216 (a) the charter school is in compliance with the requirements of federal and state law,
- 217 regulations, and Board rule, including:
- 218 (i) [Title 53E, Chapter 9, Student Privacy and Data Protection](#);
- 219 (ii) [Title 53G, Chapter 7, Part 5, Student Fees](#);
- 220 (iii) [Title 53G, Chapter 9, Part 7, Suicide Prevention](#);

- 221 (iv) Title 53G, Chapter 8, Discipline and Safety;
222 (v) Title 52, Chapter 4, Open and Public Meetings Act;
223 (vi) Title 63G, Chapter 6a, Utah Procurement Code; and
224 (vii) the IDEA and Rule R277-750, with no unresolved audit exceptions;
225 (viii) Rule R277-113, Local Education Agency (LEA) Fiscal and Auditing Policies;
226 (ix) Section 53G-9-207, Child sexual abuse prevention; and
227 (x) Subsection 63G-7-301(3) and Rule R277-322;
228 (b) the request is consistent with the charter school's charter agreement;
229 (c) all schools operating under the governance of the existing charter school are
230 performing:
231 (i) consistent with or above the charter school's stated academic goals; or
232 (ii) if no student performance goals have been established, above the standardized
233 student assessment measures of other comparable nearby schools;
234 (d) the charter school has maintained a net lease adjusted debt burden ratio of under
235 25% for each of the last three years;
236 (e) the charter school's financial statements report revenues in excess of expenditures
237 for at least three of the last four years;
238 (f) the charter school provides a market analysis, including documentation of the
239 school's potential for enrollment stability, covering all public schools within a ten mile radius,
240 including analysis of whether nearby schools are at enrollment capacity; and
241 (g) the charter school provides any additional information or documentation requested
242 by the charter school authorizer.
243 (3) An authorizer may not consider an application for a satellite school from a charter
244 school governed by a different authorizer.
245 ([3]4) An authorizer shall provide documentation of an applicant school's eligibility to
246 apply under Subsection (2) to the Superintendent upon request.
247 ([4]5) An authorizer may only approve an application from a charter school for a
248 satellite school if:

- 249 (a) the charter school is meeting the terms of its charter agreement;
- 250 (b) the charter school has maintained for each of the last three years:
- 251 (i) a re-enrollment rate of at least 80%;
- 252 (ii) a wait list of at least 40% of its annual enrollment; or
- 253 (iii) there is a demonstrated demand for the proposed satellite, taking into consideration
- 254 the market analysis required under Subsection (2)(f);
- 255 (c) the charter school is academically and operationally successful, taking into
- 256 consideration at least two years of academic performance data of students at the charter
- 257 school, including whether the charter school is performing at or above:
- 258 (i) the academic goals established in the charter school's agreement; and
- 259 (ii) the average academic performance of other district and charter schools in the area
- 260 or schools targeting similar populations or demographics;
- 261 (d) the charter school has plans for the new school to:
- 262 (i) provide educational services consistent with state law and Board rule;
- 263 (ii) administer and have capacity to carry out statewide assessments including
- 264 proctoring statewide assessments, consistent with Section [53E-4-303](#) and Rule [R277-404](#); and
- 265 (iii) provide evidence-based instruction for special populations as required by federal
- 266 law;
- 267 (e) the charter school has adequate qualified administrators and staff to meet the
- 268 needs of the proposed student population at the new school;
- 269 (f) the school is in compliance with all public school legal obligations;
- 270 (g) the charter school is in good standing with its authorizer; and
- 271 (h) the charter school is financially viable, as evidenced by the charter school's financial
- 272 records, including the charter school's:
- 273 (i) most recent annual financial report (AFR);
- 274 (ii) annual program report (APR);
- 275 (iii) audited financial statements.
- 276 ([5]6) An authorizer shall:

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

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

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

285 ([6]7) A charter school and all of the charter school's satellite schools are a single LEA
286 for purposes of public school funding and reporting.

287 ([7]8) If a satellite charter school does not open within 36 months of approval, the
288 approval shall expire.

289 ([8]9) If an authorizer denies an application for a satellite school, the school may
290 immediately apply for a new charter in accordance with an authorizer's approved processes.

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

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

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

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

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

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

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

300 (ii) annual ~~[project]~~ program report (APR); and

301 (iii) audited financial statements;

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

303 (d) current employees and assignments;

- 304 (e) board minutes for the most recent 12 months; and
- 305 (f) affidavits, signed by all board members certifying:
- 306 (i) the charter school's compliance with all state and federal laws and regulations,
- 307 including documentation if requested;
- 308 (ii) all information on the transfer application is complete and accurate;
- 309 (iii) the charter school is current with all required charter school governing board
- 310 policies;
- 311 (iv) the charter school is operating consistent with the charter school's charter
- 312 agreement; and
- 313 (v) there are no outstanding lawsuits, judgments, or liens against the charter school.
- 314 (4) The current authorizer of a charter school seeking to transfer charter school
- 315 authorizers shall submit a position statement to the new charter school authorizer about:
- 316 (a) the charter school's status;
- 317 (b) compliance with the charter school authorizer requirements; and
- 318 (c) unresolved concerns.
- 319 (5) If a school applies to change authorizer's, the existing authorizer shall advise the
- 320 proposed authorizer if there is any outstanding debt to the existing authorizer or the state.
- 321 (6) If a school applies to change authorizers, the request shall extend to all ~~[affiliated]~~
- 322 satellite schools. ~~[that share a governing board with the applicant school.]~~
- 323 ~~[(6)]~~ A new charter school authorizer shall review an application for transferring to
- 324 another charter school authorizer within 60 days of submission of a complete application,
- 325 including all required documentation.
- 326 ~~[(7)]~~ Prior to accepting a charter school's transfer from another authorizer, the new
- 327 authorizer shall request and consider information from the Board and current authorizer
- 328 concerning the charter school's financial and academic performance.
- 329 ~~[(8)]~~ The Superintendent and current authorizer shall provide the information
- 330 described in Subsection (7) to a new charter authorizer within 30 days of request described in
- 331 Subsection (7).

332 ([9]10) If an authorizer accepts the transfer of a charter school, the new authorizer shall
333 notify the Superintendent within 30 days.

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

335 **Date of Enactment or Last Substantive Amendment: October 12, 2020**

336 **Authorizing, and Implemented or Interpreted Law: [Art X Sec 3](#); [53E-3-401](#); [53G-5-205](#);**
337 **[53F-2-702](#); [53G-6-503](#)**