

WSR 23-22-125

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed November 1, 2023, 10:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-11-168.

Title of Rule and Other Identifying Information: Chapter 180-19 WAC, Charter schools.

Hearing Location(s): On December 11, 2023, at 10:00 a.m., at the Washington State Board of Education, 600 Washington Street S.E., Olympia, WA 98502. Online access will also be provided; see sbe.wa.gov for details.

Date of Intended Adoption: February 14, 2024.

Submit Written Comments to: Viktoria Bobyleva, 600 Washington Street S.E., Olympia, WA 98504, email rulescoordinatorSBE@k12.wa.us, by February 1, 2024.

Assistance for Persons with Disabilities: Contact Jacki Verd, phone 360-725-6025, TTY 360-664-3631, email Jacki.Verd@k12.wa.us, by December 4, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to implement changes associated with the passage of ESHB 1744 during the 2023 legislative session (chapter 356, Laws of 2023). In addition, the state board of education (board) has reviewed and revised rules to streamline timelines set out in rule, correct references, and make other changes as needed to improve readability and ensure effective implementation of the law.

Reasons Supporting Proposal: ESHB 1744 makes various changes to provisions governing the administration and oversight of charter schools, including new and modified duties for charter schools, charter school boards, charter school authorizers, the charter school commission, and the board that required changes to the current rules. In addition, the board, in consultation with the authorizers, has identified a number of other issues in the rules that are either confusing or add administrative burden that the agencies would like to address during this revision. For example, the timeline for approval of new authorizers leaves little flexibility by inserting a number of steps and deadlines that are not called out in the underlying statute.

Statutory Authority for Adoption: RCW 28A.710.090.

Statute Being Implemented: RCW 28A.710.130, 28A.710.140, 28A.710.150.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: State board of education, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Randy Spaulding, 600 Washington Street S.E., Olympia, WA 98504, 360-725-6024.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. These rules are not subject to violation by a nongovernmental party, and the rules adopt Washington state statutes without material change.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

October 30, 2023
Randy Spaulding
Executive Director

OTS-5040.1

AMENDATORY SECTION (Amending WSR 17-20-070, filed 10/2/17, effective 11/2/17)

WAC 180-19-010 Definitions. (1) "At-risk student" or "systemically marginalized student" means a student who has an academic or economic disadvantage that requires assistance or special services to succeed in educational programs. The term includes, but is not limited to, students who do not meet minimum standards of academic proficiency, students who are at risk of dropping out of high school, students in chronically low-performing schools, students with higher than average disciplinary sanctions, students with lower participation rates in advanced or gifted programs, students who are limited in English proficiency, students who are members of economically disadvantaged families, and students who are identified as having special educational needs.

(2) "Authorizer" means a school district board of directors that has been approved to be a charter school authorizer under RCW 28A.710.090 and the charter school commission established under RCW 28A.710.070.

(3) "Board" means the state board of education.

~~((2))~~ (4) "Charter contract" means a fixed term, renewable contract between a charter school and an authorizer that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.

(5) "School district" or "district" means a school district board of directors.

~~((3))~~ (6) "Charter school" or "charter public school" means a public school that is established in accordance with chapter 28A.710 RCW, governed by a charter school board, and operated according to the terms of a charter contract executed under this chapter.

(7) "Charter school board" means the board of directors appointed or selected under the terms of a charter application to manage and operate the charter school.

(8) "Commission" means the Washington state charter school commission established in RCW 28A.710.070.

(9) "NACSA Principles and Standards" means the "Principles and Standards for Quality Charter Authorizing (2015 Edition or most current edition)" developed by the National Association of Charter School Authorizers (NACSA).

(10) "High percentage of charter school closures" means a higher percentage of closures than the national charter school closure rate as reported by NACSA.

(11) "Parent" means a parent, guardian, or other person or entity having legal custody of a child.

(12) "Student" means a child eligible to attend a public school in the state.

(13) "Undeveloped" means that the application response is wholly inadequate in that the applicant has not considered or anticipated the well-developed practice at all, or proposes to carry out its authorizing duties in a way that is not recognizably connected to the expectations established by the board and the *NACSA Principles and Standards*.

(14) "Partially developed" means that the application response contains some aspects of a well-developed practice, is limited in its execution, or otherwise falls short of satisfying the expectations established by the board and the *NACSA Principles and Standards*.

(15) "Well-developed" means that the application response meets the expectations established by the board and the *NACSA Principles and Standards* in material respects and warrants approval subject to execution of an authorizing contract with the board.

(16) "Persistently unsatisfactory performance of an authorizer's portfolio of charter schools" shall consist, for any school or schools, of:

(a) Repeated failure during a contract term, or consecutive contract terms, to meet the expectations for academic performance set forth in the charter contract including, but not limited to, applicable state and federal accountability requirements, without evidence of a trend indicating the school will meet those expectations;

(b) Repeated failure during a contract term, or consecutive contract terms, to meet the financial performance targets within the charter contract;

(c) Repeated failure during a contract term, or consecutive contract terms, to meet the targets for organizational performance within the charter contract.

(17) "A pattern of well-founded complaints" means multiple complaints that are found by the board to be supported by sufficient factual information that:

(a) An authorizer is not in compliance with its authorizing contract, or its authorizer duties, including the failure to develop and follow nationally recognized principles and standards for charter authorizing; or

(b) Schools in the authorizer's portfolio that are not in compliance with a charter contract or applicable law.

(18) "Other objective circumstances" include, but are not limited to, failure of the authorizer or its charter schools to comply with an applicable state or federal law or regulation, or evidence that a charter school is not operating in a manner that fulfills the requirements of its charter contract or has a substantial risk of becoming operationally unable to fulfill those requirements.

AMENDATORY SECTION (Amending WSR 21-05-017, filed 2/5/21, effective 3/8/21)

WAC 180-19-030 Submission of authorizer application. (1) The state board of education shall develop and make available on its website, no later than May 15th of each year, an "authorizer application" that must be used by school districts seeking to be approved as a charter school authorizer. The application may include such attachments as deemed required by the board to support and complete the application.

(2) A school district seeking approval to be a charter school authorizer must submit an "authorizer application" to the state board of education ((by October 15th of the year prior to the year the district seeks approval as an authorizer)). The district's completed application must be submitted according to instructions posted by the board with the application. Completed applications must be received no less than 30 days prior to the board meeting at which they will be considered. The board shall post on its website each application received from a school district.

(3) ((A school district must provide sufficient and detailed information regarding all of the following in the authorizer application submitted to the board:

(a) ~~**The district's strategic vision for chartering.**~~ The district must state the purposes that it expects to fulfill in being an authorizer of charter schools, with reference to the findings and interests set forth in RCW 28A.710.005, as well as any district-specific purposes that are a priority for the district; the educational goals it wishes to achieve; how it will give priority to serving at-risk students, as defined in RCW 28A.710.010(2), or students from low-performing schools; and how it will respect the autonomy and ensure the accountability of the charter schools it oversees.

(b) ~~**A plan to support the vision presented,**~~ including explanations and evidence of the applicant's budget and personnel capacity and commitment to execute the responsibilities of quality charter authorizing. "Budget and personnel capacity" means the district's capability of providing sufficient oversight, monitoring, and assistance to ensure that the charter schools it authorizes will meet all fiscal, academic and operational requirements under chapter 28A.710 RCW and comply with all applicable state and federal laws. A district's evidence of budget and personnel capacity shall consist, at a minimum, of a detailed description of the following:

(i) Staff resources to be devoted to charter authorizing and oversight under chapter 28A.710 RCW, in full-time equivalent employees, at a level sufficient to fulfill its authorizing responsibilities in accordance with the *NACSA Principles and Standards* and the provisions of chapter 28A.710 RCW; and

(ii) An estimate, supported by verifiable data, of the financial needs of the authorizer and a projection, to the extent feasible, of sufficient financial resources, supported by the authorizer oversight fee under RCW 28A.710.110 and any other resources, to carry out its authorizing responsibilities in accordance with the *NACSA Principles and Standards* and the provisions of chapter 28A.710 RCW.

(c) ~~**A draft or preliminary outline of the request for proposal**~~ that the district would, if approved as an authorizer, issue to solicit charter school applications. The draft or preliminary outline of the request for proposal(s) shall meet all of the requirements set forth in RCW 28A.710.130 (1)(b) and demonstrate that the district will implement a comprehensive charter application process that follows fair procedures and rigorous criteria, and an evaluation and oversight process based on a performance framework meeting the requirements of RCW 28A.710.170.

(d) ~~**A draft of the performance framework**~~ that the district would, if approved as an authorizer, use to guide the execution of a charter contract and for ongoing oversight and performance evaluation of charter schools. The draft of the performance framework shall, at a minimum, meet the requirements of RCW 28A.710.170(2) including descriptions of each indicator, measure and metric enumerated therein, and

shall provide that student academic proficiency, student academic growth, achievement gaps in both proficiency and growth, graduation rates, and postsecondary readiness are measured and reported in conformance with the achievement index developed by the state board of education under RCW 28A.657.110.

~~(e) A draft of the district's proposed renewal, revocation, and nonrenewal processes, consistent with RCW 28A.710.190 and 28A.710.200. The draft provided must, at a minimum, provide for the implementation of transparent and rigorous processes that:~~

~~(i) Establish clear standards for renewal, nonrenewal, and revocation of charters it may authorize under RCW 28A.710.100;~~

~~(ii) Set reasonable and effective timelines for actions that may be taken under RCW 28A.710.190 and 28A.710.200;~~

~~(iii) Describe how academic, financial and operational performance data will be used in making decisions under RCW 28A.710.190 and 28A.710.200;~~

~~(iv) Outline a plan to take appropriate corrective actions, or exercise sanctions short of revocation, in response to identified deficiencies in charter school performance or legal compliance, in accordance with the charter contract and the provisions of RCW 28A.710.180.~~

~~(4) A district must sign a statement of assurances submitted with its application, which shall be included as an attachment to the authorizing contract executed between the approved district and the state board of education, stating that it seeks to serve as an authorizer in fulfillment of the expectations, spirit, and intent of chapter 28A.710 RCW, and that if approved as an authorizer it will:~~

~~(a) Seek opportunities for authorizer professional development, and assure that personnel with significant responsibilities for authorizing and oversight of charter schools will participate in any authorizer training provided or required by the state;~~

~~(b) Provide public accountability and transparency in all matters concerning charter authorizing practices, decisions, and expenditures;~~

~~(c) Ensure that any charter school it oversees shall have a fully independent governing board and exercise autonomy in all matters, to the extent authorized by chapter 28A.710 RCW, in such areas as budgeting, personnel and instructional programming and design;~~

~~(d) Ensure that any contract it may execute with the charter school board of an approved charter school under RCW 28A.710.160 provides that the school will provide educational services to students with disabilities, students who are limited-English proficient, and any other special populations of students as required by state and federal laws;~~

~~(e) Include in any charter contract it may execute with the charter school board of an approved charter school, in accordance with RCW 28A.710.040 (2)(b), that the charter school must provide a program of basic education that at a minimum meets the requirements of RCW 28A.150.200 and 28A.150.220, and meets the goals in RCW 28A.150.210, including instruction in the essential learning requirements and participation in the statewide student assessment system as developed under RCW 28A.655.070.) A district seeking renewal of authorization shall submit a "renewal application" to the state board of education no less than 30 days prior to the board meeting at which they will be considered and no less than 90 days prior to expiration of the current authorization.~~

NEW SECTION

WAC 180-90-035 Content of authorizer application. (1) A school district must provide sufficient and detailed information regarding all of the following in the authorizer application submitted to the board:

(a) **The district's strategic vision for chartering.** The district must state the purposes that it expects to fulfill in being an authorizer of charter schools, with reference to any district-specific purposes that are a priority for the district; the educational goals it wishes to achieve; how it will give priority to serving at-risk students, as defined in RCW 28A.710.010(2), or students from low-performing schools; and how it will respect the autonomy and ensure the accountability of the charter schools it oversees.

(b) **A plan to support the vision presented,** including explanations and evidence of the district's budget and personnel capacity and commitment to execute the responsibilities of quality charter authorizing. "Budget and personnel capacity" means the district's capability of providing sufficient oversight, monitoring, and assistance to ensure that the charter schools it authorizes will meet all fiscal, academic and operational requirements under chapter 28A.710 RCW and comply with all applicable state and federal laws. A district's evidence of budget and personnel capacity shall consist, at a minimum, of a detailed description of the following:

(i) Staff resources to be devoted to charter authorizing and oversight under chapter 28A.710 RCW, in full-time equivalent employees, at a level sufficient to fulfill its authorizing responsibilities in accordance with the *NACSA Principles and Standards* and the provisions of chapter 28A.710 RCW; and

(ii) An estimate, supported by verifiable data, of the financial needs of the authorizer and a projection, to the extent feasible, of sufficient financial resources, supported by the authorizer oversight fee under RCW 28A.710.110 and any other resources, to carry out its authorizing responsibilities in accordance with the *NACSA Principles and Standards* and the provisions of chapter 28A.710 RCW.

(c) **A draft or preliminary outline of the request for proposal** that the district would, if approved as an authorizer, issue to solicit charter school applications. The draft or preliminary outline of the request for proposal(s) shall meet all of the requirements set forth in RCW 28A.710.130 (1)(b) and demonstrate that the district will implement a comprehensive charter application process that follows fair procedures and rigorous criteria, and an evaluation and oversight process based on a performance framework meeting the requirements of RCW 28A.710.170.

(d) **A draft of the performance framework** that the district would, if approved as an authorizer, use to guide the execution of a charter contract and for ongoing oversight and performance evaluation of charter schools. The draft of the performance framework shall, at a minimum, meet the requirements of RCW 28A.710.170(2) including descriptions of each indicator, measure and metric enumerated therein, and shall provide that student academic proficiency, student academic growth, achievement gaps in both proficiency and growth, graduation rates, and postsecondary readiness are measured and reported in conformance with the achievement index developed by the state board of education under RCW 28A.657.110.

(e) **A draft of the district's proposed renewal, revocation, non-renewal, and transfer processes for charter schools,** consistent with

RCW 28A.710.190, 28A.710.200, and 28A.710.210. The draft provided must, at a minimum, provide for the implementation of transparent and rigorous processes that:

(i) Establish clear standards for renewal, nonrenewal, and revocation of charters it may authorize under RCW 28A.710.100;

(ii) Set reasonable and effective timelines for actions that may be taken under RCW 28A.710.190 and 28A.710.200;

(iii) Describe how academic, financial and operational performance data will be used in making decisions under RCW 28A.710.190 and 28A.710.200;

(iv) Outline a plan to take appropriate corrective actions, or exercise sanctions short of revocation, in response to identified deficiencies in charter school performance or legal compliance, in accordance with the charter contract and the provisions of RCW 28A.710.180;

(v) Outline a plan to ensure timely notification to parents, orderly transition of students and student records to new schools, as necessary, and proper disposition of public school funds, property, and assets, in accordance with RCW 28A.710.210.

(2) A district must sign a statement of assurances submitted with its application, which shall be included as an attachment to the authorizing contract executed between the approved district and the state board of education, stating that it seeks to serve as an authorizer in fulfillment of the expectations, spirit, and intent of chapter 28A.710 RCW, and that if approved as an authorizer it will:

(a) Seek opportunities for authorizer professional development, and assure that personnel with significant responsibilities for authorizing and oversight of charter schools will participate in any authorizer training provided or required by the state;

(b) Provide public accountability and transparency in all matters concerning charter authorizing practices, decisions, and expenditures;

(c) Ensure that any charter school it oversees shall have a fully independent governing board and exercise autonomy in all matters, to the extent authorized by chapter 28A.710 RCW, in such areas as budgeting, personnel and instructional programming and design;

(d) Ensure that any contract it may execute with the charter school board of an approved charter school under RCW 28A.710.160 provides that the school will provide educational services to students with disabilities, students who are limited-English proficient, and any other special populations of students as required by state and federal laws;

(e) Include in any charter contract it may execute with the charter school board of an approved charter school, in accordance with RCW 28A-710-040 (2)(b), that the charter school must provide a program of basic education that at a minimum meets the requirements of RCW 28A.150.200 and 28A.150.220, and meets the goals in RCW 28A.150.210, including instruction in the essential learning requirements and participation in the statewide student assessment system as developed under RCW 28A.655.070.

AMENDATORY SECTION (Amending WSR 21-05-017, filed 2/5/21, effective 3/8/21)

WAC 180-19-040 Evaluation and approval or denial of authorizer applications. (1) The board shall evaluate an application submitted

by a school district seeking to be an authorizer and issue a decision ~~((approving or denying))~~ on the application ~~((by February 1st of each year))~~ at their next regularly scheduled meeting.

(2) In evaluating each application, the board will rate each part of the application as set forth in ~~((WAC 180-19-030 (3) (a) through (e)))~~ this chapter as well-developed, partially developed, or undeveloped, based on criteria for evaluation included in the authorizer application developed and made publicly available pursuant to WAC 180-19-030 ~~((1)).~~

~~(a) "Well-developed" shall mean that the application response meets the expectations established by the board and the NACSA Principles and Standards in material respects and warrants approval subject to execution of an authorizing contract with the board.~~

~~(b) "Partially developed" shall mean that the application response contains some aspects of a well-developed practice, is limited in its execution, or otherwise falls short of satisfying the expectations established by the board and the NACSA Principles and Standards.~~

~~(c) "Undeveloped" shall mean that the application response is wholly inadequate in that the applicant district has not considered or anticipated the well-developed practice at all, or proposes to carry out its authorizing duties in a way that is not recognizably connected to the expectations established by the board and the NACSA Principles and Standards).~~

(3) In its evaluation the board will consider whether the district's proposed policies and practices are consistent with the *NACSA Principles and Standards* as required by RCW 28A.710.100(3), in at least the following areas:

(a) Organizational capacity: Commit human and financial resources necessary to conduct authorizing duties effectively and efficiently;

(b) Solicitation and evaluation of charter applications: Implement a comprehensive application process that includes clear application questions and rigorous criteria, and grants charters only to applicants who demonstrate strong capacity to establish and operate a charter school;

(c) Performance contracting: Execute contracts with charter schools that articulate the rights and responsibilities of each party regarding school autonomy, funding, administration and oversight, outcomes, measures for evaluating success or failure, performance consequences, and other material terms;

(d) Ongoing charter school oversight and evaluation: Conduct contract oversight that competently evaluates performance and monitors compliance, ensures schools' legally entitled autonomy, protects student rights, informs intervention, revocation and renewal decisions, and provides annual reports as required by chapter 28A.710 RCW; and

(e) Charter renewal and revocation ~~((processes))~~ decision making: Design and implement a transparent and rigorous process that uses comprehensive academic, financial and operational performance data to make merit-based renewal decisions, and revokes charters when necessary to protect student and public interests.

~~(4) ((The board shall develop and post on its public website rubrics for determination of the extent to which each criterion for evaluation has been met.~~

~~(5))~~ The board may utilize the services of external reviewers with expertise in educational, organizational, or financial matters in evaluating applications.

~~((6))~~ (5) Prior to approving any application, the board may require an interview with district leadership for the purpose of review-

ing and evaluating the application. The interview may be used to supplement or clarify information provided by the district in the written application. The information received in the interview may be considered in formulating the overall ratings of the application under subsection (2) of this section.

~~((7))~~ (6) For an application to be approved, the board must find it to be well developed in each part of the application as set forth in ~~((WAC 180-19-030(3)))~~ this chapter. A determination that an application does not meet standards of quality authorizing in any part shall constitute grounds for disapproval. If the state board disapproves an application, it shall state in writing the reasons for the disapproval, with specific reference to the criteria included in the authorizer application.

~~((8))~~ (7) The board shall post on its public website the applications of all school districts approved as authorizers within 10 business days of approval. A school district approved as an authorizer shall post ~~((its application))~~ an announcement of its approved application and a link to the board's website on a public website within 10 business days of approval.

AMENDATORY SECTION (Amending WSR 21-05-017, filed 2/5/21, effective 3/8/21)

WAC 180-19-060 Authorizer oversight fee. ~~((1))~~ The statewide formula for the authorizer oversight fee transmitted to an authorizer by the superintendent of public instruction, as provided for in RCW 28A.710.110, shall be calculated as a ~~((rate not to exceed four percent of state operating funding allocated))~~ percentage of the state operating funding distributed to charter schools under RCW 28A.710.220 to each charter school under the jurisdiction of an authorizer, but may not exceed four percent of each charter school's annual funding.

(1) The rate shall be determined annually by the state board of education in consultation with the school district authorizer or the commission as applicable.

(2) The determination of the rate shall take into consideration the performance of schools under the authorizer's oversight including, but not limited to, enrollment, financial stability, performance challenges, and other situations as identified by the authorizer or the board.

(3) Changes to the rates must be determined and reported to authorizers and the office of the superintendent of public instruction by ~~((May))~~ April 15th to take effect for the subsequent school year.

~~((2))~~ ~~Authorizers shall report on the adequacy and efficiency of the authorizer oversight fee in the annual report submitted to the board by each authorizer as set forth in RCW 28A.710.100(4). The board shall consider this information to determine whether the formula should be adjusted in order to ensure fulfilling the purposes of chapter 28A.710 RCW.)~~

AMENDATORY SECTION (Amending WSR 21-05-017, filed 2/5/21, effective 3/8/21)

WAC 180-19-210 Annual report by authorizer. (1) Each authorizer must, no later than January 21st of each year (~~(starting in 2021)~~), submit an annual report to the state board of education meeting the requirements of RCW 28A.710.100(4). The board shall develop and post on its website by (~~September~~) June 1st of each year a standard form which must be used, and instructions which must be followed by each authorizer in making its report. The completed report must be sent via electronic mail to sbe@k12.wa.us and shall be posted on the board's website.

(2) The report of district authorizers must include the information in (a) through (k) of this subsection, and the report of the commission must include (d) through (k) of this subsection:

- (a) The date of authorizer approval by the board;
- (b) The names and job titles of district personnel having principal authorizing responsibilities with contact information for each;
- (c) The names and job titles of any employees or contractors to whom the district has delegated responsibilities under RCW 28A.710.100, with contact information for each;
- (d) An executive summary including, but not limited to, an overview of authorizing activity during the prior year and the status and performance of the charter schools authorized;
- (e) The authorizer's strategic vision for chartering, as submitted to the state board under WAC (~~(180-19-030-(3)(a))~~) 180-19-035 (1)(a), and its assessment of progress toward achieving that vision;
- (f) The status of the (~~authorizer's~~) charter school portfolio, identifying all charter schools in each of the following categories:
 - (i) Approved but not yet open, including for each, the targeted student population and the community the school hopes to serve; the location or geographic area proposed for the school; the projected enrollment; the grades to be operated each year of the term of the charter contract; the names of and contact information for the charter school board, and the planned date for opening;
 - (ii) Operating, including for each, location; grades operated; enrollment in total and by grade; and for each student subgroup as defined in RCW 28A.300.042 in totals and as percentages of enrollment;
 - (iii) Charter renewed with date of renewal;
 - (iv) Charter transferred to another authorizer during the prior year, with date of transfer;
 - (v) Charter revoked during the prior year with date of and reasons for revocation;
 - (vi) Voluntarily closed;
 - (vii) Never opened, with no planned date for opening.
- (g) The academic performance of each operating charter school overseen by the authorizer, based on the authorizer's performance framework, including:
 - (i) Student achievement on each of the required indicators of academic performance in RCW 28A.710.170 (2)(a) through (f), as applicable by grade, in absolute values and in comparison to the annual performance targets set by the charter school under RCW 28A.710.170(3). Student academic proficiency, student academic growth, achievement gaps, graduation rates and postsecondary readiness must be included as reported in the achievement index developed by the state board of education under RCW 28A.657.110.

(ii) Student achievement on each additional indicator of academic performance the authorizer has chosen to include in its performance framework to augment external evaluations of performance, in absolute values and in comparison to the annual performance targets set by the authorizer under RCW 28A.710.170.

(iii) Student achievement on each indicator must be disaggregated by major student subgroups including gender, race and ethnicity, poverty status, special education status, English language learner status, and highly capable status as required of performance frameworks in RCW 28A.710.170.

(h) The financial performance of each operating charter school overseen by the authorizer, based on the indicators and measures of financial performance and sustainability in the authorizer's performance framework, in absolute values and in comparison to the annual performance targets set by the authorizer under RCW 28A.710.170;

(i) The organizational performance of the charter school board of each operating charter school overseen by the authorizer, based on the indicators and measures of organizational performance in the authorizer's performance framework, including compliance with all applicable laws, rules and terms of the charter contract;

(j) ~~((The authorizer's))~~ Assessment of the adequacy of the authorizer oversight fee, operating costs and expenses for the prior year for fulfilling the responsibilities ~~((of an authorizer as))~~ enumerated in RCW 28A.710.100(1) and provided under the terms of each charter contract, detailed in annual financial statements that conform with generally accepted accounting principles and applicable reporting and accounting requirements of the office of the superintendent of public instruction;

(k) The contracted, fee-based services purchased from the authorizer by the charter schools under its jurisdiction under RCW 28A.710.110, including a brief description of each service purchased, an itemized accounting of the revenue received from the schools for the services, and the actual costs of these services to the authorizer.

AMENDATORY SECTION (Amending WSR 14-08-033, filed 3/25/14, effective 4/25/14)

WAC 180-19-220 Oversight of authorizers—General provisions.

(1) The state board of education is responsible under RCW 28A.710.120 for ~~((oversight of the performance and effectiveness of all authorizers approved under RCW 28A.710.090))~~ overseeing the effectiveness and the performance of authorizers. This oversight is ongoing and is not limited to the specific actions and procedures described in these rules. ~~((For the purposes of the board's rules governing the oversight of authorizers, the term "authorizer" means a school district board of directors that has been approved to be a charter school authorizer under RCW 28A.710.090.))~~

(2) In reviewing or evaluating the performance of authorizers against nationally recognized principles and standards for quality authorizing, the board will compare the authorizer's performance to the standards for quality set forth in the *Principles and Standards for Quality Charter School Authorizing* ~~((, 2012 edition, published by the~~

~~National Association of Charter School Authorizers. A link to this publication shall be posted on the board's public website).~~

(3) In carrying out its responsibilities for overseeing the performance and effectiveness of authorizers under RCW 28A.710.120, the board shall utilize information including, but not limited to, the annual authorizer reports submitted to the board under RCW 28A.710.100, all reports and data submitted to the office of the superintendent of public instruction under chapter 28A.710 RCW, charter contracts, and the findings of any special review conducted under RCW 28A.710.120(2). The board will require submission of, or access to, materials or data from the authorizer deemed reasonably necessary to evaluate the performance and effectiveness of the authorizer.

(4) The board may contract for services with persons or entities having relevant expertise in the performance of its duties under RCW 28A.710.120.

(5) The board may conduct site visits to charter schools in an authorizer's portfolio for the purpose of conducting oversight of the performance of an authorizer under these rules. The board shall provide reasonable notice to the authorizer and the charter governing board prior to a site visit.

(6) In carrying out its duties for oversight of the performance and effectiveness of authorizers under RCW 28A.710.120, the board shall respect the principal role and responsibility of the authorizer for monitoring and oversight of the charter school under RCW 28A.710.100, and the authority of the charter school board to manage and operate the charter school under RCW 28A.710.030 and the terms of its charter contract.

AMENDATORY SECTION (Amending WSR 14-08-033, filed 3/25/14, effective 4/25/14)

WAC 180-19-230 Oversight of authorizers—Special review. (1)

The board is authorized, upon a determination of persistently unsatisfactory performance of an authorizer's portfolio of charter schools, a pattern of well-founded complaints about the authorizer or its charter schools, a high percentage of charter school closures during the preceding 10-year period, or other objective circumstances, to conduct a special review of an authorizer's performance. The purpose of the special review is to determine the need for additional action by the board as provided in these rules.

(2) (~~"Persistently unsatisfactory performance of an authorizer's portfolio of charter schools" shall consist, for any school or schools, of:~~

~~(a) Repeated failure during a contract term, or consecutive contract terms, to meet the expectations for academic performance set forth in the charter contract including, but not limited to, applicable state and federal accountability requirements, without evidence of a trend indicating the school will meet those expectations;~~

~~(b) Repeated failure during a contract term, or consecutive contract terms, to meet the financial performance targets within the charter contract;~~

~~(c) Repeated failure during a contract term, or consecutive contract terms, to meet the targets for organizational performance within the charter contract.~~

~~(3) "A pattern of well-founded complaints" means multiple complaints that are found by the board to be supported by sufficient factual information alleging that an authorizer is not in compliance with a charter contract, its authorizing contract, or its authorizer duties, including the failure to develop and follow nationally recognized principles and standards for charter authorizing.~~

~~(a))~~ Any individual or entity may submit a written complaint to the board about an authorizer or its charter schools. The complaint should state in specific terms the alleged violation of law, failure to comply with a charter contract or its authorizing contract, or failure to develop and follow nationally recognized principles and standards for charter authorizing. The complaint must be signed and dated and provide contact information for use by the board in requesting additional information as deemed needed. The board shall post a standard form for submission of complaints on its public website.

~~((b))~~ (a) Upon receipt, the board shall transmit the complaint to the authorizer for its written response, which shall be submitted to the board within ~~((thirty))~~ 30 days of receipt.

~~((e))~~ (b) The board may request additional information from the complainant or the authorizer as deemed necessary to investigate the complaint.

~~((d))~~ (c) If the complaint is determined not to be well-founded, the board shall notify the complainant in writing and the board shall not be required to take further action.

~~((e))~~ (d) If the complaint is determined to be well-founded, the board shall provide written notification of such determination to the complainant and the authorizer.

~~((4) "Other objective circumstances" include, but are not limited to, failure of the authorizer or its charter schools to comply with an applicable state or federal law or regulation, or evidence that a charter school is not operating in a manner that fulfills the requirements of its charter contract or has a substantial risk of becoming operationally unable to fulfill those requirements.~~

~~(5))~~ (3) The board must provide written notice to the authorizer of initiation of a special review, documenting the reasons for the decision to conduct the review. The board must provide opportunity for the authorizer to respond in writing to the specific determinations of the need for the review and may take into consideration any corrective action by the authorizer or other considerations in the review.

~~((6))~~ (4) The board shall submit a written report of the results of the special review to the authorizer and other interested persons. The report may include recommended corrective actions. The report shall be posted on the board's public website.

(5) If the commission is the subject of the special review under this section, the state board of education shall have one year from the initiation of its review to complete the review and provide a report with findings and recommendations, including any recommendations for statutory revisions it deems necessary. The board will seek input from the commission on proposed findings and recommendations before completing the report, and will provide the commission the opportunity to provide a written response to the board's report that will be included when the board's report is provided to the governor, the superintendent of public instruction, and the appropriate committees of the house of representatives and the senate.

AMENDATORY SECTION (Amending WSR 17-20-070, filed 10/2/17, effective 11/2/17)

WAC 180-19-250 Oversight of authorizers—Revocation of authorizing contract.

(1) Evidence of material or persistent failure by an authorizer to carry out its duties according to nationally recognized principles and standards for charter authorizing is grounds for revocation of an authorizer's chartering contract. This may include:

(a) Failure to comply with the terms of the authorizing contract between the authorizer and the board;

(b) Violation of a term of the charter contract between the authorizer and a charter school board;

(c) A high percentage of charter school closures during the preceding 10-year period;

(d) Demonstrated failure to develop and follow chartering policies and practices that are consistent with the principles and standards for quality charter authorizing developed by the National Association of Charter School Authorizers in any of the following areas, as required by RCW 28A.710.100:

(i) Organizational capacity;

(ii) Soliciting and evaluating charter applications;

(iii) Performance contracting;

(iv) Ongoing charter school oversight and evaluation;

(v) Charter renewal decision making.

(2) Notice of intent to revoke. If the board makes a determination, after due notice to the authorizer and reasonable opportunity to effect a remedy, that the authorizer continues to be in violation of a material provision of a charter contract or its authorizing contract, or has failed to remedy other identified authorizing problems:

(a) The board shall notify the authorizer in writing that it intends to revoke the authorizer's chartering authority under RCW 28A.710.120. The notification to the authorizer shall explain and document the reasons for the intent to revoke chartering authority.

(b) The authorizer shall, within (~~thirty~~) 30 days of notification, submit a written response showing that the authorizer has implemented or will implement within (~~sixty~~) 60 days of submitting the written response, a sufficient remedy for the violation or deficiencies that are the stated grounds for the intent to revoke chartering authority. The board shall within (~~thirty~~) 30 days of receipt provide written notice to the authorizer whether it finds the proposed remedy sufficient to correct the violation or deficiencies.

(3) Notice of revocation. If the district authorizer fails to provide a timely written response or if the response is found insufficient by the board to meet the requirement set forth in subsection (1) of this section:

(a) The board shall provide the authorizer with written notice of revocation of the authorizer's chartering authority. The notice of revocation shall state the effective date of revocation, which shall not be sooner than (~~twenty~~) 20 days from the date of receipt of the notice of revocation by the authorizer unless a timely notice of a request for an adjudicative proceeding is filed as set forth herein.

(b) The authorizer may request an adjudicative proceeding to contest the revocation. The request for an adjudicative proceeding must be submitted in writing by the authorizer to the board within (~~twenty~~) 20 days of receipt of the notice of revocation at the following email address: sbe@k12.wa.us or mailing address:

State Board of Education
 Old Capitol Building
 P.O. Box 47206
 600 Washington St. S.E. (~~(, Room 253)~~)
 Olympia, Washington 98504

Any adjudicative proceeding shall be conducted in accordance with the Administrative Procedure Act (APA).

AMENDATORY SECTION (Amending WSR 17-20-070, filed 10/2/17, effective 11/2/17)

WAC 180-19-260 Authorizer oversight—Transfer of charter contract. (1) In the event that a notice of revocation is provided to ~~((the))~~ a district authorizer under WAC 180-19-250, any charter contract held by that authorizer shall be transferred, for the remaining portion of the charter term, to the Washington charter school commission on documentation of mutual agreement to the transfer by the charter school board and the commission.

(2) Documentation of mutual agreement shall consist of a written agreement between the charter school board and the commission, signed and dated by the chair or president of the charter school board and the chair of the commission. The agreement shall include any modification or amendment of the charter contract as may be mutually agreed upon by the charter school and the commission.

(3) The commission shall submit the agreement to the state board of education. The board shall review the agreement and on a determination that the requirements of these rules have been met, issue written certification of the transfer of the charter contract to the charter school board and the commission.

(4) On certification by the board of the transfer of the charter contract, the prior authorizer shall transfer to the commission all student records and school performance data collected and maintained in the performance of its duties as an authorizer under RCW 28A.710.100 and 28A.710.170.

(5) The commission, in consultation with the charter school board, shall develop and implement a procedure for timely notification to parents of the transfer of the charter contract and any modifications or amendments to the charter included in the written agreement executed under subsection (2) of this section.

(6) If mutual agreement is not obtained on the transfer of the charter contract under RCW 28A.710.120(6) and this section, the charter school shall be closed under the provisions of RCW 28A.710.210. The district shall develop and implement a termination protocol to ensure timely notification to parents, orderly transition of students and student records to new schools, as necessary, and proper disposition of public school funds, property, and assets. The protocol must include, at a minimum, a plan for addressing the following:

(a) Adequate and timely communication with parents, school staff and the community regarding the closing of the charter school and the options for student transfer to another public school;

(b) Retention of student, personnel, governance and financial records in compliance with all applicable laws and policies;

(c) The transfer of all student records in accordance with privacy rules set forth in the Family Educational Rights and Privacy Act (FERPA) and any applicable state laws and school district policies;

(d) Resolution of all financial obligations associated with the closure of the charter school;

(e) Return of the public funds in the possession of the charter school as provided for in RCW 28A.710.201(2), or as required by any other state law; and

(f) A plan for the disposition of all other assets, in compliance with applicable state and federal laws or district policies governing the assets.

The protocol must specify tasks, timelines, and responsible parties, including delineating the respective duties of the charter school and the authorizer. The district shall provide the board with a copy of the termination protocol. The board may review the protocol and request revisions for implementation.

(7) If a charter public school or its authorizer petitions the state board of education, under RCW 28A.710.210(3), for authorization to transfer a charter contract from one authorizer to another or from one charter school to another before the expiration of the charter contract, and if the potential transfer would entail a relocation to another school district, the petitioner shall transmit a written copy of the petition to the board and superintendent of the school district to which the charter public school may relocate, on the same date it submits the petition to the state board of education.