

WSR 22-11-054

PROPOSED RULES

CHARTER SCHOOL COMMISSION

[Filed May 13, 2022, 3:13 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-07-099.

Title of Rule and Other Identifying Information: General administrative and procedural rule changes in chapters 108-30 and 108-40 WAC. Changes are proposed to WAC 108-30-020, 108-30-030, 108-40-070, and 108-40-090.

Hearing Location(s): On June 29, 2022, at 10:30 a.m., Zoom <https://zoom.us/j/3607255511>, Dial[-in] 646-558-8656, Meeting ID 360 725 5511.

Date of Intended Adoption: August 18, 2022.

Submit Written Comments to: Jessica de Barros, 1068 Washington Street S.E., Olympia, WA 98501, email charterschoolinfo@k12.wa.us, by June 29, 2022.

Assistance for Persons with Disabilities: Contact Jessica de Barros, phone 360-725-5511, TTY 800-833-6388, email charterschoolinfo@k12.wa.us, by June 29, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The commission proposes to update procedural and administrative rule changes in order to clarify existing language and timelines and provide more detailed information about standards set out by the commission in adopted policies. The changes in existing rules include:

- Changes to a term from "school specific goals" to "mission specific goals";
- The updating of the process to better assist the charter public schools in navigating a renewal charter application and contract;
- Updated timeline associated with the updated renewal process;
- Updating terminology to align with state standards from "achievement index" to "school improvement framework"; and
- To update performance ratings for the organizational and financial performance frameworks to include an "approaching standard" rating.

Reasons Supporting Proposal: The changes are proposed as above to update language to align with currently used terminology. The commission has determined that an update of the renewal process should occur to align with the commission adopted policy and feedback from the inaugural process by schools and stakeholders, as the current process does not provide a streamlined timeline and order that is most relevant and meaningful for the evaluation of performance of a charter school in its fourth year of operation.

Statutory Authority for Adoption: Chapter 34.05 RCW; RCW 28A.710.100, 28A.710.170, 28A.710.190.

Statute Being Implemented: RCW 28A.710.170, 28A.710.190.

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

Name of Proponent: Charter school commission, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jessica de Barros, 1068 Washington Street S.E., Olympia, WA 98501, 360-725-5511.

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. The commission is not an agency that is required to perform an analysis under RCW 34.05.328

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(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

May 13, 2022
Jessica de Barros
Interim Executive Director

OTS-3033.1

AMENDATORY SECTION (Amending WSR 15-10-070, filed 5/1/15, effective 6/1/15)

WAC 108-30-020 Performance framework. (1) "Performance framework" means the standards that will be used by the commission to evaluate the performance of each charter school. The performance framework will be a source of information used by the commission to make decisions involving corrective action, renewal, modification, revocation, and/or termination of a charter school.

(2) The performance framework evaluates charter school performance and compliance in the areas of academic, financial, organizational, legal and mission specific performance and compliance. The commission will develop and post performance framework guidance for charter schools on the commission website.

(3) Academic performance and compliance. Academic performance and compliance measures whether the charter school meets or is making sufficient progress towards academic performance expectations. Academic performance and compliance includes, but is not limited to:

(a) Student achievement. Evaluation of student achievement includes evaluation of student academic proficiency in English language arts, science, and mathematics; evaluation of student achievement gaps in both proficiency and growth. In addition to overall data, this information 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.

(b) Comparative performance. Comparative performance is evaluated by comparing charter school students' performance on required state and federal assessments to performance of students in traditional public schools and charter schools with similar demographics. This is a comparison of overall student performance in English language arts (reading and writing), math, and science, as well as any other subjects that will in the future be tested. To the extent data is available comparison schools may include, but are not limited to, district-of-residence schools and peer or comparable schools whether charter or noncharter. As additional data for comparisons become available, the comparative performance evaluation will be adjusted. In addition to aggregate data, when available, this information must be disaggregated by major student subgroups including gender, race and ethnicity, pov-

erty status, special education status, English language learner status, and highly capable status.

(c) Student progress. Student progress is evaluated using the school's median student growth percentile in reading and mathematics. As additional growth-related data become available, this evaluation will be adjusted. In addition to aggregate data, when available, this information 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.

(d) Post secondary readiness (high school evaluation). Evaluation of post secondary readiness includes overall graduation rates in accordance with the state of Washington reporting requirements; comparison of charter school to district-of-residence graduation rates; comparison of charter school to peer or similar school graduation rates; and enrollment in post secondary institutions. As additional comparison data such as dual credit accrual, industry certification, 11th grade assessments, or others, become available, this evaluation will be adjusted. In addition to aggregate data, this information 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.

(e) State and federal accountability. Evaluation of the charter school's compliance with state and federal accountability rules, regulations, and laws and whether the school has met the targets set forth by the state accountability system including, but not limited to, provision of basic education, instruction in the essential academic learning requirements, statewide student assessments, performance improvement goals. In addition to overall data, this information 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.

(f) (~~Mission~~) School specific accountability. Evaluation of whether the charter school has met (~~mission~~) school specific goals identified in its contract.

(4) Financial performance and compliance. Financial performance and compliance measures the financial health and viability of a charter school. Financial performance and compliance includes, but is not limited to:

(a) Near term indicators. Evaluation of financial performance and compliance includes evaluation of charter school's assets and liabilities, available cash; actual enrollment as compared to enrollment projection and associated budget; loan and grant status.

(b) Sustainability indicators. Evaluation of sustainability indicators includes evaluation of net income and revenue; debt to asset ratio; cash flow; debt service ratio.

(c) Audit and accounting indicators. Evaluation of audit and accounting indicators includes evaluation of the charter school's compliance with generally accepted accounting principles; audit results and findings, if any.

(5) Organizational performance and compliance. Organizational performance and compliance measures compliance with specific terms and provisions of the charter contract and state and federal legal requirements. Organizational performance and compliance includes, but is not limited to:

(a) Education program. Evaluation of the education program includes evaluation of the charter school's education program in terms of compliance with specific performance expectations set forth in the

charter contract; compliance with requirements of local education agencies and public schools under those federal laws and regulations including, but not limited to, compliance with the Individuals With Disabilities Education Act, the Rehabilitation Act, the Federal Educational Rights Privacy Act, the Elementary And Secondary Education Act, McKinney-Vento Act, and any other applicable education laws or regulations.

(b) Charter school law compliance. Evaluation of charter school law compliance includes evaluation of the charter school's compliance with chapter 28A.710 RCW. This includes review of policies and practices related to admissions, waiting lists, recruitment, security and privacy.

(c) Safety and welfare compliance. Evaluation of student and employee compliance includes evaluation of the charter school's compliance with laws concerning employment of faculty and staff including, but not limited to, certification requirements and background checks; evaluation of student and employee disciplinary policies and procedures and application of associated legal and constitutional protections; evaluation of compliance with health and safety laws and regulations.

(d) Board performance and stewardship. Evaluation of board performance and stewardship will include evaluation of compliance with all applicable laws, rules, and terms of the charter contract as well as willingness and skill in identifying issues with management of the school and taking corrective action and in implementing any corrective actions imposed by the commission.

(e) Student involvement and retention. Evaluation of student involvement and retention will include evaluation of attendance and re-current enrollment.

(f) Mission specific accountability. Evaluation of whether the charter school has met mission specific goals identified in its contract including, but not limited to, proactive public engagement in student recruitment and demonstrated execution of a mission appropriate enrollment plan.

(6) Other. The commission may also include additional rigorous, valid, and reliable indicators to augment evaluations of the charter school's performance.

[Statutory Authority: RCW 28A.710.070. WSR 15-10-070, § 108-30-020, filed 5/1/15, effective 6/1/15; WSR 13-18-017, § 108-30-020, filed 8/23/13, effective 9/23/13.]

AMENDATORY SECTION (Amending WSR 13-18-017, filed 8/23/13, effective 9/23/13)

WAC 108-30-030 Rating categories. Unless otherwise deemed appropriate, academic measures will be rated using the following categories: Exceeds standard; meets standard; does not meet standard; falls far below standard. Financial and organizational measures will be rated using the following categories: Meets standard (~~(\oplus)~~); approaching standard; does not meet standard. Each of these ratings will be defined in relation to the measure being evaluated.

[Statutory Authority: RCW 28A.710.070. WSR 13-18-017, § 108-30-030, filed 8/23/13, effective 9/23/13.]

OTS-3502.1

AMENDATORY SECTION (Amending WSR 19-17-068, filed 8/20/19, effective 1/1/20)

WAC 296-27-01113 Recording criteria for occupational hearing loss cases. (1) The employer must record a hearing loss case on the OSHA 300 Log (~~(by checking)~~) and check the column for hearing loss if an employee's hearing test (audiogram) reveals that a ~~((recordable))~~ work-related standard threshold shift ~~((RTS))~~ (STS) has occurred in one or both ears ~~((has occurred))~~. Audiometric testing is required by chapter 296-817 WAC, Hearing loss prevention (noise).

(2) ~~((The employer must evaluate the employee's current audiogram with their baseline audiogram to determine whether a RTS has occurred. If the employee has previously experienced a recorded hearing loss, you must compare the employee's current audiogram with the audiogram reflecting the employee's previously recorded hearing loss case.~~

Note: Audiometric test results reflect the employee's overall hearing ability in comparison to audiometric zero. Therefore, using the employee's current audiogram, you must use the average hearing level at 2000, 3000, and 4000 Hz to determine whether or not the employee's total hearing level is 25 dB or more.

~~((3) To determine whether RTS has occurred,))~~ Minimum recordable hearing thresholds. It is not required to record an STS when the average threshold level for the employee's current audiogram at 2000 Hz, 3000 Hz, and 4000 Hz average less than 25 dB. No age adjustment is allowed for this determination.

(3) Age related hearing loss. The employer may age adjust the employee's current audiogram results by using Tables A-1 or A-2 in Appendix A of this chapter ~~((The employer may not use an age adjustment when determining whether the employee's total hearing level is 25 dB or more above audiometric zero))~~ to determine if it must be recorded (evaluations from WAC 296-817-20035(3) are still required). Compare the age-adjusted audiogram to the employee's original baseline audiogram or the last audiogram that resulted in a recordable STS (do not age adjust the baseline or previously recorded audiogram). If the average threshold shift at 2000, 3000, and 4000 Hz from the original baseline or previously recorded audiogram to the current age adjusted audiogram is less than 10 dB, the hearing loss case is not required to be recorded.

(4) The employer is not required to record the hearing loss case on the OSHA 300 Log if they retest the employee's hearing within thirty days of the first test, and the retest does not confirm the ~~((RTS))~~ STS. If the retest confirms the ~~((RTS))~~ STS, the employer must record the hearing loss illness within seven calendar days of the retest. If subsequent audiometric testing indicates that an ~~((RTS))~~ STS is not persistent, the employer may erase or line-out the recorded entry.

(5) Work-relatedness.

(a) The employer must consider the case to be work-related if an event or exposure in the work environment either caused or contributed to the hearing loss or significantly aggravated a preexisting hearing loss.

~~((6))~~ (b) The employer is not required to consider the case work-related or recordable if a physician or other licensed health care professional determines, following the rules set out in WAC 296-27-01103 Determination of work-relatedness, that the hearing loss is not work-related or has not been significantly aggravated by occupational noise exposure.

[Statutory Authority: RCW 49.17.010, 49.17.040, and 49.17.050. WSR 19-17-068, § 296-27-01113, filed 8/20/19, effective 1/1/20; WSR 15-11-066, § 296-27-01113, filed 5/19/15, effective 7/1/15. Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060. WSR 07-03-163, § 296-27-01113, filed 1/24/07, effective 4/1/07; WSR 03-24-085, § 296-27-01113, filed 12/2/03, effective 1/1/04; WSR 02-22-029, § 296-27-01113, filed 10/28/02, effective 1/1/03. Statutory Authority: RCW 49.17.010, [49.17].040, and [49.17].050. WSR 02-01-064, § 296-27-01113, filed 12/14/01, effective 1/1/02.]