

REFERENCE TITLE: charter school; training; posting; procurement

State of Arizona  
Senate  
Fifty-fourth Legislature  
First Regular Session  
2019

## **SB 1394**

Introduced by  
Senators Brophy McGee: Allen S, Alston, Boyer, Bradley, Carter, Navarrete;  
Representatives Espinoza, Hernandez A, Hernandez D, Sierra, Udall

AN ACT

AMENDING SECTIONS 15-182 AND 15-183, ARIZONA REVISED STATUTES; AMENDING TITLE 15, CHAPTER 1, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-183.02; AMENDING SECTION 15-213, ARIZONA REVISED STATUTES; RELATING TO CHARTER SCHOOLS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-182, Arizona Revised Statutes, is amended to  
3 read:

4 15-182. State board for charter schools: membership; terms;  
5 compensation; duties

6 A. The state board for charter schools is established consisting of  
7 the following members:

8 1. The superintendent of public instruction or the superintendent's  
9 designee.

10 2. Six members of the general public, at least two of whom ~~shall~~  
11 reside in a school district where at least sixty percent of the children  
12 who attend school in the district meet the eligibility requirements  
13 established under the national school lunch and child nutrition acts (42  
14 United States Code sections 1751 through 1785) for free lunches, and at  
15 least one of whom ~~shall reside~~ RESIDES on an Indian reservation, who are  
16 appointed by the governor pursuant to section 38-211.

17 3. Two members of the business community who are appointed by the  
18 governor pursuant to section 38-211.

19 4. A teacher who provides classroom instruction at a charter school  
20 and who is appointed by the governor pursuant to section 38-211.

21 5. An operator of a charter school who is appointed by the governor  
22 pursuant to section 38-211.

23 6. Three members of the legislature who ~~shall~~ serve as advisory  
24 members and who are appointed jointly by the president of the senate and  
25 the speaker of the house of representatives.

26 B. The superintendent of public instruction ~~shall serve~~ SERVES a  
27 term on the state board for charter schools that runs concurrently with  
28 the superintendent's term of office. The members appointed pursuant to  
29 subsection A, paragraph 6 of this section ~~shall~~ serve two-year terms on  
30 the state board for charter schools that begin and end on the third Monday  
31 in January and that run concurrently with their respective terms of  
32 office. Members appointed pursuant to subsection A, paragraphs 2, 3, 4  
33 and 5 of this section ~~shall~~ serve staggered four-year terms that begin and  
34 end on the third Monday in January.

35 C. The state board for charter schools shall annually elect a  
36 president and such other officers as it deems necessary from among its  
37 membership.

38 D. Members of the state board for charter schools are not eligible  
39 to receive compensation but are eligible for reimbursement of expenses  
40 pursuant to title 38, chapter 4, article 2.

41 E. The state board for charter schools shall:

42 1. Exercise general supervision over charter schools that are  
43 sponsored by the board, recommend legislation pertaining to charter  
44 schools to the legislature and adopt rules and policies that the STATE

1 board deems necessary to accomplish the purposes prescribed in this  
2 section.

3 2. Grant charter status to qualifying applicants for charter  
4 schools pursuant to section 15-183.

5 3. Adopt and use an official seal in the authentication of its  
6 acts.

7 4. Keep a record of its proceedings.

8 5. Adopt rules for its own government.

9 6. Determine the policy of the STATE board and the work undertaken  
10 by it.

11 7. Delegate to the superintendent of public instruction the  
12 execution of STATE board policies.

13 8. Prepare a budget for expenditures necessary for the proper  
14 maintenance of the STATE board and the accomplishment of its purpose.

15 9. PROVIDE A TRAINING COURSE FOR GOVERNING BODY MEMBERS AND KEY  
16 ADMINISTRATIVE PERSONNEL OF CHARTER SCHOOLS. THE STATE BOARD SHALL  
17 DEVELOP THE COURSE WITH INPUT FROM CURRENT CHARTER SCHOOL OPERATORS, THE  
18 ATTORNEY GENERAL'S OFFICE AND A STATEWIDE ASSOCIATION OF CHARTER SCHOOLS.  
19 EACH NEW GOVERNING BODY MEMBER AND EACH NEW KEY ADMINISTRATIVE PERSONNEL  
20 MEMBER OF A CHARTER SCHOOL SHALL COMPLETE THE COURSE WITHIN THE FIRST YEAR  
21 AFTER THE GOVERNING BODY MEMBER'S APPOINTMENT TO THE CHARTER SCHOOL  
22 GOVERNING BODY OR THE KEY ADMINISTRATIVE PERSONNEL MEMBER'S EMPLOYMENT AT  
23 THE CHARTER SCHOOL. AT NO COST TO THE CHARTER SCHOOL, THE STATE BOARD  
24 SHALL MAKE THE COURSE AVAILABLE ONLINE AND SHALL ISSUE A CERTIFICATE OF  
25 COMPLETION TO EACH PERSON WHO COMPLETES THE COURSE. THE COURSE SHALL  
26 PROVIDE CONTENT RELATED TO ALL OF THE FOLLOWING:

27 1. THE OPEN MEETING LAW.

28 2. PUBLIC RECORDS REQUIREMENTS.

29 3. ENROLLMENT LAWS AND REGULATIONS.

30 4. APPLICABLE PROCUREMENT RULES.

31 5. STUDENT DISCIPLINE.

32 F. The state board for charter schools may:

33 1. Contract.

34 2. Sue and be sued.

35 3. Use the services of the auditor general.

36 4. Subject to title 41, chapter 4, article 4 and legislative  
37 appropriation, employ staff.

38 G. The state board for charter schools may accept gifts or grants  
39 of monies or real or personal property from public and private  
40 organizations, if the purpose of the gift or grant specified by the donor  
41 is approved by the STATE board and is within the scope of the STATE  
42 board's powers and duties. The STATE board shall establish and administer  
43 a gift and grant fund for the deposit of monies received pursuant to this  
44 subsection.

1 H. FOR THE PURPOSES OF SUBSECTION E, PARAGRAPH 9 OF THIS SECTION,  
2 "KEY ADMINISTRATIVE PERSONNEL" MEANS PERSONS WHO THE CHARTER SCHOOL  
3 DETERMINES HAVE ADMINISTRATIVE RESPONSIBILITIES ASSOCIATED WITH THE OPEN  
4 MEETING LAW, PUBLIC RECORDS, STUDENT ENROLLMENT, PROCUREMENT OR STUDENT  
5 DISCIPLINE.

6 Sec. 2. Section 15-183, Arizona Revised Statutes, is amended to  
7 read:

8 15-183. Charter schools; application; requirements; immunity;  
9 exemptions; renewal of application; reprisal; fee;  
10 funds; annual reports

11 A. An applicant seeking to establish a charter school shall submit  
12 ~~a written~~ AN application to a proposed sponsor as prescribed in subsection  
13 C of this section. The application, application process and application  
14 time frames shall be posted on the sponsor's website and shall include the  
15 following, as specified in the application adopted by the sponsor:

- 16 1. A detailed educational plan.
- 17 2. A detailed business plan.
- 18 3. A detailed operational plan.
- 19 4. Any other materials required by the sponsor.

20 B. The sponsor of a charter school may contract with a public body,  
21 private person or private organization for the purpose of establishing a  
22 charter school pursuant to this article.

23 C. The sponsor of a charter school may be either the state board of  
24 education, the state board for charter schools, a university under the  
25 jurisdiction of the Arizona board of regents, a community college district  
26 or a group of community college districts, subject to the following  
27 requirements:

28 1. An applicant may not ~~submit an application~~ APPLY for sponsorship  
29 to any person or entity other than those prescribed in this subsection.

30 2. The applicant may ~~submit the application~~ APPLY to the state  
31 board of education or the state board for charter schools.  
32 Notwithstanding any other law, neither the state board for charter schools  
33 nor the state board of education shall grant a charter to a school  
34 district governing board for a new charter school or for the conversion of  
35 an existing district public school to a charter school. The state board  
36 of education or the state board for charter schools may approve the  
37 application if the application meets the requirements of this article and  
38 may approve the charter if the proposed sponsor determines, within its  
39 sole discretion, that the applicant is sufficiently qualified to operate a  
40 charter school and that the applicant is applying to operate as a separate  
41 charter holder by considering factors such as whether:

42 (a) The schools have separate governing bodies, governing body  
43 membership, staff, facilities and student population.

44 (b) Daily operations are carried out by different administrators.

1 (c) The applicant intends to have an affiliation agreement for the  
2 purpose of providing enrollment preferences.

3 (d) The applicant's charter management organization has multiple  
4 charter holders serving varied grade configurations on one physical site  
5 or nearby sites serving one community.

6 (e) ~~it~~ THE APPLICANT is reconstituting an existing school site  
7 population at the same or new site.

8 (f) ~~it~~ THE APPLICANT is reconstituting an existing grade  
9 configuration from a prior charter holder with at least one grade  
10 remaining on the original site with the other grade or grades moving to a  
11 new site. The state board of education or the state board for charter  
12 schools may approve any charter schools transferring charters. If the  
13 state board of education or the state board for charter schools rejects  
14 the preliminary application, the state board of education or the state  
15 board for charter schools shall notify the applicant in writing of the  
16 reasons for the rejection and of suggestions for improving the  
17 application. An applicant may submit a revised application for  
18 reconsideration by the state board of education or the state board for  
19 charter schools. The applicant may request, and the state board of  
20 education or the state board for charter schools may provide, technical  
21 assistance to improve the application.

22 3. The applicant may submit the application to a university under  
23 the jurisdiction of the Arizona board of regents, a community college  
24 district or a group of community college districts. A university, a  
25 community college district or a group of community college districts shall  
26 not grant a charter to a school district governing board for a new charter  
27 school or for the conversion of an existing district public school to a  
28 charter school. A university, a community college district or a group of  
29 community college districts may approve the application if it meets the  
30 requirements of this article and if the proposed sponsor determines, in  
31 its sole discretion, that the applicant is sufficiently qualified to  
32 operate a charter school.

33 4. Each applicant seeking to establish a charter school shall  
34 submit a full set of fingerprints to the approving agency for the purpose  
35 of obtaining a state and federal criminal records check pursuant to  
36 section 41-1750 and Public Law 92-544. If an applicant will have direct  
37 contact with students, the applicant shall possess a valid fingerprint  
38 clearance card that is issued pursuant to title 41, chapter 12,  
39 article 3.1. The department of public safety may exchange this  
40 fingerprint data with the federal bureau of investigation. The criminal  
41 records check shall be completed before the issuance of a charter.

42 5. All persons engaged in instructional work directly as a  
43 classroom, laboratory or other teacher or indirectly as a supervisory  
44 teacher, speech therapist or principal shall have a valid fingerprint  
45 clearance card that is issued pursuant to title 41, chapter 12,

1 article 3.1, unless the person is a volunteer or guest speaker who is  
2 accompanied in the classroom by a person with a valid fingerprint  
3 clearance card. A charter school shall not employ a teacher whose  
4 certificate has been surrendered or revoked, unless the teacher's  
5 certificate has been subsequently reinstated by the state board of  
6 education. All other personnel shall be fingerprint checked pursuant to  
7 section 15-512, or the charter school may require those personnel to  
8 obtain a fingerprint clearance card issued pursuant to title 41, chapter  
9 12, article 3.1. Before employment, the charter school shall make  
10 documented, good faith efforts to contact previous employers of a person  
11 to obtain information and recommendations that may be relevant to ~~a~~ THE  
12 person's fitness for employment as prescribed in section 15-512,  
13 subsection F. The charter school shall notify the department of public  
14 safety if the charter school or sponsor receives credible evidence that a  
15 person who possesses a valid fingerprint clearance card is arrested for or  
16 is charged with an offense listed in section 41-1758.03, subsection B. A  
17 person who is employed at a charter school that has met the requirements  
18 of this paragraph is not required to meet any additional requirements that  
19 are established by the department of education or that may be established  
20 by rule by the state board of education. The state board of education may  
21 not adopt rules that exceed the requirements for persons WHO ARE qualified  
22 to teach in charter schools prescribed in title I of the every student  
23 succeeds act (P.L. 114-95) or the individuals with disabilities education  
24 improvement act of 2004 (P.L. 108-446). Charter schools may hire  
25 personnel who have not yet received a fingerprint clearance card if proof  
26 is provided of the submission of an application to the department of  
27 public safety for a fingerprint clearance card and if the charter school  
28 that is seeking to hire the applicant does all of the following:

29 (a) Documents in the applicant's file the necessity for hiring and  
30 ~~placement of~~ PLACING the applicant before ~~receiving~~ THE APPLICANT RECEIVES  
31 a fingerprint clearance card.

32 (b) Ensures that the department of public safety completes a  
33 statewide criminal records check on the applicant. A statewide criminal  
34 records check shall be completed by the department of public safety every  
35 one hundred twenty days until the date that the fingerprint check is  
36 completed or the fingerprint clearance card is issued or denied.

37 (c) Obtains references from the applicant's current employer and  
38 the two most recent previous employers except for applicants who have been  
39 employed for at least five years by the applicant's most recent employer.

40 (d) Provides general supervision of the applicant until the date  
41 that the fingerprint card is obtained.

42 (e) Completes a search of criminal records in all local  
43 jurisdictions outside of this state in which the applicant has lived in  
44 the previous five years.

1 (f) Verifies the fingerprint status of the applicant with the  
2 department of public safety.

3 6. A charter school that complies with the fingerprinting  
4 requirements of this section shall be deemed to have complied with section  
5 15-512 and is entitled to the same rights and protections provided to  
6 school districts by section 15-512.

7 7. If a charter school operator is not already subject to a public  
8 meeting or hearing by the municipality in which the charter school is  
9 located, the operator of a charter school shall conduct a public meeting  
10 at least thirty days before the charter school operator opens a site or  
11 sites for the charter school. The charter school operator shall post  
12 notices of the public meeting in at least three different locations that  
13 are within three hundred feet of the proposed charter school site.

14 8. A person who is employed by a charter school or who is an  
15 applicant for employment with a charter school, who is arrested for or  
16 charged with a nonappealable offense listed in section 41-1758.03,  
17 subsection B and who does not immediately report the arrest or charge to  
18 the person's supervisor or potential employer is guilty of unprofessional  
19 conduct and the person shall be immediately dismissed from employment with  
20 the charter school or immediately excluded from potential employment with  
21 the charter school.

22 9. A person who is employed by a charter school and who is  
23 convicted of any nonappealable offense listed in section 41-1758.03,  
24 subsection B or is convicted of any nonappealable offense that amounts to  
25 unprofessional conduct under section 15-550 shall immediately do all of  
26 the following:

27 (a) Surrender any certificates issued by the department of  
28 education.

29 (b) Notify the person's employer or potential employer of the  
30 conviction.

31 (c) Notify the department of public safety of the conviction.

32 (d) Surrender the person's fingerprint clearance card.

33 D. An entity that is authorized to sponsor charter schools pursuant  
34 to this article has no legal authority over or responsibility for a  
35 charter school sponsored by a different entity. This subsection does not  
36 apply to the state board of education's duty to exercise general  
37 supervision over the public school system pursuant to section 15-203,  
38 subsection A, paragraph 1.

39 E. The charter of a charter school shall do all of the following:

40 1. Ensure compliance with federal, state and local rules,  
41 regulations and statutes relating to health, safety, civil rights and  
42 insurance. The department of education shall publish a list of relevant  
43 rules, regulations and statutes to notify charter schools of their  
44 responsibilities under this paragraph.

1           2. Ensure that it is nonsectarian in its programs, admission  
2 policies and employment practices and all other operations.

3           3. Ensure that it provides a comprehensive program of instruction  
4 for at least a kindergarten program or any grade between grades one and  
5 twelve, except that a school may offer this curriculum with an emphasis on  
6 a specific learning philosophy or style or certain subject areas such as  
7 mathematics, science, fine arts, performance arts or foreign language.

8           4. Ensure that it designs a method to measure pupil progress toward  
9 the pupil outcomes adopted by the state board of education pursuant to  
10 section 15-741.01, including participation in the statewide assessment and  
11 the nationally standardized norm-referenced achievement test as designated  
12 by the state board and the completion and distribution of an annual report  
13 card as prescribed in chapter 7, article 3 of this title.

14           5. Ensure that, except as provided in this article and in its  
15 charter, it is exempt from all statutes and rules relating to schools,  
16 governing boards and school districts.

17           6. Ensure that, except as provided in this article, it is subject  
18 to the same financial and electronic data submission requirements as a  
19 school district, including the uniform system of financial records as  
20 prescribed in chapter 2, article 4 of this title, ~~procurement rules as~~  
21 ~~prescribed in section 15-213~~ and audit requirements. The auditor general  
22 shall conduct a comprehensive review and revision of the uniform system of  
23 financial records to ensure that the provisions of the uniform system of  
24 financial records that relate to charter schools are in accordance with  
25 commonly accepted accounting principles used by private business. A  
26 school's charter may include exceptions to the requirements of this  
27 paragraph that are necessary as determined by the university, the  
28 community college district, the group of community college districts, the  
29 state board of education or the state board for charter schools. The  
30 department of education or the office of the auditor general may conduct  
31 financial, program or compliance audits.

32           7. Ensure compliance with all federal and state laws relating to  
33 the education of children with disabilities in the same manner as a school  
34 district.

35           8. Ensure that it provides for a governing body for the charter  
36 school that is responsible for the policy decisions of the charter school.  
37 THERE SHALL BE AT LEAST THREE GOVERNING BODY MEMBERS. NOT MORE THAN TWO  
38 IMMEDIATE FAMILY MEMBERS MAY SERVE SIMULTANEOUSLY ON THE GOVERNING BODY OF  
39 THE SAME CHARTER SCHOOL, AND IMMEDIATE FAMILY MEMBERS MAY NOT BE A  
40 MAJORITY OF THE GOVERNING BODY MEMBERS OF THE SAME CHARTER SCHOOL.  
41 Notwithstanding section 1-216, if there is a vacancy or vacancies on the  
42 governing body, a majority of the remaining members of the governing body  
43 constitute a quorum for the transaction of business, unless that quorum is  
44 prohibited by the charter school's operating agreement. FOR THE PURPOSES



1 OF THIS PARAGRAPH, "IMMEDIATE FAMILY" HAS THE SAME MEANING PRESCRIBED IN  
2 SECTION 15-421.

3 9. Ensure that it provides a minimum of one hundred eighty  
4 instructional days before June 30 of each fiscal year unless it is  
5 operating on an alternative calendar approved by its sponsor. The  
6 superintendent of public instruction shall adjust the apportionment  
7 schedule accordingly to accommodate a charter school utilizing an  
8 alternative calendar.

9 F. A charter school shall keep in the personnel file of ~~all~~ EACH  
10 current ~~employees~~ EMPLOYEE who ~~provide~~ PROVIDES instruction to pupils at  
11 the charter school information about the employee's educational and  
12 teaching background and experience in a particular academic content  
13 subject area. A charter school shall inform parents and guardians of the  
14 availability of the information and shall make the information available  
15 for inspection on request of parents and guardians of pupils enrolled at  
16 the charter school. This subsection does not require any charter school  
17 to release personally identifiable information in relation to any teacher  
18 or employee, including the teacher's or employee's address, salary, social  
19 security number or telephone number.

20 G. The charter of a charter school may be amended at the request of  
21 the governing body of the charter school and on the approval of the  
22 sponsor.

23 H. Charter schools may contract, sue and be sued.

24 I. The charter is effective for fifteen years from the first day of  
25 the fiscal year as specified in the charter, subject to the following:

26 1. At least eighteen months before the expiration of the charter,  
27 the sponsor shall notify the charter school that the charter school may  
28 apply for renewal and shall make the renewal application available to the  
29 charter school. A charter school that elects to apply for renewal shall  
30 file a complete renewal application at least fifteen months before ~~the~~  
31 ~~expiration of~~ the charter EXPIRES. A sponsor shall give written notice of  
32 its intent not to renew the charter school's request for renewal to the  
33 charter school at least twelve months before ~~the expiration of~~ the charter  
34 EXPIRES. The sponsor shall make data used in making renewal decisions  
35 available to the school and the public and shall provide a public report  
36 summarizing the evidence basis for each decision. The sponsor may deny  
37 the request for renewal if, in its judgment, the charter holder has failed  
38 to do any of the following:

39 (a) Meet or make sufficient progress toward the academic  
40 performance expectations set forth in the performance framework.

41 (b) Meet the operational performance expectations set forth in the  
42 performance framework or any improvement plans.

43 (c) Meet the financial performance expectations set forth in the  
44 performance framework or any improvement plans.

45 (d) Complete the obligations of the contract.

1 (e) Comply with this article or any provision of law from which the  
2 charter school is not exempt.

3 2. A charter operator may apply for early renewal. At least nine  
4 months before the charter school's intended renewal consideration, the  
5 operator of the charter school shall submit a letter of intent to the  
6 sponsor to apply for early renewal. The sponsor shall review fiscal  
7 audits and academic performance data for the charter school that are  
8 annually collected by the sponsor, review the current contract between the  
9 sponsor and the charter school and provide the qualifying charter school  
10 with a renewal application. On submission of a complete application, the  
11 sponsor shall give written notice of its consideration of the renewal  
12 application. The sponsor may deny the request for early renewal if, in  
13 the sponsor's judgment, the charter holder has failed to do any of the  
14 following:

15 (a) Meet or make sufficient progress toward the academic  
16 performance expectations set forth in the performance framework.

17 (b) Meet the operational performance expectations set forth in the  
18 performance framework or any improvement plans.

19 (c) Meet the financial performance expectations set forth in the  
20 performance framework or any improvement plans.

21 (d) Complete the obligations of the contract.

22 (e) Comply with this article or any provision of law from which the  
23 charter school is not exempt.

24 3. A sponsor shall review a charter at five-year intervals using a  
25 performance framework adopted by the sponsor and may revoke a charter at  
26 any time if the charter school breaches one or more provisions of its  
27 charter or if the sponsor determines that the charter holder has failed to  
28 do any of the following:

29 (a) Meet or make sufficient progress toward the academic  
30 performance expectations set forth in the performance framework.

31 (b) Meet the operational performance expectations set forth in the  
32 performance framework or any improvement plans.

33 (c) Meet the financial performance expectations set forth in the  
34 performance framework or any improvement plans.

35 (d) Comply with this article or any provision of law from which the  
36 charter school is not exempt.

37 4. In determining whether to renew or revoke a charter holder, the  
38 sponsor must consider making sufficient progress toward the academic  
39 performance expectations set forth in the sponsor's performance framework  
40 as one of the most important factors.

41 5. At least sixty days before the effective date of the proposed  
42 revocation, the sponsor shall give written notice to the operator of the  
43 charter school of its intent to revoke the charter. Notice of the  
44 sponsor's intent to revoke the charter shall be delivered personally to  
45 the operator of the charter school or sent by certified mail, return

1 receipt requested, to the address of the charter school. The notice shall  
2 incorporate a statement of reasons for the proposed revocation of the  
3 charter. The sponsor shall allow the charter school at least sixty days  
4 to correct the problems associated with the reasons for the proposed  
5 revocation of the charter. The final determination of whether to revoke  
6 the charter shall be made at a public hearing called for ~~such~~ THAT  
7 purpose.

8 J. The charter may be renewed for successive periods of twenty  
9 years.

10 K. A charter school that is sponsored by the state board of  
11 education, the state board for charter schools, a university, a community  
12 college district or a group of community college districts may not be  
13 located on the property of a school district unless the district governing  
14 board grants this authority.

15 L. A governing board or a school district employee who has control  
16 over personnel actions shall not take unlawful reprisal against another  
17 employee of the school district because the employee is directly or  
18 indirectly involved in an application to establish a charter school. A  
19 governing board or a school district employee shall not take unlawful  
20 reprisal against an educational program of the school or the school  
21 district because an application to establish a charter school proposes ~~the~~  
22 ~~conversion of~~ CONVERTING all or a portion of the educational program to a  
23 charter school. For the purposes of this subsection, "unlawful reprisal"  
24 means an action that is taken by a governing board or a school district  
25 employee as a direct result of a lawful application to establish a charter  
26 school and that is adverse to another employee or an education program  
27 and:

28 1. With respect to a school district employee, results in one or  
29 more of the following:

- 30 (a) Disciplinary or corrective action.
- 31 (b) Detail, transfer or reassignment.
- 32 (c) Suspension, demotion or dismissal.
- 33 (d) An unfavorable performance evaluation.
- 34 (e) A reduction in pay, benefits or awards.
- 35 (f) Elimination of the employee's position without a reduction in  
36 force by reason of lack of monies or work.
- 37 (g) Other significant changes in duties or responsibilities that  
38 are inconsistent with the employee's salary or employment classification.

39 2. With respect to an educational program, results in one or more  
40 of the following:

- 41 (a) Suspension or termination of the program.
- 42 (b) Transfer or reassignment of the program to a less favorable  
43 department.
- 44 (c) Relocation of the program to a less favorable site within the  
45 school or school district.

1 (d) Significant reduction or termination of funding for the  
2 program.

3 M. Charter schools shall secure insurance for liability and  
4 property loss. The governing body of a charter school that is sponsored  
5 by the state board of education or the state board for charter schools may  
6 enter into an intergovernmental agreement or otherwise contract to  
7 participate in an insurance program offered by a risk retention pool  
8 established pursuant to section 11-952.01 or 41-621.01 or the charter  
9 school may secure its own insurance coverage. The pool may charge the  
10 requesting charter school reasonable fees for any services it performs in  
11 connection with the insurance program.

12 N. Charter schools do not have the authority to acquire property by  
13 eminent domain.

14 O. A sponsor, including members, officers and employees of the  
15 sponsor, is immune from personal liability for all acts done and actions  
16 taken in good faith within the scope of its authority.

17 P. Charter school sponsors and this state are not liable for the  
18 debts or financial obligations of a charter school or persons who operate  
19 charter schools.

20 Q. The sponsor of a charter school shall establish procedures to  
21 conduct administrative hearings on determination by the sponsor that  
22 grounds exist to revoke a charter. Procedures for administrative hearings  
23 shall be similar to procedures prescribed for adjudicative proceedings in  
24 title 41, chapter 6, article 10. Except as provided in section  
25 41-1092.08, subsection H, final decisions of the state board of education  
26 and the state board for charter schools from hearings conducted pursuant  
27 to this subsection are subject to judicial review pursuant to title 12,  
28 chapter 7, article 6.

29 R. The sponsoring entity of a charter school shall have oversight  
30 and administrative responsibility for the charter schools that it  
31 sponsors. In implementing its oversight and administrative  
32 responsibilities, the sponsor shall ground its actions in evidence of the  
33 charter holder's performance in accordance with the performance framework  
34 adopted by the sponsor. The performance framework shall be publicly  
35 available, shall be placed on the sponsoring entity's website and shall  
36 include:

37 1. The academic performance expectations of the charter school and  
38 the measurement of sufficient progress toward the academic performance  
39 expectations.

40 2. The operational expectations of the charter school, including  
41 adherence to all applicable laws and obligations of the charter contract.

42 3. The financial expectations of the charter school.

43 4. Intervention and improvement policies.

44 S. Charter schools may pledge, assign or encumber their assets to  
45 be used as collateral for loans or extensions of credit.

1 T. All property accumulated by a charter school shall remain the  
2 property of the charter school.

3 U. Charter schools may not locate a school on property that is less  
4 than one-fourth mile from agricultural land regulated pursuant to section  
5 3-365, except that the owner of the agricultural land may agree to comply  
6 with the buffer zone requirements of section 3-365. If the owner agrees  
7 in writing to comply with the buffer zone requirements and records the  
8 agreement in the office of the county recorder as a restrictive covenant  
9 running with the title to the land, the charter school may locate a school  
10 within the affected buffer zone. The agreement may include any  
11 stipulations regarding the charter school, including conditions for future  
12 expansion of the school and changes in the operational status of the  
13 school that will result in a breach of the agreement.

14 V. A transfer of a charter to another sponsor, a transfer of a  
15 charter school site to another sponsor or a transfer of a charter school  
16 site to a different charter shall be completed before the beginning of the  
17 fiscal year that the transfer is scheduled to become effective. An entity  
18 that sponsors charter schools may accept a transferring school after the  
19 beginning of the fiscal year if the transfer is approved by the  
20 superintendent of public instruction. The superintendent of public  
21 instruction shall have the discretion to consider each transfer during the  
22 fiscal year on a case-by-case basis. A charter holder seeking to transfer  
23 sponsors shall comply with the current charter terms regarding assignment  
24 of the charter. A charter holder transferring sponsors shall notify the  
25 current sponsor that the transfer has been approved by the new sponsor.

26 W. Notwithstanding subsection V of this section, a charter holder  
27 on an improvement plan must notify parents or guardians of registered  
28 students of the intent to transfer the charter and the timing of the  
29 proposed transfer. On the approved transfer, the new sponsor shall  
30 enforce the improvement plan but may modify the plan based on performance.

31 X. Notwithstanding subsection Y of this section, the state board  
32 for charter schools shall charge a processing fee to any charter school  
33 that amends its contract to participate in Arizona online instruction  
34 pursuant to section 15-808. The charter Arizona online instruction  
35 processing fund is established consisting of fees collected and  
36 administered by the state board for charter schools. The state board for  
37 charter schools shall use monies in the fund only for ~~the~~ processing ~~of~~  
38 contract amendments for charter schools participating in Arizona online  
39 instruction. Monies in the fund are continuously appropriated.

40 Y. The sponsoring entity may not charge any fees to a charter  
41 school that it sponsors unless the sponsor has provided services to the  
42 charter school and the fees represent the full value of those services  
43 provided by the sponsor. On request, the value of the services provided  
44 by the sponsor to the charter school shall be demonstrated to the  
45 department of education.

1           Z. Charter schools may enter into an intergovernmental agreement  
2 with a presiding judge of the juvenile court to implement a law-related  
3 education program as defined in section 15-154. The presiding judge of  
4 the juvenile court may assign juvenile probation officers to participate  
5 in a law-related education program in any charter school in the  
6 county. The cost of juvenile probation officers who participate in the  
7 program implemented pursuant to this subsection shall be funded by the  
8 charter school.

9           AA. The sponsor of a charter school shall modify previously  
10 approved curriculum requirements for a charter school that wishes to  
11 participate in the board examination system prescribed in chapter 7,  
12 article 6 of this title.

13           BB. If a charter school decides not to participate in the board  
14 examination system prescribed in chapter 7, article 6 of this title,  
15 pupils enrolled at that charter school may earn a Grand Canyon diploma by  
16 obtaining a passing score on the same board examinations.

17           CC. Notwithstanding subsection Y of this section, a sponsor of  
18 charter schools may charge a new charter application processing fee to any  
19 applicant. The application fee shall fully cover the cost of application  
20 review and any needed technical assistance. Authorizers may approve  
21 policies that allow a portion of the fee to be returned to the applicant  
22 whose charter is approved.

23           DD. A charter school may choose to provide a preschool program for  
24 children with disabilities pursuant to section 15-771.

25           EE. Pursuant to the prescribed graduation requirements adopted by  
26 the state board of education, the governing body of a charter school  
27 operating a high school may approve a rigorous computer science course  
28 that would fulfill a mathematics course required for graduation from high  
29 school. The governing body may approve a rigorous computer science course  
30 only if the rigorous computer science course includes significant  
31 mathematics content and the governing body determines the high school  
32 where the rigorous computer science course is offered has sufficient  
33 capacity, infrastructure and qualified staff, including competent teachers  
34 of computer science.

35           FF. A charter school may permit the use of school property,  
36 including school buildings, grounds, buses and equipment, by any person,  
37 group or organization for any lawful purpose, including a recreational,  
38 educational, political, economic, artistic, moral, scientific, social,  
39 religious or other civic or governmental purpose. The charter school may  
40 charge a reasonable fee for the use of the school property.

41           GG. A charter school and its employees, including the governing  
42 body, or chief administrative officer, are immune from civil liability  
43 with respect to all decisions made and actions taken to allow the use of  
44 school property, unless the charter school or its employees are guilty of

1 gross negligence or intentional misconduct. This subsection does not  
2 limit any other immunity provisions that are prescribed by law.

3 HH. Sponsors authorized pursuant to this section shall submit an  
4 annual report to the auditor general on or before October 1. The report  
5 shall include:

6 1. The current number of charters authorized and the number of  
7 schools operated by authorized charter holders.

8 2. The academic, operational and financial performance of the  
9 sponsor's charter portfolio as measured by the sponsor's adopted  
10 performance framework.

11 3. For the prior year, the number of new charters approved, the  
12 number of charter schools closed and the reason for the closure.

13 4. The sponsor's application, amendment, renewal and revocation  
14 processes, charter contract template and current performance framework as  
15 required by this section.

16 II. The auditor general shall prescribe the format for the annual  
17 report required by subsection HH of this section and may require that the  
18 annual report be submitted electronically. The auditor general shall  
19 review the submitted annual reports to ensure that the reports include the  
20 required items in subsection HH of this section and shall make the annual  
21 reports available on request. If the auditor general finds significant  
22 noncompliance or if a sponsor fails to submit the annual report required  
23 by subsection HH of this section, on or before December 31 of each year  
24 the auditor general shall report to the governor, the president of the  
25 senate, the speaker of the house of representatives and the chairs of the  
26 senate and house education committees or their successor committees, and  
27 the legislature shall consider revoking the sponsor's authority to sponsor  
28 charter schools.

29 JJ. THE SPONSOR OF A CHARTER SCHOOL SHALL ANNUALLY COMPILE  
30 INFORMATION PERTAINING TO THE GOVERNANCE AND OPERATIONS OF EACH CHARTER  
31 SCHOOL IT SPONSORS. A NONPROFIT CHARTER HOLDER THAT IS RESPONSIBLE FOR  
32 ANNUALLY FILING A FORM 990 WITH THE INTERNAL REVENUE SERVICE MAY MEET THE  
33 RELEVANT DATA REQUIREMENTS PRESCRIBED IN PARAGRAPHS 3 THROUGH 12 OF THIS  
34 SUBSECTION BY SUBMITTING THE CHARTER HOLDER'S FORM 990 TO THE SCHOOL'S  
35 SPONSOR. A CHARTER SCHOOL SPONSOR SHALL POST TO A PUBLIC WEBSITE THE  
36 FOLLOWING INFORMATION FOR EACH CHARTER SCHOOL IT SPONSORS:

37 1. THE NAMES OF VOTING MEMBERS OF THE CHARTER SCHOOL GOVERNING  
38 BODY.

39 2. THE NUMBER OF INDEPENDENT VOTING MEMBERS OF THE CHARTER SCHOOL  
40 GOVERNING BODY. FOR THE PURPOSES OF THIS PARAGRAPH, "INDEPENDENT VOTING  
41 MEMBERS" MEANS MEMBERS WHO ARE NOT EMPLOYED BY THE SCHOOL OR WHO DO NOT  
42 HAVE IMMEDIATE FAMILY OR BUSINESS RELATIONSHIPS WITH THE CHARTER SCHOOL.

43 3. THE NAMES OF VOTING MEMBERS OF THE CHARTER HOLDER.

44 4. THE NUMBER OF INDEPENDENT VOTING MEMBERS OF THE CHARTER HOLDER.

45 5. THE TOTAL ANNUAL STATE REVENUES.

1           6. THE TOTAL ANNUAL REVENUES FROM OTHER SOURCES, INCLUDING GRANTS,  
2 DONATIONS AND INVESTMENT INCOME.

3           7. THE TOTAL ANNUAL EXPENSES.

4           8. THE TOTAL ANNUAL REVENUES MINUS TOTAL ANNUAL EXPENSES.

5           9. THE TOTAL ASSETS AND LIABILITIES.

6           10. THE AUTHORIZATION OF ANY RELATED PARTY TRANSACTION AND THE  
7 INDIVIDUALS OR ENTITIES THAT ARE PARTY TO THE TRANSACTION, THE SERVICES OR  
8 GOODS PROVIDED AND THE TOTAL TRANSACTION COST.

9           11. WHETHER THE CHARTER SCHOOL SOLD, EXCHANGED, DISPOSED OF OR  
10 TRANSFERRED MORE THAN TWENTY-FIVE PERCENT OF THE CHARTER SCHOOL'S ASSETS  
11 IN THE PREVIOUS FISCAL YEAR.

12           12. THE CONFIRMATION OF AN ADOPTED CONFLICT OF INTEREST POLICY.

13           13. IF THE CHARTER SCHOOL CONTRACTS WITH A CHARTER MANAGEMENT  
14 ORGANIZATION, A WRITTEN STATEMENT FROM THE CHARTER SCHOOL DESCRIBING THE  
15 SERVICES PROVIDED TO THE CHARTER SCHOOL AND THE AMOUNT THE CHARTER SCHOOL  
16 SPENDS FOR THE CHARTER MANAGEMENT ORGANIZATION'S SERVICES.

17           Sec. 3. Title 15, chapter 1, article 8, Arizona Revised Statutes,  
18 is amended by adding section 15-183.02, to read:

19           15-183.02. Procurement policies; enforcement; applicability

20           A. ON OR BEFORE JULY 1, 2020, EACH CHARTER SCHOOL IN THIS STATE  
21 SHALL ADOPT AND COMPLY WITH PROCUREMENT POLICIES THAT INCLUDE AT LEAST THE  
22 FOLLOWING:

23           1. A REQUIREMENT THAT ANY PROCUREMENT OF GOODS OR SERVICES OR  
24 EXPENDITURE OF SCHOOL MONIES BE MADE IN THE BEST INTERESTS OF THE CHARTER  
25 SCHOOL AFTER CONSIDERING THE TOTALITY OF THE CIRCUMSTANCES SURROUNDING THE  
26 PROCUREMENT, WHICH MAY INCLUDE PRICE, QUALITY, AVAILABILITY, TIMELINES,  
27 REPUTATION AND PRIOR DEALINGS.

28           2. A DESCRIPTION OF THE OFFICERS AND PERSONNEL WHO ARE AUTHORIZED  
29 TO PROCURE GOODS OR SERVICES OR MAKE AUTHORIZED EXPENDITURES ON BEHALF OF  
30 THE CHARTER SCHOOL.

31           3. ACCOUNTING POLICIES AND PROCEDURES THAT COMPLY WITH GENERALLY  
32 ACCEPTED ACCOUNTING PRINCIPLES.

33           4. A PROHIBITION ON PURCHASING ANY GOOD OR SERVICE FROM ANY OF THE  
34 FOLLOWING PERSONS, UNLESS A MAJORITY OF THE DISINTERESTED MEMBERS OF THE  
35 CHARTER SCHOOL GOVERNING BODY AUTHORIZE THE PURCHASE AFTER FULLY  
36 DISCLOSING THE SUBSTANTIAL INTEREST AND INCLUDE THIS INFORMATION IN THE  
37 MINUTES OF THE MEETING AT WHICH THE GOVERNING BODY APPROVES THE PURCHASE:

38           (a) ANY MEMBER OF THE CHARTER HOLDER OR CHARTER SCHOOL GOVERNING  
39 BODY.

40           (b) AN IMMEDIATE FAMILY MEMBER OF ANY MEMBER OF THE CHARTER HOLDER  
41 OR CHARTER SCHOOL GOVERNING BODY.

42           (c) ANY OTHER ENTITY IN WHICH ANY MEMBER OF THE CHARTER HOLDER OR  
43 CHARTER SCHOOL GOVERNING BODY OR AN IMMEDIATE FAMILY MEMBER OF A MEMBER OF  
44 THE CHARTER HOLDER OR CHARTER SCHOOL GOVERNING BODY MAY HAVE A SUBSTANTIAL  
45 INTEREST IN THE PROCUREMENT.



1 5. A REQUIREMENT THAT, FOR ANY PURCHASE THE CHARTER SCHOOL  
2 REASONABLY ANTICIPATES WILL EXCEED \$50,000, THE CHARTER SCHOOL MAINTAIN  
3 RECORDS DEMONSTRATING THAT THE PURCHASE IS IN THE BEST INTEREST OF THE  
4 CHARTER SCHOOL ON CONSIDERING THE TOTALITY OF THE CIRCUMSTANCES LISTED IN  
5 PARAGRAPH 1 OF THIS SUBSECTION. A CHARTER SCHOOL MAY DEMONSTRATE THAT THE  
6 PURCHASE IS IN THE BEST INTEREST OF THE CHARTER SCHOOL THROUGH RESEARCH OF  
7 LIKE PRODUCTS OR SERVICES OR BY RECEIVING MULTIPLE QUOTES. A CHARTER  
8 SCHOOL SHALL MAINTAIN RECORDS FOR REVIEW DURING THE CHARTER SCHOOL'S  
9 ANNUAL AUDIT. A PROJECT OR PURCHASE MAY NOT BE DIVIDED OR SEQUENCED INTO  
10 SEPARATE PROJECTS OR PURCHASES TO INTENTIONALLY AVOID THE LIMITS  
11 PRESCRIBED IN THIS PARAGRAPH. PURCHASES MADE IN ACCORDANCE WITH THE  
12 CHARTER SCHOOL'S PROCUREMENT AND CONFLICT OF INTEREST POLICIES ARE  
13 PRESUMED TO BE IN THE BEST INTEREST OF THE CHARTER SCHOOL.

14 6. A REQUIREMENT THAT A COMPLIANCE REVIEW OF A CHARTER SCHOOL'S  
15 PROCUREMENT POLICIES AND ACTIVITIES BE INCLUDED IN THE CHARTER SCHOOL'S  
16 ANNUAL AUDIT.

17 B. FEDERAL PROCUREMENT REQUIREMENTS APPLY TO THE RECEIPT OF CERTAIN  
18 FEDERAL MONIES.

19 C. A CHARTER SCHOOL EMPLOYEE WHO HAS CONTROL OVER PERSONNEL ACTIONS  
20 MAY NOT TAKE REPRISAL AGAINST A CHARTER SCHOOL EMPLOYEE FOR THAT  
21 EMPLOYEE'S DISCLOSURE OF INFORMATION RELATING TO A VIOLATION OF THIS  
22 SECTION.

23 D. THE SPONSOR OF A CHARTER SCHOOL MAY REQUEST THAT THE ATTORNEY  
24 GENERAL ENFORCE THIS SECTION IF THE SPONSOR DETERMINES, AFTER PROVIDING  
25 THE CHARTER SCHOOL WITH A REASONABLE OPPORTUNITY TO RESPOND TO ANY  
26 ALLEGATIONS RAISED AND TO DISCONTINUE AND CORRECT ANY IMPROPER ACTIONS,  
27 THAT A VIOLATION OF THIS SECTION IS OR LIKELY MAY BE CONTINUING. THE  
28 ATTORNEY GENERAL MAY SEEK RELIEF FOR ANY VIOLATION OF THIS SECTION THROUGH  
29 AN APPROPRIATE CRIMINAL OR CIVIL ACTION IN SUPERIOR COURT. THE ATTORNEY  
30 GENERAL MAY USE THE AUDIT AUTHORITY OF THE AUDITOR GENERAL PURSUANT TO  
31 15-183, SUBSECTION E, PARAGRAPH 6 TO ENFORCE THIS SECTION.

32 E. THIS SECTION DOES NOT APPLY TO MANAGEMENT CONTRACTS ENTERED INTO  
33 BETWEEN A CHARTER SCHOOL OR CHARTER HOLDER AND A CHARTER MANAGEMENT  
34 ORGANIZATION IF THE CHARTER SCHOOL DISCLOSES THE TERMS OF THE MANAGEMENT  
35 RELATIONSHIP AS REQUIRED IN SECTION 15-183, SUBSECTION JJ, PARAGRAPH 13 TO  
36 THE CHARTER SCHOOL'S SPONSOR.

37 Sec. 4. Section 15-213, Arizona Revised Statutes, is amended to  
38 read:

39 15-213. Procurement practices of school districts;  
40 violations; classification; definitions

41 A. The state board of education shall adopt rules prescribing  
42 procurement practices for all school districts in this state as follows:

43 1. The state board shall submit to the auditor general proposed  
44 rules consistent with the procurement practices prescribed in title 41,  
45 chapter 23, modifying the provisions for public notice of invitation for

1 bids, requests for proposals and requests for qualifications to allow a  
2 governing board to give public notice of the invitation for bids, requests  
3 for proposals and requests for qualifications by publication in the  
4 official newspaper of the county as prescribed in section 11-255,  
5 modifying the provisions relating to disposal of materials to comply with  
6 section 15-342, paragraph 18, providing for governing board delegation of  
7 procurement authority and modifying as necessary other provisions that the  
8 state board determines are not appropriate for school districts. The  
9 rules shall include provisions specifying that school districts are not  
10 required to engage in competitive bidding in order to make the decision to  
11 participate in programs pursuant to section 15-382 and that a program  
12 authorized by section 15-382 is not required to engage in competitive  
13 bidding for the services necessary to administer the program or for  
14 purchase of insurance or reinsurance. The rules shall include provisions  
15 specifying that school districts are not required to engage in competitive  
16 bidding in order to place a pupil in a private school that provides  
17 special education services if such A placement is prescribed in the  
18 pupil's individualized education program and the private school has been  
19 approved by the department of education division of special education  
20 pursuant to section 15-765, subsection D. This placement is not subject  
21 to rules adopted by the state board of education before November 24, 2009  
22 pursuant to this section. The rules for procurement of construction  
23 projects shall include provisions specifying that surety bonds furnished  
24 as bid security and performance and payment bonds shall be executed and  
25 furnished as required by title 34, chapter 2 or 6, as applicable. The  
26 rules shall specify the total cost of a procurement that is subject to  
27 invitations for bids, requests for proposals and requests for  
28 clarification, using the aggregate dollar amount limits for procurements  
29 prescribed in section 41-2535.

30 2. The state board ~~of education~~ shall adopt rules for procurements  
31 involving construction not exceeding ~~one hundred fifty thousand dollars~~  
32 \$150,000, which shall be known as the simplified school construction  
33 procurement program. At a minimum, the rules for a simplified  
34 construction procurement program shall require that:

35 (a) ~~A list be maintained by~~ Each county school superintendent  
36 MAINTAIN A LIST of persons who desire to receive solicitations to bid on  
37 construction projects to which additions shall be permitted throughout the  
38 year.

39 (b) The list of persons be available for public inspection.

40 (c) A performance bond and a payment bond as required by this  
41 section be provided for contracts for construction by contractors.

42 (d) All bids for construction be opened at a public opening and the  
43 bids shall remain confidential until the public opening.

1 (e) All persons desiring to submit bids be treated equitably and  
2 the information related to each project be available to all eligible  
3 persons.

4 (f) Competition for construction projects under the simplified  
5 school construction procurement program be encouraged to the maximum  
6 extent possible. At a minimum, a school district shall submit information  
7 on each project to all persons listed with the county school  
8 superintendent by any school district within that county.

9 (g) A provision, covenant, clause or understanding in, collateral  
10 to or affecting a construction contract that makes the contract subject to  
11 the laws of another state or that requires any litigation, arbitration or  
12 other dispute resolution proceeding arising from the contract to be  
13 conducted in another state is against this state's public policy and is  
14 void and unenforceable.

15 3. The state board ~~of education~~ shall adopt rules for the  
16 procurement of goods and information services by school districts ~~and~~  
17 ~~charter schools~~ using electronic, online bidding. The rules adopted by  
18 the state board shall include the use of reverse auctions and shall be  
19 consistent with the procurement practices prescribed in title 41, chapter  
20 23, article 13, modifying as necessary those provisions and the rules  
21 adopted pursuant to that article that the state board determines are not  
22 appropriate for school districts ~~and charter schools~~. Until the rules are  
23 adopted, school districts ~~and charter schools~~ may procure goods and  
24 information services pursuant to title 41, chapter 23, article 13 using  
25 the rules adopted by the department of administration in implementing that  
26 article.

27 4. The state board shall adopt rules for the procurement by school  
28 districts of any materials, services, goods, construction or construction  
29 services that ensure maximum practicable competition as prescribed in  
30 section 41-2565 and shall require that a person:

31 (a) That contracts for or purchases any materials, services, goods,  
32 construction or construction services in a manner contrary to the rules  
33 adopted by the state board pursuant to this section is personally liable  
34 for the recovery of all public monies paid plus twenty percent of that  
35 amount and legal interest from the date of payment and all costs and  
36 damages arising out of the violation as prescribed in section 41-2616.

37 (b) That intentionally or knowingly contracts for or purchases any  
38 materials, services, goods, construction or construction services pursuant  
39 to a scheme or artifice to avoid the rules adopted by the state board  
40 pursuant to this section is guilty of a class 4 felony as prescribed in  
41 section 41-2616.

42 (c) That prepares procurement specifications may not receive any  
43 direct or indirect benefit from using those specifications.

44 (d) That serves on a selection committee for a procurement may not  
45 be a contractor or subcontractor under a contract awarded under the

1 procurement or provide any specified professional services, construction,  
2 construction services, materials or other services under the contract. A  
3 person that serves on a selection committee for a procurement and that  
4 fails to disclose contact with a representative of a competing vendor or  
5 fails to provide required accurate information is subject to a civil  
6 penalty as prescribed in section 41-2616.

7 5. The state board shall adopt rules requiring school districts to  
8 obtain and maintain a record of proof that a construction or construction  
9 services provider that has been awarded a contract with the school  
10 district, or school purchasing cooperative, has a valid license to  
11 practice in this state.

12 6. The auditor general shall review the proposed rules to determine  
13 whether the rules are consistent with the procurement practices prescribed  
14 in title 41, chapter 23 and any modifications are required to adapt the  
15 procedures for school districts.

16 7. If the auditor general approves the proposed rules, the auditor  
17 general shall notify the state board in writing and the state board shall  
18 adopt such rules.

19 8. If the auditor general objects to the proposed rules, the  
20 auditor general shall notify the state board of the objections in writing  
21 and the state board, in adopting the rules, shall conform the proposed  
22 rules to meet the objections of the auditor general or revise the proposed  
23 rules to which an objection has been made and submit the revisions to the  
24 auditor general for approval.

25 B. After the bids submitted in response to an invitation for bids  
26 are opened and the award is made or after the proposals or qualifications  
27 are submitted in response to a request for proposals or a request for  
28 qualifications and the award is made, the governing board shall make  
29 available for public inspection all information, all bids, proposals and  
30 qualifications submitted and all findings and other information considered  
31 in determining whose bid conforms to the invitation for bids and will be  
32 the most advantageous with respect to price, conformity to the  
33 specifications and other factors or whose proposal or qualifications are  
34 to be selected for the award, including the rationale for awarding a  
35 contract for any specified professional services, construction,  
36 construction services or materials to an entity selected from a qualified  
37 select bidders list or through a school purchasing cooperative. The  
38 invitation for bids, request for proposals or request for qualifications  
39 shall include a notice that all information and bids, proposals and  
40 qualifications submitted will be made available for public inspection.  
41 The rules adopted by the state board shall prohibit the use in connection  
42 with procurement of specifications in any way proprietary to one supplier  
43 unless the specification includes all of the following:

44 1. A statement of the reasons why no other specification is  
45 practicable.

1           2. A description of the essential characteristics of the specified  
2 product.

3           3. A statement specifically permitting an acceptable alternative  
4 product to be supplied.

5           C. A project or purchase may not be divided or sequenced into  
6 separate projects or purchases in order to avoid the limits prescribed by  
7 the state board under subsection A of this section.

8           D. A contract for the procurement of construction or construction  
9 services shall include a provision that provides for negotiations between  
10 the school district and the contractor for the recovery of damages related  
11 to expenses incurred by the contractor for a delay for which the school  
12 district is responsible, that is unreasonable under the circumstances and  
13 that was not within the contemplation of the parties to the contract.  
14 This subsection does not void any provision in the contract that requires  
15 notice of delays, provides for arbitration or any other procedure for  
16 settlement or provides for liquidated damages.

17           E. The auditor general may conduct discretionary reviews,  
18 investigations and audits of the financial and operational procurement  
19 activities of school districts, ~~nonexempt charter schools~~ and school  
20 purchasing cooperatives. The auditor general has final review and  
21 approval authority over all school district, ~~nonexempt charter school~~ and  
22 school purchasing cooperative audit contracts and any audit reports issued  
23 in accordance with this section. If the attorney general has reasonable  
24 cause to believe an employee of a school district or school purchasing  
25 cooperative, or an employee of an entity that has been awarded a contract  
26 by a school district or school purchasing cooperative, has engaged in, is  
27 engaging in or is about to engage in any practice or transaction that  
28 violates the rules adopted by the state board of education pursuant to  
29 this section, the attorney general may:

30           1. Require that person to file on forms prescribed by the attorney  
31 general a statement or report in writing and under oath as to all the  
32 facts and circumstances concerning a violation of the rules adopted by the  
33 state board pursuant to this section by that person and any other data and  
34 information deemed necessary by the attorney general.

35           2. Examine under oath any person in connection with a violation of  
36 the rules adopted by the state board pursuant to this section.

37           F. In addition to the requirements of sections 15-914 and  
38 15-914.01, school districts, ~~nonexempt charter schools~~ and school  
39 purchasing cooperatives, in connection with any audit conducted by a  
40 certified public accountant, shall contract for a systematic review of  
41 purchasing practices using methodology consistent with sampling guidelines  
42 established by the auditor general. The auditor general shall consider  
43 cost when establishing guidelines pursuant to this subsection and to the  
44 extent possible shall attempt to minimize the cost of the review. The  
45 purpose of the review is to determine whether the school

1 district, ~~nonexempt charter school~~ or school purchasing cooperative is in  
 2 compliance with the procurement laws and applicable procurement rules of  
 3 this state. A copy of the review shall be submitted on completion to the  
 4 auditor general. The auditor general may conduct discretionary reviews of  
 5 school districts, ~~nonexempt charter schools~~ and school purchasing  
 6 cooperatives THAT ARE not required to contract for independent audits.

7 G. A school district school employee who has control over personnel  
 8 actions may not take reprisal against a school district school employee  
 9 for that employee's disclosure of information that is a matter of public  
 10 concern, including a violation of this section, to a public body pursuant  
 11 to title 38, chapter 3, article 9.

12 H. The attorney general or county attorney has jurisdiction to  
 13 enforce this section. The attorney general or county attorney may seek  
 14 relief for any violation of this section through an appropriate civil or  
 15 criminal action in superior court, including an action to enjoin a  
 16 threatened or pending violation of this section and including an action to  
 17 enforce compliance with any request for documents made by the auditor  
 18 general pursuant to this section.

19 I. The department of education shall enact policies and procedures  
 20 for the acceptance and disposition of complaints from the public regarding  
 21 school procurement practices and shall forward all school procurement  
 22 complaints to the attorney general. Notwithstanding rules adopted by the  
 23 state board, school districts shall not be required to prepare or submit  
 24 an annual report on the benefits associated with the use of  
 25 construction-manager-at-risk, design-build, qualified select bidders list  
 26 and job-order-contracting methods.

27 J. The state board of education shall adopt, and the auditor  
 28 general shall review, rules authorizing school districts to procure  
 29 construction services by construction-manager-at-risk, design-build,  
 30 qualified select bidders list and job-order-contracting methods of project  
 31 delivery. The rules shall not require school districts to obtain bid  
 32 security for the construction-manager-at-risk method of project delivery.

33 K. A school district ~~or charter school~~ may evaluate United States  
 34 general services administration contracts for materials and services. The  
 35 governing board ~~or governing body~~ may authorize purchases under a current  
 36 contract for materials or services without complying with the requirements  
 37 of the procurement rules adopted by the state board of education if the  
 38 governing board ~~or governing body~~ determines in writing that all of the  
 39 following apply:

40 1. The price for materials or services is equal to or less than the  
 41 contractor's current federal supply contract price with the general  
 42 services administration.

43 2. The contractor has indicated in writing that the contractor is  
 44 willing to extend the current federal supply contract pricing, terms and  
 45 conditions to the school district ~~or charter school~~.

1           3. The purchase order adequately identifies the federal supply  
2 contract on which the order is based.

3           4. The purchase contract is cost effective and is in the best  
4 interests of the school district ~~or charter school~~.

5           L. Unless otherwise provided by law, multiterm contracts for  
6 materials or services and contracts for job-order-contracting construction  
7 services may be entered into if the duration of the contract and the  
8 conditions of renewal or extension, if any, are included in the invitation  
9 for bids or the request for proposals and if monies are available for the  
10 first fiscal period at the time the contract is executed. The duration of  
11 contracts for materials or services and contracts for  
12 job-order-contracting construction services are limited to no more than  
13 five years unless the governing board determines in writing before the  
14 procurement solicitation is issued that a contract of longer duration  
15 would be advantageous to the school district. Payment and performance  
16 obligations for succeeding fiscal periods are subject to the availability  
17 and appropriation of monies.

18           M. Notwithstanding the rules adopted by the state board of  
19 education, the maximum dollar amount of an individual job order for  
20 job-order-contracting construction services is ~~one million dollars~~  
21 **\$1,000,000** or a higher or lower amount prescribed by the governing board  
22 in a policy adopted in a public meeting held pursuant to title 38, chapter  
23 3, article 3.1. Requirements shall not be artificially divided or  
24 fragmented in order to constitute a job order that satisfies the  
25 requirements of this subsection.

26           N. A person who supervises or participates in contracts, purchases,  
27 payments, claims or other financial transactions, or a person who  
28 supervises or participates in the planning, recommending, selecting or  
29 contracting for materials, services, goods, construction, or construction  
30 services of a school district or school purchasing cooperative is guilty  
31 of a class 6 felony if the person solicits, accepts or agrees to accept  
32 any personal gift or benefit with a value of ~~three hundred dollars~~ **\$300** or  
33 more from a person or vendor that has secured or has taken steps to secure  
34 a contract, purchase, payment, claim or financial transaction with the  
35 school district or school purchasing cooperative. Soliciting, accepting  
36 or agreeing to accept any personal gift or benefit with a value of less  
37 than ~~three hundred dollars~~ **\$300** is a class 1 misdemeanor. A gift or  
38 benefit does not include an item of nominal value such as a greeting card,  
39 t-shirt, mug or pen.

40           O. Any person or vendor that has secured or has taken steps to  
41 secure a contract, purchase, payment, claim or financial transaction with  
42 a school district or school purchasing cooperative that offers, confers or  
43 agrees to confer any personal gift or benefit with a value of ~~three~~  
44 ~~hundred dollars~~ **\$300** or more on a person who supervises or participates in  
45 contracts, purchases, payments, claims or other financial transactions, or

1 on a person who supervises or participates in planning, recommending,  
2 selecting or contracting for materials, services, goods, construction or  
3 construction services of a school district or school purchasing  
4 cooperative, is guilty of a class 6 felony. Offering, conferring or  
5 agreeing to confer any personal gift or benefit with a value of less than  
6 ~~three hundred dollars~~ \$300 is a class 1 misdemeanor. A gift or benefit  
7 does not include an item of nominal value such as a greeting card,  
8 t-shirt, mug or pen.

9 P. Any person or vendor convicted under subsection O of this  
10 section may be suspended for up to six months or barred for up to three  
11 years by the director of the department of administration from doing  
12 business with school districts and school purchasing cooperatives. The  
13 director of the department of administration shall adopt rules, including  
14 administrative procedures, to suspend or bar any person from consideration  
15 for award of contracts pursuant to this section.

16 Q. A school district may not hire the same auditor or auditing firm  
17 for more than three consecutive years.

18 R. An auditor or auditing firm hired by a school district may not  
19 also receive consulting fees from that school district.

20 S. For the purposes of this section:

21 1. "Gift or benefit" means a payment, distribution, expenditure,  
22 advance, deposit or donation of monies, any intangible personal property  
23 or any kind of tangible personal or real property. Gift or benefit does  
24 not include either:

25 (a) Food or beverage.

26 (b) Expenses or sponsorships relating to a special event or  
27 function to which individuals listed in subsection N of this section are  
28 invited.

29 ~~2. "Nonexempt charter school" means a charter school that is not~~  
30 ~~exempted from procurement laws pursuant to section 15-183, subsection E,~~  
31 ~~paragraph 6.~~

32 ~~3.~~ 2. "School purchasing cooperative" means an entity THAT IS  
33 engaged in cooperative purchasing as defined in section 41-2631.

34 ~~4.~~ 3. "Total cost" means the cost of all materials and services,  
35 including the cost of labor performed by employees of the school district,  
36 for all construction as provided in subsection A of this section.

37 Sec. 5. Short title

38 This act may be cited as the "Charter School Transparency and  
39 Accountability Act".