



ARIZONA STATE SENATE
Fifty-Fourth Legislature, First Regular Session

AMENDED
FACT SHEET FOR S.B. 1394

~~charter school; training; posting; procurement~~
(NOW: charter schools; training; information; procurement)

Purpose

Modifies procurement statute relating to charter schools and requires each charter school to adopt procurement policies. Requires a charter school sponsor (sponsor) to compile and post on a public website outlined information for each school it sponsors. Outlines membership and training requirements for a charter school governing body (governing body).

Background

Charter School Structure and Governance

Charter schools are public schools funded by the state and operated through a charter between a charter holder and a sponsor. The charter of a charter school must provide for a governing body that is responsible for the school's policy decisions.

An applicant seeking to establish a charter school must apply to a proposed sponsor and may be approved if all requirements are met and the proposed sponsor determines the applicant qualified to operate a charter school based on outlined factors. A sponsor may contract with a public body, private person or private organization to establish a charter school and has oversight and administrative responsibility for the charter schools it sponsors ([A.R.S. § 15-183](#)).

The State Board for Charter Schools (SBCS) exercises general supervision over charter schools that are sponsored by the SBCS and recommends legislation pertaining to charter schools to the Legislature. The SBCS approves applications, grants charters, adopts rules and policies for charter schools under its jurisdiction, and monitors academic performance and fiscal compliance ([A.R.S. § 15-182](#)). The SBCS currently oversees over 500 charter schools ([SBCS](#)).

Procurement

The charter of a charter school must ensure the charter school is subject to the same financial and electronic data submission requirements as a school district, including the uniform system of financial records (USFR), procurement rules and audit requirements. A charter may include exceptions to these requirements, if determined necessary by the sponsor. The Auditor General (OAG) must review and revise the USFR to ensure that provisions relating to charter schools align with accepted accounting principles used by private businesses ([A.R.S. § 15-183](#)). Nonexempt charter schools must meet certain procurement requirements outlined in school district statute ([A.R.S. § 15-213](#)).

The State Board of Education (SBE) must adopt rules for procurement of goods and information services by school districts and charter schools using electronic, online bidding for all school districts in Arizona that are consistent with the Arizona Procurement Code, with modifications as necessary. The OAG may conduct discretionary reviews, investigations and audits of financial and operational procurement activities of school districts, nonexempt charter schools and school purchasing cooperatives and has final review and approval authority over cooperative audit contracts and audit reports ([A.R.S. § 15-213](#)).

Reporting Requirements

By October 1 of each year, a sponsor must submit an annual report to the OAG that includes: 1) the number of charters authorized and the number of schools operated by authorized charter holders; 2) the academic operational and financial performance of the sponsor's charter portfolio, measured by the sponsor's performance framework; 3) the number of new charters approved, the number of charter schools closed and the closure reasons for the prior year; and 4) the sponsor's application, amendment, renewal and revocation processes, charter contract template and performance framework. The OAG prescribes the annual report format, reviews the reports to ensure inclusion of required items, and, in the case of significant noncompliance or failure to report, the OAG must report to the Governor and Legislature for the Legislature to consider revoking the sponsor's authority ([A.R.S. § 15-183](#)).

A charter school must post on its website the average salary of all teachers employed by the charter school for the current and previous years, and the dollar and percentage increase for the current year. The Arizona Department of Education (ADE) must annually compile this information for all charter schools in Arizona and submit a report to the Joint Legislative Budget Committee and the Governor's Office of Strategic Planning and Budgeting ([A.R.S. § 15-189.05](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

Governing Body

1. Requires a governing body to have at least three members.
2. Prohibits more than two immediate family members from serving simultaneously on the same governing body and prohibits immediate family members from being a majority of members on a governing body.
3. Requires the SBCS to develop a training course for governing body members and key administrative personnel with input from current charter school operators, ADE, the Attorney General's Office (AG) and a statewide association of charter schools.
4. Requires the SBCS-developed training course to provide content related to:
 - a) open meeting law;
 - b) public records requirements;
 - c) enrollment laws and regulations;
 - d) applicable procurement rules; and
 - e) student discipline.

5. Requires the SBCS to make the training course materials available online at no cost to the charter school.
6. Requires new governing body members and key administrative personnel to complete the SBCS-developed training within the first year of appointment to the governing body or employment at the charter school, and requires the provided training to be consistent with the SBCS-developed course.
7. Requires charter schools to maintain records of governing board member and key administrative personnel training for review during the charter school's annual audit.

Procurement Requirements

8. Requires, by July 1, 2020, each charter school to adopt and comply with procurement policies that include:
 - a) a requirement that a purchase of goods or services by the charter school or by the charter holder on behalf of the charter school be in the charter school's best interests, considering the totality of the circumstances surrounding the procurement, which may include price, quality, availability, timelines, reputation and prior dealings;
 - b) a description of officers or personnel authorized to procure goods or services or make authorized expenditures on behalf of the charter school;
 - c) accounting policies and procedures that comply with generally-accepted accounting principles;
 - d) a prohibition, with an outlined exemption, on purchasing goods or services from:
 - i. a charter holder or governing body member;
 - ii. an immediate family member of a charter holder or governing body member; and
 - iii. another entity in which a charter holder member, governing body member or immediate family member of a charter holder member or governing body member may have a substantial interest in the procurement; and
 - e) a requirement that the charter school maintain records demonstrating a purchase made on behalf of the charter school by the charter school or charter holder is in the best interest of the school, considering the totality of the circumstances, if the charter school or charter holder reasonably anticipates the purchase will exceed \$50,000.
9. Requires a charter school's annual audit to include a review of the school's procurement policies.
10. Exempts, from the prohibition on purchasing from specified persons, a purchase authorized by a majority of the disinterested members of the governing body if:
 - a) the substantial interest is fully disclosed; and
 - b) the disclosure and description of the justification for why the purchase from the specified persons is in the school's best interest are included in the minutes of the meeting at which the governing body approves the purchase.
11. Exempts, from the \$50,000 cap on purchases made without demonstrated best interest, a management contract between a charter management organization (CMO) and a charter school or charter holder that is disclosed on the sponsor's public website.

12. Prohibits a project or purchase from being divided or sequenced into separate projects or purchases to intentionally avoid the \$50,000 cap on purchases made without demonstrated best interest.
13. Allows a sponsor to refer to the AG alleged violations of charter school procurement statute if the sponsor:
 - a) provides a charter school or charter holder with a reasonable opportunity to respond to any alleged violations of charter school procurement statute and to promptly correct any improper actions; and
 - b) determines a violation is or likely may be continuing or that the violation has not been promptly corrected.
14. Includes, in the appropriate civil actions through which the AG may seek relief, requiring a person to file on AG-prescribed forms:
 - a) a written statement or report under oath as to all the facts and circumstances concerning an alleged violation of procurement statute by that person; and
 - b) any other data and information the AG deems necessary.
15. Allows the AG to:
 - a) if the AG has reasonable cause to believe a violation has occurred, seek relief for violations of charter school procurement statute through appropriate civil action in superior court;
 - b) seek relief for violations of charter school procurement statute through appropriate criminal action in superior court in addition to currently authorized action relating to the misappropriation of charter school monies; and
 - c) use the OAG's authority to conduct financial, program or compliance audits to enforce procurement statute.
16. Prohibits a charter school employee with control over personnel actions from taking reprisal against an employee for disclosure of information relating to a violation of charter school procurement statute.
17. Allows a charter school to demonstrate a purchase is in the charter school's best interest through research of like products or services or by receiving multiple quotes, and requires a charter school to maintain records for review during the charter school's annual audit.
18. Presumes purchases made in accordance with a school's procurement and conflict of interest policies to be in the charter school's best interest.
19. Specifies that federal procurement requirements apply to the receipt of certain federal monies.
20. Removes the requirements that:
 - a) the SBE adopt rules for the procurement of goods and information services using electronic, online bidding by charter schools;
 - b) a charter ensure the charter school is subject to outlined school district procurement rules, and removes permission for a charter to exempt a school from those rules; and
 - c) that nonexempt charter schools, in connection with any audit conducted by a certified accountant, contract for systematic review of purchasing practices using methodology consistent with sampling guidelines established by the OAG, to determine consistency with procurement law.

21. Removes OAG authority over nonexempt charter schools to conduct discretionary reviews for schools not required to contract for independent audits and review and approve audit contracts and reports.
22. Removes permission for a charter school to evaluate U.S. General Services Administration contracts for materials and services and for the governing body to authorize current contract purchases of materials or services if the governing body determines certain conditions are met.

Reporting Requirements

23. Requires a sponsor to annually compile information pertaining to the governance and operations of each charter school it sponsors.
24. Requires a sponsor to post to a public website, for each charter school it sponsors:
 - a) the names of voting members of the governing body;
 - b) the number of independent voting members of the governing body;
 - c) the names of voting members of the charter holder;
 - d) the number of independent voting members of the charter holder;
 - e) the total annual state revenues and total annual revenues from other sources, including grants, donations and investment income;
 - f) the total annual expenses;
 - g) the total annual revenues minus total annual expenses;
 - h) the total assets and liabilities;
 - i) authorization of any related party transaction, the individuals or entities party to the transaction, the services or goods provided and the total transaction cost;
 - j) whether the charter school sold, exchanged, disposed of or transferred more than 25 percent of the charter school's assets in the previous fiscal year;
 - k) a confirmation of an adopted conflict of interest policy and a copy of the adopted conflict of interest policy;
 - l) if the charter school contracts with a CMO, a written statement from the charter school identifying the CMO and describing the services provided and the total aggregate amount the charter school spends for the CMO's services; and
 - m) spending data the sponsor compiles from annual financial reports for each charter holder for the categories of:
 - i. teacher salaries;
 - ii. classroom instruction;
 - iii. student support services;
 - iv. other support services and operations;
 - v. special education;
 - vi. administration;
 - vii. federal projects; and
 - viii. facilities expenses.
25. Requires each charter school website to include a link to the information compiled on the sponsor's website.
26. Allows a nonprofit charter holder that must annually file a Form 990 with the Internal Revenue Service to submit the Form 990 to the school's sponsor to meet data reporting requirements relating to charter holder members, revenues and expenses, assets and liabilities, related party transactions and CMOs.

Admissions

27. Prohibits a charter school from limiting admission based on ability to financially contribute to the school or on agreement to volunteer for or at the school.

Miscellaneous

28. Defines *independent voting members* for reporting purposes as members not employed by the school or who do not have immediate family or business relationships with the charter school.
29. Defines *CMO* as an organization that contracts with a charter school or charter holder to provide academic services and administrative services to one or more charter schools, including an organization commonly referred to as an educational management organization or educational service provider.
30. Defines *immediate family* as individuals who are married to each other and any children of those individuals.
31. Defines *key administrative personnel* as persons the charter school determines to have administrative responsibilities associated with the open meeting law, public records, student enrollment, procurement or student discipline.
32. Removes the definition of *nonexempt charter school*.
33. Designates the act as the *Charter School Transparency and Accountability Act*.
34. Makes technical and conforming changes.
35. Becomes effective on the general effective date.

Amendments Adopted by Committee

1. Adopted the strike-everything amendment.
2. Includes purchases the charter holder anticipates will exceed \$50,000 in the requirement that the charter school maintain records demonstrating the purchase is in the school's best interest.

Amendments Adopted by Committee of the Whole

1. Allows a sponsor to seek AG enforcement of charter school procurement statute, for violations that are or may be continuing, through referral rather than request.
2. Specifies that the AG may seek relief through appropriate civil action in superior court if the AG has reasonable cause to believe a violation of procurement statute has occurred.
3. Includes, in the appropriate civil actions through which the AG may seek relief, requiring a person to file on AG-prescribed forms:
 - a) a written statement or report under oath as to all the facts and circumstances concerning an alleged violation of procurement statute by that person; and
 - b) any other data and information the AG deems necessary.

4. Specifies that the AG's proposed authority to seek relief through appropriate criminal action in superior court is in addition to existing statute relating to the misappropriation of charter school monies.
5. Replaces the requirement that the SBCS provide a training course for charter school governing body members and key administrative personnel with a requirement that provided training be consistent with the SBCS-developed training course.
6. Requires the SBCS to make training course materials, rather than the training course, available online.
7. Replaces the requirement that the SBCS issue certificates for course completion with a requirement that the charter school maintain records for review during the charter school's annual audit.
8. Specifies that a sponsor's annual disclosure of information relating to CMOs must show the total aggregate amount a charter school spends for a CMO's services.
9. Replaces the requirement that expenditure of charter school monies be in the best interests of the school with a specification that the best interest requirement applies to purchases of goods or services by the charter school or by the charter holder on behalf of the charter school.
10. Makes technical and conforming changes.

Senate Action

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Prepared by Senate Research

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JO/LB/gs