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MEMORANDUM

TO: Members, Utah State Board of Education

FROM: Joel Coleman
Interim Chief Executive Officer

DATE: November 7, 2014

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

Background:

Amendments to R277-482 *Charter School Timelines and Approval Processes* were proposed to the Board Law and Licensing Committee on May 9, 2014. The Law and Licensing Committee requested that the Board's attorney review the rule before it was considered. The Assistant Attorney General has reviewed the rule and suggested changes are incorporated.

Key Points:

- Changes "chartering entity" to "charter school authorizer" as appropriate [HB 419];
- 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 SB218;
- 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 timelines;
- Provides appeals process consistent with R277-481 and Section 63G-4-503.

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.

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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
49 information prior to charter schools' receipt of federal
50 funds.

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

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

55 A. All charter school applicants shall attend pre-
56 application and planning year training sessions, as well as
57 other training sessions designated by the State Charter School
58 Board or charter school authorizer under which they seek
59 authorization.

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

65 C. [~~Charter schools and applicants that attend training~~
66 ~~sessions may be eligible for additional funds, upon approval,~~

67 ~~in an amount to be determined by the State Charter School~~
68 ~~Board provided through federal charter school funds or a~~
69 ~~General Fund appropriation to the extent of funds available.~~
70 ~~Charter school applicants that attend training sessions may~~
71 ~~receive priority for approval from the State Charter School~~
72 ~~Board and the Board]~~Charter school applicants shall attend
73 training designated by the Board, charter school authorizer,
74 and the USOE.

75 D. Training sessions shall provide information
76 including:

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

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

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

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

100 into the school by grade;
101 (~~[3]~~5) the proposed school calendar for the charter
102 school, including at a minimum the first and last days of
103 school, scheduled holidays, scheduled professional development
104 days (~~[no]~~when students do not attend~~[ance]~~), and other
105 scheduled non-school days;

106 (~~[4]~~6) ~~[the charter school's timelines for acceptance of~~
107 ~~new students consistent with]~~admissions and transfer
108 procedures consistent with R277-472-5 and Section 53A-1a-
109 506.5;

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

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

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

117 (8) school performance as required by the charter school
118 authorizer and school grades as required by the Board.

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

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

130 B. Each new charter school shall provide to its charter
131 school authorizer the school's proposed website for review
132 prior to making the website available to the public.

133 C. Each new charter school shall provide the information

134 in R277-482-4A on the school's website at least 180 days
135 before the proposed opening day of school or within 30 days of
136 Board approval for expanding charter schools.

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

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

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

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

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

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

164 [F]E. The Board shall have authority for final approval
165 of all charter schools.

166 **R277-482-5. Timelines - Charter School Starting Date and**

167 **Facilities.**

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

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

177 C. Each charter school shall submit any lease, lease-
178 purchase agreement, or other contract or agreement relating to
179 the charter school's facilities or financing the charter
180 school facilities to an attorney, retained by the school, for
181 review, and after such review to its charter school authorizer
182 for review and advice prior to the charter school entering
183 into the lease, agreement, or contract, consistent with
184 Section 53A-1a-507(9).

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

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

201 ~~advice prior to the charter school entering into the lease,~~
202 ~~agreement, or contract, consistent with Section 53A-1a-~~
203 ~~507(9).]~~

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

207 G. Despite a charter school meeting starting dates, a
208 charter school shall be required to satisfy R277-419
209 requirements of 180 days and 990 hours of instruction time,
210 unless otherwise exempted by the Board under Section 53A-1a-
211 511.

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

216 **R277-482-6. Procedures and Timelines to Change Charter[ing**
217 **Entities] School Authorizers.**

218 A. A charter school may petition to change its
219 charter[ing entities] school authorizer.

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

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

227 (1) current board members and founding members;

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

231 (3) student test scores, including scores on all state
232 required assessments;

233 (4) current employees: identifying assignments and

234 licensing status, if applicable;

235 (5) school calendar for previous school year and
236 prospective school year;

237 (6) course offerings, if applicable; and

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

240 (a) the school's nondiscrimination toward students and
241 employees;

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

244 (c) that all information on application provided is
245 complete and accurate;

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

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

251 (f) that the school is operating consistent with the
252 school's charter; and

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

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

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

268 F. The Board shall consider an application to change
269 ~~[chartering entities]~~charter school authorizers ~~[to the State~~
270 ~~Charter School Board]~~within 60 days of ~~[State Charter School~~
271 ~~Board]~~the new charter school authorizer's approval, or the
272 next ~~[possible monthly]~~regular Board meeting, whichever is
273 sooner.

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

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

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

281 (1) ~~[The school satisfies]~~all requirements of federal
282 and state law, regulations, Board rules and its charter
283 agreement.

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

286 (3) ~~[The charter school governing board has submitted]~~a
287 formal amendment request submitted by the charter school
288 governing board to the ~~[chartering entity]~~charter school
289 authorizer consistent with the ~~[chartering entity]~~charter
290 school authorizer's requirements.

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

293 (1) requiring a construction project number under R277-
294 471, the Board shall approve the expansion~~[-shall be approved]~~
295 before October 1 of the state fiscal year prior to the
296 school's intended expansion date~~[-]~~; or

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

301 C. If the expansion request is for an increase in
302 student enrollment capacity in the amount of 0.25 times or
303 less[7] the number of students in grades 9 through 12 enrolled
304 in an online course in the previous school year through the
305 Statewide Online Education Program, the request shall be
306 submitted to the Board by October 1 of the school year for
307 which the increase is requested.

308 D. Requests under R277-482-7C are subject to the
309 availability of sufficient funds appropriated under Section
310 53A-1a-513 to provide the full amount of the per student
311 allocation for each charter school student in the state to
312 supplement school district property tax revenues.

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

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

318 A. An existing charter school may submit an amendment
319 request to the [~~chartering entity~~]charter school authorizer
320 for a satellite school if the charter school fully satisfies
321 the following:

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

324 (2) The school has operated successfully for at least
325 three years meeting [~~the~~]all terms of its charter agreement;

326 (3) Students at the school are performing on
327 standardized assessments at or above the standard in the
328 charter agreement;

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

333 (5) Adequate qualified administrators, including at

334 least one onsite administrator, and staff are available to
335 meet the needs of the proposed student population at the
336 satellite school;

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

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

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

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

356 **R277-482-9. Appeals.**

357 If a charter school authorizer does not approve a charter
358 school expansion or the addition of a satellite school, the
359 charter school may appeal to the Board the matter consistent
360 with R277-481-8.

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

362 **Date of Enactment or Last Substantive Amendment: [~~October 8,~~**
363 **2013]2015**

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

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

366 53A-1a-513; 53A-1-401(3); 53A-1a-502.5