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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Martell Menlove, Ph.D.
Chief Executive Officer

DATE: May 9, 2014

ACTION: R277-482 *Charter School Timelines and Approval Processes* (Amendment)

Background:

In the 2014 General Session of the Legislature, SB 218 *Charter School Amendments* directed the State Board of Education to grant high priority to charter schools proposing to locate in high growth areas and grant low priority to charter schools proposing to locate in declining or stagnant enrollment areas.

Key Points:

The following amendments are proposed:

- Changes "chartering entity" to "charter school authorizer" throughout.
- Changes number of required pre-applicant trainings from four to a flexible amount.
- Removes financial incentive for new charter schools to attend training.
- Requires charter schools to attend trainings required by the Board, charter school authorizer, and USOE.
- Requires charter schools to have certain information on their websites.
- Requires the Board to grant high/low priority to applicants per SB 218.
- Removes any other applicant priority that was previously available, as these priorities were not statutory provisions.
- Requires charter schools to submit lease to licensed attorney and State Charter School Board and makes this requirement a precursor to receiving a USOE facility project number.
- Clarifies that it is Board approval that is required by October 1 and May 1 for new applications, requests for expansions, and satellite amendments.

Anticipated Action:

It is proposed that the Law and Licensing Committee consider approving R277-482, as amended, on first reading and, if approved by the Committee, the Board consider approving R277-482, as amended, on second reading.

Contact: Brenda Hales, 801-538-7515 Marlies Burns, 801-538-7817

1 **R277. Education, Administration.**

2 **R277-482. Charter School Timelines and Approval Processes.**

3 **R277-482-1. Definitions.**

4 A. "Amendment," for purposes of this rule, means a change
5 or addition to the charter agreement.

6 B. "Board" means the Utah State Board of Education.

7 C. "~~[Chartering entities]~~Charter school authorizers"
8 means entities that authorize a charter school under Section
9 53A-1a-501.3(2).

10 D. "Charter schools" means schools acknowledged as
11 charter schools by ~~[chartering entities]~~charter school
12 authorizers under Sections 53A-1a-515, 53A-1a-521, and this
13 rule or by the Board under Section 53A-1a-505.

14 E. "Charter school agreement (charter agreement)" means
15 the terms and conditions for the operation of an approved
16 charter school. The USOE maintains the charter school
17 agreement ~~[shall be maintained at]~~and the USOE copy ~~[and]~~ is
18 ~~[considered]~~ the final, official and complete agreement.

19 F. "Charter school application" means the official
20 chartering document by which a prospective charter school
21 seeks recognition and funding under Section 53A-1a-505. The
22 application includes the basic elements of the charter to be
23 established between the charter school and the chartering
24 board.

25 G. "Charter school governing board" means the board
26 designated by the charter school to make decisions for the
27 operation of the school.

28 H. "Expansion" means a proposed increase of students or
29 adding grade level(s) in an operating charter school at a
30 single location.

31 I. "Satellite school" means a charter school affiliated
32 with an operating charter school having a common governing
33 board and a similar program of instruction, but located at a
34 different site. The parent school and all satellites shall be

35 considered a single local education agency (LEA) for purposes
36 of public school funding and reporting.

37 J. "State Charter School Board" means the board
38 designated in Section 53A-1a-501.5.

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

40 **R277-482-2. Authority and Purpose.**

41 A. This rule is authorized under Utah Constitution
42 Article X, Section 3 which vests general control and
43 supervision over public education in the Board, Section
44 53A-1a-513 which directs the Board to distribute funds for
45 charter school students directly to the charter school,
46 Section 53A-1-401(3) which allows the Board to adopt rules in
47 accordance with its responsibilities, and 20 U.S.C., Section
48 8063(3) which directs the Board to submit specific information
49 prior to charter schools' receipt of federal funds.

50 B. The purpose of this rule is to establish procedures
51 for timelines and approval processes for charter schools.

52 **R277-482-3. [~~State Charter School Board~~]Application and**
53 **Training.**

54 A. All charter school applicants to the State Charter
55 School Board shall attend pre-application and planning year
56 training sessions, as well as other training sessions
57 designated by the State Charter School Board.

58 B. The State Charter School Board shall schedule [P]pre-
59 application training sessions [~~shall be scheduled~~
60 ~~four~~]multiple times annually and may be available
61 electronically[, ~~as determined by the State Charter School~~
62 ~~Board~~].

63 C. [~~Charter schools and applicants that attend training~~
64 ~~sessions may be eligible for additional funds, upon approval,~~
65 ~~in an amount to be determined by the State Charter School~~
66 ~~Board provided through federal charter school funds or a~~

67 ~~General Fund appropriation to the extent of funds available.~~
68 ~~Charter school applicants that attend training sessions may~~
69 ~~receive priority for approval from the State Charter School~~
70 ~~Board and the Board]~~Charter school applicants shall attend
71 training designated by the Board, charter school authorizer,
72 and the USOE.

73 D. Training sessions shall provide information
74 including:

- 75 (1) charter school implementation requirements;
- 76 (2) charter school statutory and Board requirements;
- 77 (3) charter school financial and data management
78 requirements;
- 79 (4) charter school legal requirements;
- 80 (5) federal requirements for charter school funding; and
- 81 (6) other items as determined by the State Charter School
82 Board.

83 **R277-482-4. [~~New or Expanding~~]Charter School Notification to**
84 **Prospective Students and Parents.**

85 A. [~~All new or expanding c]~~Each charter school[~~s~~] shall
86 have available on its website[~~and notify all families~~
87 ~~consistent with the schools' outreach plans described in the~~
88 ~~charter agreements of]~~:

- 89 (1) the school's approved charter, mission and
90 purpose(s)[~~, focus and governance structure, including names,~~
91 ~~qualifications, and contact information of all governing board~~
92 ~~members]~~;
- 93 (2) governance structure, including names,
94 qualifications, and public contact information of individual
95 governing board members;
- 96 (3) board bylaws;
- 97 ([~~2~~]4) the number of new students that will be admitted
98 into the school by grade;
- 99 ([~~3~~]5) the proposed school calendar for the charter

100 school, including at a minimum the first and last days of
101 school, scheduled holidays, scheduled professional development
102 days (~~[no]~~when students do not attend[ance]), and other
103 scheduled non-school days;

104 ~~([4]6) [the charter school's timelines for acceptance of~~
105 ~~new students consistent with]~~admissions and transfer
106 procedures consistent with R277-472-5 and Section 53A-1a-
107 506.5;

108 ~~[(5) the requirement and availability of a charter school~~
109 ~~student application;~~

110 ~~— (6) procedures for transferring to or from a charter~~
111 ~~school, together with applicable timelines; and]~~

112 (7) provisions for payment, if required, of a one-time
113 fee per secondary school enrollment, not to exceed \$5.00,
114 consistent with Section 53A-12-103; and

115 (8) school performance as required by the charter school
116 authorizer and school grades as required by the Board.

117 ~~[B. New or expanding charter schools shall provide~~
118 ~~written notice of the information in R277-482-4A consistent~~
119 ~~with the school's outreach plan and on the school's website at~~
120 ~~least 180 days before the proposed opening day of school.~~

121 ~~— C. New or expanding charter schools shall have an~~
122 ~~operative and readily accessible electronic website providing~~
123 ~~information required under R277-482-4A in place. The~~
124 ~~completed charter school website shall be provided to the~~
125 ~~State Charter School Board for review at least 210 days prior~~
126 ~~to the proposed opening day of school and prior to posting the~~
127 ~~websites publicly.]~~

128 B. Each new charter school shall provide to its charter
129 school authorizer the school's proposed website for review
130 prior to posting the website publicly.

131 C. Each new charter school shall provide the information
132 in R277-482-4A on the school's website at least 180 days
133 before the proposed opening day of school or within 30 days of

134 Board approval for expanding charter schools.

135 D. The [~~State Charter School Board and the~~]Board shall,
136 in the [~~recommendation and~~]approval process, [~~consider and~~
137 ~~may~~]give high priority to charter school applications that
138 [~~target underserved student populations, or provide an~~
139 ~~innovative educational program, service, or setting as~~
140 ~~determined by the State Charter School Board, among~~
141 ~~traditional public schools and operating charter schools~~]apply
142 in high growth areas under Section 53A-1a-502.5(1) and meet
143 the enrollment preference required in Section 53A-1a-506(5)(a)
144 and low priority to applications that apply to locate in areas
145 where student enrollment is stable or declining.

146 [~~(1) Underserved student populations may include~~
147 ~~economically disadvantaged students, students with~~
148 ~~disabilities, English language learners, children of refugee~~
149 ~~families, or students in remote areas of the state who have~~
150 ~~limited access to the full range of academic courses;~~

151 [~~(2) Innovative educational opportunities shall be~~
152 ~~described on the State Charter School Board's website;~~

153 [~~(3) Priority may also be given to charter school~~
154 ~~applicants for proposed schools that do not have other charter~~
155 ~~schools within the school district; and~~

156 [~~(4) To be given priority, the charter school application~~
157 ~~and proposed employee and site information shall support the~~
158 ~~school's designated focus.~~

159 [~~E. The Board or chartering entity may request~~
160 ~~documentation of underserved student criteria that schools~~
161 ~~designate and for which they request a preference.]~~

162 [~~F~~]E. The Board shall have authority for final approval
163 of all charter schools.

164 **R277-482-5. Timelines - Charter School Starting Date and**
165 **Facilities.**

166 A. [~~Chartering entities~~]Charter school authorizers shall

167 accept a proposed starting date from a charter school
168 applicant, or the [~~chartering entity~~]charter school authorizer
169 shall negotiate and recommend a starting date prior to
170 recommending final charter approval to the Board.

171 B. Only charter schools approved as new charter schools
172 by October 1, one fiscal year prior to the state fiscal year
173 they intend to serve students shall be eligible for state
174 funds.

175 C. Each charter school shall submit any lease, lease-
176 purchase agreement, or other contract or agreement relating to
177 the charter school's facilities or financing the charter
178 school facilities to an attorney, retained by the school, for
179 review, and after such review to its charter school authorizer
180 for review and advice prior to the charter school entering
181 into the lease, agreement, or contract, consistent with
182 Section 53A-1a-507(9). The USOE shall not issue a project
183 number until the school meets this provision and provides
184 documentation, if requested.

185 [E]D. A State Charter School Board authorized school
186 shall begin construction on a new or existing facility
187 requiring major renovation, such as construction requiring a
188 project number consistent with R277-471, no later than January
189 1 of the year the school is scheduled to open.

190 [D]E. A State Charter School Board authorized school that
191 intends to occupy a facility requiring no renovation or only
192 minimal renovation, such as renovation not requiring a project
193 number [~~according to~~]under R277-471, shall enter into a
194 written agreement for the renovation no later than May 1 of
195 the calendar year the school is scheduled to open.

196 [~~E. Each charter school shall submit any lease, lease-~~
197 ~~purchase agreement, or other contract or agreement relating to~~
198 ~~the charter school's facilities or financing the charter~~
199 ~~school facilities to its chartering entity for review and~~
200 ~~advice prior to the charter school entering into the lease,~~

201 ~~agreement, or contract, consistent with Section 53A-1a-~~
202 ~~507(9).]~~

203 F. If students are not enrolled and attending classes by
204 October 1, a charter school shall not receive funding from the
205 state for that school year.

206 G. Despite a charter school meeting starting dates, a
207 charter school shall be required to satisfy R277-419
208 requirements of 180 days and 990 hours of instruction time,
209 unless otherwise exempted by the Board under Section 53A-1a-
210 511.

211 H. The Board may, following review of information,
212 approve the recommended starting date or determine a different
213 charter school starting date after giving consideration to the
214 [~~chartering entity~~]charter school authorizer's recommendation.

215 **R277-482-6. Procedures and Timelines to Change Chartering**
216 **Entities.**

217 A. A charter school may change chartering entities.

218 B. A charter school shall submit an application provided
219 by the new [~~chartering entity~~]charter school authorizer to the
220 Board to request a new [~~chartering entity~~]charter school
221 authorizer at least three months prior to the proposed change.

222 C. The application may require some or all of the
223 following, as determined by the new [~~chartering entity~~]charter
224 school authorizer:

225 (1) current board members and founding members;

226 (2) financial records, including most recent annual
227 financial report (AFR), annual project report (APR) and
228 audited financial statement;

229 (3) student test scores, including scores on all state
230 required assessments;

231 (4) current employees: identifying assignments and
232 licensing status, if applicable;

233 (5) school calendar for previous school year and

234 prospective school year;

235 (6) course offerings, if applicable;

236 (7) affidavits, signed by all board members providing or
237 certifying (documentation may be required):

238 (a) the school's nondiscrimination toward students and
239 employees;

240 (b) the school's compliance with all state and federal
241 laws and regulations;

242 (c) that all information on application provided is
243 complete and accurate;

244 (d) that school meets/complies with all health and safety
245 codes/laws;

246 (e) that the school is current with all required policies
247 (personnel, salaries, and fees), including board minutes for
248 the most recent three months;

249 (f) that the school is operating consistent with the
250 school's charter;

251 (g) that there are no outstanding lawsuits or judgments
252 or identifying outstanding lawsuits filed or judgments against
253 the school;

254 D. A charter school seeking to change [~~chartering~~
255 ~~entities~~]charter school authorizers shall submit a position
256 statement from the current [~~chartering entity~~]charter school
257 authorizer about school status, compliance with the
258 [~~chartering entity~~]charter school authorizer requirements and
259 any unresolved concerns to the proposed new [~~chartering~~
260 ~~entity~~]charter school authorizer.

261 E. An application for changing a [~~chartering~~
262 ~~entity~~]charter school authorizer shall be reviewed for
263 acceptance by the new [~~chartering entity~~]charter school
264 authorizer within 60 days of submission of complete
265 application, including all required documentation.

266 F. The Board shall consider an application to change
267 [~~chartering entities~~]charter school authorizers [~~to the State~~

268 ~~Charter School Board]~~within 60 days of [~~State Charter School~~
269 ~~Board]~~the new charter school authorizer's approval, or next
270 possible monthly Board meeting, whichever is sooner.

271 G. Final approval or denial of changing [~~chartering~~
272 ~~entities to the State Charter School Board]~~charter school
273 authorizers is final administrative action by the Board.

274 **R277-482-7. Approved Charter School Expansion.**

275 A. Operating charter schools that request to expand shall
276 have or satisfy [F]the following~~[shall apply to requests for~~
277 ~~expansion from approved and operating charter schools]:~~

278 (1) [~~The school satisfies]~~all requirements of federal
279 and state law, regulations, Board rule and charter agreement.

280 (2) [~~The]~~an approved charter agreement~~[shall provide]~~
281 for an expansion consistent with the request; or

282 (3) [~~The charter school governing board has submitted]~~a
283 formal amendment request submitted by the charter school
284 governing board to the [~~chartering entity]~~charter school
285 authorizer consistent with the [~~chartering entity]~~charter
286 school authorizer's requirements.

287 B. If the [~~chartering entity]~~charter school authorizer
288 approves a charter school expansion:

289 (1) requiring a construction project number under R277-
290 471, the expansion shall be approved by the Board before
291 October 1 of the state fiscal year prior to the school's
292 intended expansion date.

293 (2) that does not require a construction project number
294 under R277-471, the [~~charter school]~~expansion shall be
295 approved by the Board before May 1 of the state fiscal year
296 prior to the school's intended expansion.

297 C. If the expansion request is for an increase in
298 student enrollment capacity in the amount of 0.25 times or
299 less, the number of students in grades 9 through 12 enrolled
300 in an online course in the previous school year through the

301 Statewide Online Education Program, the request shall be
302 submitted to the Board by October 1 of the school year for
303 which the increase is requested.

304 D. Requests under R277-482-7C are subject to the
305 availability of sufficient funds appropriated under Section
306 53A-1a-513 to provide the full amount of the per student
307 allocation for each charter school student in the state to
308 supplement school district property tax revenues.

309 E. The Board shall consider ~~[E]expansion requests [shall~~
310 ~~be considered by the State Charter School Board]~~as part of
311 the total number of charter school students allowed under
312 Section 53A-1a-502.5(1).

313 **R277-482-8. Satellite School for Approved Charter Schools.**

314 A. An existing charter school may submit an amendment
315 request to the ~~[chartering entity]~~charter school authorizer
316 for a satellite school if the charter school fully satisfies
317 the following:

318 (1) The school currently satisfies all requirements of
319 state law and Board rule;

320 (2) The school has operated successfully for at least
321 three years meeting the terms of its charter agreement and
322 Charter School Performance Standards;

323 (3) Students at the school are performing on
324 standardized assessments at or above the standard in the
325 charter agreement and Charter School Performance Standards;

326 (4) The proposed satellite school will provide
327 educational services, assessment, and curriculum consistent
328 with the services, assessment, and curriculum currently being
329 offered at the existing charter school;

330 (5) Adequate qualified administrators, including at
331 least one onsite administrator, and staff are available to
332 meet the needs of the proposed student population at the
333 satellite school;

334 (6) The school provides any additional information or
335 documentation requested by the [~~chartering entity~~]charter
336 school authorizer or the Board[-]; and

337 (7) A satellite school that receives School LAND Trust
338 funds shall have a [~~School LAND Trust committee~~]charter trust
339 lands council and satisfy all requirements for [~~School LAND~~
340 ~~Trust committees~~]charter trust lands councils consistent with
341 R277-477.

342 B. Only a satellite school approved by the Board by
343 October 1 of the state fiscal year prior to the year the
344 school intends to serve students shall be eligible for state
345 funds.

346 C. The Board shall ratify the charter school
347 authorizer's approval of the satellite school. [~~by the~~
348 ~~chartering entity requires ratification by the State Board of~~
349 ~~Education and] The Board's ratification [will]shall expire 24
350 months following [such]the ratification if the charter school
351 authorizer does not secure a building site [~~has not been~~
352 ~~secured] for the satellite school.~~~~

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

354 **Date of Enactment or Last Substantive Amendment: [October 8,**
355 **2013]2014**

356 **Notice of Continuation: August 2, 2013**

357 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3;**
358 **53A-1a-513; 53A-1-401(3); 53A-1a-502.5**