

1      **R277. Education, Administration.**

2      **R277-481. Charter School Oversight, Monitoring and Appeals.**

3      **R277-481-1. Definitions.**

4            A. "Board" means the Utah State Board of Education.

5            B. "Chartering entities" means entities that authorize  
6      a charter school under Section 53A-1a-501.3(2).

7            C. "Charter schools" means schools acknowledged as  
8      charter schools by chartering entities under Sections  
9      53A-1a-515, 53A-1a-521, and this rule or by the Board under  
10     Section 53A-1a-505.

11          D. "Charter school agreement (charter agreement)" means  
12      the terms and conditions for the operation of an approved  
13      charter school. The charter school agreement shall be  
14      maintained at the USOE and is considered the final, official  
15      and complete agreement.

16          E. "Charter school deficiencies" means the following  
17      information:

18            (1) a charter school is not satisfying financial,  
19      academic or operational obligations as required in its charter  
20      agreement;

21            (2) a charter school is not providing required  
22      documentation after being placed on warning status;

23            (3) compelling evidence of fraud or misuse of funds by  
24      charter school governing board members or employees. Fraud or  
25      misuse of funds need not rise to the minimal standard. It may  
26      include failure to properly account for funds received at the  
27      school; failure to follow regularly established accounting and  
28      receipting practices or failure to provide data, financial  
29      records or information as requested by the State Charter  
30      School Board or the Board.

31          F. "Charter school governing board" means the board  
32      designated by the charter school to make decisions for the  
33      operation of the school.

34          G. "Northwest" means the Northwest Accreditation

35     Commission, the regional accrediting association of which Utah  
36     is a member.

37       H. "Probation" means a formal process and time period  
38       during which a school is permitted to demonstrate its full  
39       compliance with its charter agreement and all applicable laws,  
40       rules and regulations.

41       I. "State Charter School Board" means the board  
42       designated in Section 53A-1a-501.5.

43       J. "Superintendent" means the State Superintendent of  
44       Public Instruction as designated under Section 53A-1-301.

45       K. "USOE" means the Utah State Office of Education.

46       L. "Warning status" means an informal status in which a  
47       school is placed through written notification from the USOE  
48       for the school's failure to maintain compliance with its  
49       charter agreement, applicable laws, rules or regulations.

50     **R277-481-2. Authority and Purpose.**

51       A. This rule is authorized under Utah Constitution  
52       Article X, Section 3 which vests general control and  
53       supervision over public education in the Board, Section  
54       53A-1-401(3) which allows the Board to adopt rules in  
55       accordance with its responsibilities, and 20 U.S.C., Section  
56       8063(3) which directs the Board to submit specific information  
57       prior to charter schools' receipt of federal funds.

58       B. The purpose of this rule is to establish procedures  
59       for oversight and monitoring charter agreements and charter  
60       schools for compliance with minimum standards. The rule also  
61       provides appeals criteria and a process for schools found out  
62       of compliance with State Charter School Board findings.

63     **R277-481-3. State Charter School Board Oversight, Minimum**  
64     **Standards, and Consequences.**

65       A. The State Charter School Board shall provide direct  
66       oversight to the state's Board chartered schools, including

67 requiring all charter schools to:

68       (1) have and comply with a charter agreement containing  
69 clear and meaningful expectations for measuring charter school  
70 quality.

71       (2) be members of and accredited by the Northwest  
72 Accreditation Commission;

73       (3) annually review charter agreements, as maintained by  
74 the USOE;

75       (4) regularly review other matters specific to effective  
76 charter school operations as recommended by the USOE staff;  
77 and

78       (5) audit and investigate claims of fraud or misuse of  
79 public assets or funds.

80       B. All charter schools shall also meet the following  
81 minimum standards:

82       (1) charter schools shall have no material findings,  
83 financial condition findings or repeat significant findings in  
84 the school's independent financial audit;

85       (2) charter schools shall maintain a minimum of 30 days  
86 cash on hand or the cash or other reserve amount required in  
87 bond covenants, whichever is greater;

88       (3) charter schools shall receive a letter grade of D or  
89 higher on the statewide school grading system;

90       (4) charter schools shall have no violations of federal  
91 or state law or regulation, Board rules or Board directives;

92       (5) charter schools shall have all teachers properly  
93 licensed and endorsed for teaching assignments in CACTUS; and

94       (6) charter school governing boards shall ensure all  
95 employees and board members have criminal background checks on  
96 file.

97       C. Warning status

98       (1) A charter school that fails to meet any of the  
99 minimum standards or a significant number of the guidance  
100 provisions found in the school's charter agreement may be

101     placed on warning status and notified in writing by the USOE.

102         (2) While a school is on warning status, the school may  
103         seek technical assistance from the USOE staff to remedy any  
104         deficiencies.

105         D. Probation status

106         (1) If any minimum standard or a significant number of  
107         the guidance provisions has not been met by an assigned date  
108         following designation of warning status, as evidenced by a  
109         second report identifying the same problem(s), the State  
110         Charter School Board shall notify the school in writing of the  
111         specific minimum standard(s) the school did not meet.

112         (2) Based on the State Charter School Board's review of  
113         the charter school's noncompliance, progress and response to  
114         technical assistance, the State Charter School Board may place  
115         the school on probation for up to one calendar year following  
116         the designation of warning status.

117         (3) Upon placing a school on probation, the State Charter  
118         School Board shall set forth a written plan outlining those  
119         provisions in the charter agreement, applicable laws, rules  
120         and regulations with which the school is not in full  
121         compliance. This written plan shall set forth the terms and  
122         conditions and the timeline that the school shall follow in  
123         order to be removed from probation.

124         (4) If the school complies with the written plan in a  
125         timely manner, the State Charter School Board shall remove the  
126         school from probation.

127         (5) While a school is on probation, it shall be required  
128         to satisfy certain requirements and conditions set forth by  
129         the State Charter School Board. If the school fails to  
130         satisfy specific requirements and conditions by a date  
131         established by the State Charter School Board, the State  
132         Charter School Board may terminate the school's charter.

133         (6) While a school is on probation, the school may seek  
134         technical assistance from the USOE staff to remedy any

135 deficiencies.

136       (7) The State Charter School Board may, for good cause,  
137       or if the health, safety, or welfare of the students at the  
138       school is threatened at any time during the probationary  
139       period, terminate the charter immediately.

140 **R277-481-4. Charter School Governing Board Compliance with**  
141 **Law.**

142       A. The Board may review or terminate the charter based  
143       upon factors that may include:

144           (1) failure to meet measures of charter school quality  
145       which includes adherence to a charter agreement required and  
146       monitored by the State Charter School Board; or

147           (2) charter school deficiencies; or

148           (3) failure of the charter school to comply with federal  
149       or state law or regulation, Board rules or Board directives.

150       B. If a charter school's charter conflicts with  
151       applicable federal or state law or rule, the charter shall be  
152       interpreted to require compliance with such law or rule; all  
153       other provisions of the school's charter shall remain in full  
154       force and effect.

155       C. A charter school shall notify the Board and the  
156       chartering entity of any and all lawsuits filed against the  
157       charter school within 30 days of the filing of the lawsuit.

158 **R277-481-5. Chartering Entity Oversight and Monitoring.**

159       A. Local school board and institutions of higher  
160       education chartering entities shall:

161           (1) visit a charter school at least once during its first  
162       year of operation in order to ensure adherence to and  
163       implementation of approved charter and to finalize a review  
164       process;

165           (2) visit a charter school as determined in the review  
166       process; and

167       (3) provide written reports to a charter school after the  
168       visits that set forth strengths, deficiencies, corrective  
169       actions, timelines and the reason for charter termination, if  
170       applicable.

171       B. Chartering entities shall notify the Board within 20  
172       days of charter school deficiencies that initiate corrective  
173       action by chartering entities.

174       **R277-481-6. Charter School Financial Practices and Training.**

175       A. Charter school business administrators shall attend  
176       USOE required business meetings for charter schools.

177       B. Charter school governing board members and school  
178       administrators shall be invited to all applicable Board-  
179       sponsored training, meetings, and sessions for traditional  
180       school district financial personnel.

181       C. The Board shall work with other education agencies to  
182       encourage their inclusion of charter school representatives at  
183       training and professional development sessions.

184       D. A charter school shall appoint a business  
185       administrator consistent with Sections 53A-3-302 and 303. The  
186       business administrator shall be responsible for the submission  
187       of all financial and statistical information required by the  
188       Board.

189       E. The Board may interrupt disbursements to charter  
190       schools for failure to comply with financial and statistical  
191       information required by law or Board rules.

192       F. Charter schools shall comply with the Utah State  
193       Procurement Code, Title 63G, Chapter 6.

194       G. Charter schools are not eligible for necessarily  
195       existent small schools funding under Section 53A-17a-109(2)  
196       and R277-445.

197       **R277-481-7. Remedyng Charter School Financial Deficiencies.**

198       A. Upon receiving credible information of charter school

199 deficiencies, the State Charter School Board shall immediately  
200 direct a review or audit through the charter school governing  
201 board, by State Charter School Board staff, or by an  
202 independent auditor hired by the State Charter School Board.

203       B. The State Charter School Board or the Board through  
204 the State Charter School Board may direct a charter school  
205 governing board or the charter school administration to take  
206 reasonable action to protect state or federal funds consistent  
207 with Section 53A-1a-510.

208       C. The State Charter School Board or the Board may:  
209            (1) allow a charter school governing board to hold a  
210 hearing to determine financial responsibility and assist the  
211 charter school governing board with the hearing process;  
212            (2) immediately terminate the flow of state funds;  
213            (3) recommend cessation of federal funding to the school;  
214            (4) take immediate or subsequent corrective action with  
215 employees who are responsible for charter school deficiencies;  
216 or  
217            (5) any combination of the foregoing (1), (2), (3) and  
218 (4).

219       D. The recommendation by the State Charter School Board  
220 shall be made within 20 school days of receipt of complaint of  
221 deficiency(ies).

222       E. The State Charter School Board may exercise  
223 flexibility for good cause in making recommendation(s)  
224 regarding deficiency(ies).

225       F. The Board shall consider and affirm or modify the  
226 State Charter School Board's recommendation(s) for remedying  
227 a charter school's deficiency(ies) within 60 days of receipt  
228 of information from the State Charter School Board.

229       G. In addition to remedies provided for in Section 53A-  
230 1a-509, the State Charter School Board may provide for a  
231 remediation team to work with the school.

232       **R277-481-8. Appeals Criteria and Procedures.**

233       A. Only an operating charter school, a charter school  
234       that has been recommended by the State Charter School Board to  
235       the Board, or a charter school applicant that has met State  
236       Charter School Board requirements for review by the full State  
237       Charter School Board, may appeal State Charter School Board  
238       administrative decisions or recommendations to the Board.

239       B. Only the following State Charter School Board  
240       administrative decisions or recommendations may be appealed to  
241       the Board:

- 242        (1) recommendation for termination of a charter;
- 243        (2) recommendation for denial of expansions or satellite  
244       schools;
- 245        (3) recommendation for denial of proposed amendments to  
246       charter agreement;
- 247        (4) recommendation for denial or withholding of funds  
248       from charter school governing boards; and
- 249        (5) recommendation for denial of a charter.

250       C. No other issues may be appealed.

251       D. Appeals procedures and timelines

252       (1) The State Charter School Board shall, upon taking any  
253       of the administrative actions:

- 254        (a) provide written notice of denial to the charter  
255       school or approved charter school;
- 256        (b) provide written notice of appeal rights and timelines  
257       to the charter school governing board chair or authorized  
258       agent; and
- 259        (c) post information about the appeals process on the  
260       USOE website and provide training to charter school governing  
261       board members and authorized agents regarding the appeals  
262       procedure.

263       (2) A charter school governing board chair or authorized  
264       agent (appellant) may submit a written appeal to the State  
265       Superintendent within 14 calendar days of the State Charter

266 School Board administrative action or recommendation.

267       (3) The Superintendent shall, in consultation with the  
268 Board chair, designate three to five Board members and a  
269 hearing officer, who is not a Board member, to act as an  
270 objective hearing panel.

271       (4) The hearing officer, in consultation with the  
272 Superintendent, shall set a hearing date and provide notice to  
273 all parties, including the State Charter School Board and  
274 staff.

275       (5) The Hearing shall be held no more than 45 days  
276 following receipt of the written appeal.

277       (6) The hearing officer shall establish procedures that  
278 provide fairness for all parties, which may include:

279       (a) a request for parties to provide a written  
280 explanation of the appeal and related information and  
281 evidence;

282       (b) a determination of time limits and scope of testimony  
283 and witnesses;

284       (c) a determination for recording the hearing;

285       (d) preliminary decisions about evidence; and

286       (e) decisions about representation of parties.

287       (7) The hearing panel shall make written findings and  
288 provide an appeal recommendation to the Board no more than 10  
289 calendar days following the hearing.

290       (8) The Board shall take action on the hearing report  
291 findings at the next regularly scheduled Board meeting.

292       (9) The recommendation of the State Charter School Board  
293 shall be in place pending the conclusion of the appeals  
294 process, unless the Superintendent in his sole discretion,  
295 determines that the State Charter School Board's  
296 recommendation or failure to act presents a serious threat to  
297 students or an imminent threat to public property or  
298 resources.

299       (10) All parties shall work to schedule and conclude

300     hearings as fairly and expeditiously as possible.

301         (11) The Board's acceptance or rejection of the hearing  
302         report is the final administrative action on the issue.

303     **KEY: charter schools, oversight, monitoring, appeals**

304     **Date of Enactment or Last Substantive Amendment: 2011**

305     **Authorizing, and Implemented or Interpreted Law: Art X Sec 3;**

306     **53A-1-401(3); 53A-1a-501.3; 53A-1a-515; 53A-1a-521; 53A-1a-**

307     **505; 53A-1a-501.5; 53A-1a-510; 53A-1a-509; 53A-1-301; 53A-3-**

308     **302; 53A-3-303; 53A-17a-109**