



NOTICES OF FINAL EXEMPT RULEMAKING

This section of the *Arizona Administrative Register* contains Notices of Final Exempt Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these rules.

Questions about the interpretation of the final exempt rule should be addressed to the agency proposing them. Refer to Item #5 to contact the person charged with the rulemaking.

NOTICE OF FINAL EXEMPT RULEMAKING TITLE 7. EDUCATION CHAPTER 5. STATE BOARD FOR CHARTER SCHOOLS

[R21-122]

PREAMBLE

1. **Article, Part, or Section Affected (as applicable)**

| <u>Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|---|--------------------------|
| R7-5-101 | Amend |
| R7-5-402 | Amend |
| Table 1 | New Table |
| Table 2 | New Table |
| R7-5-501 | Amend |
| R7-5-504 | Amend |
| R7-5-509 | Amend |
| R7-5-511 | New Section |

2. **Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:**

Authorizing statute: A.R.S. § 15-182(E)(5)
 Implementing statute: A.R.S. §§ 15-182(E)(1) and 15-183(R)
 Statute or session law authorizing the exemption: A.R.S. § 41-1005(G)

3. **The effective date of the rule and the agency's reason it selected the effective date:**

September 30, 2021

This date will allow Board staff to evaluate the June 30, 2021 quarterly financial reports submitted by charter holders currently in the intervention process and to provide the subsequent written notifications based on the rules in effect when the fiscal year 2020 audits were reviewed and the intervention determinations were made.

4. **A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**

Not applicable

5. **The agency's contact person who can answer questions about the rulemaking:**

Name: Ashley Berg, Executive Director
 Address: State Board for Charter Schools
 1616 W. Adams St., Suite 170
 Phoenix, AZ 85007
 or
 P.O. Box 18328, Phoenix, AZ 85005
 Telephone: (602) 364-3080
 Email: Ashley.Berg@asbcs.az.gov
 Website: <https://asbcs.az.gov>

6. **An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**

A.R.S. § 15-183(R) requires the Board, as a sponsoring entity of a charter school, to ground its actions in evidence of the charter holder's performance in accordance with the Board's performance framework and requires the Board's performance framework to include the financial expectations of the charter school. The Board is amending its rules to implement the probation risk levels and the criteria for not meeting the Board's minimum financial performance expectations approved by the Board at its April 12, 2021 meeting and to modify certain financial framework submission and other requirements. In addition, to implement Laws 2021, Chapter 7, sec. 3, the amended rules establish a time-frame for charter school governing bodies to publicly accept their audit reports by roll call vote.



7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Board did not review or rely on a study in its evaluation of or justification for any rule in this rulemaking.

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact, if applicable:

The rules are expected to have no economic impact on charter holders assigned a “Good Standing” or “Adequate Standing” summative financial performance rating under the financial framework, which, based on the fiscal year 2020 audits, accounted for 83.7% of the Board’s charter portfolio. For those charter holders assigned an “Intervention” summative financial performance rating and required to submit an Initial Financial Response or those charter holders placed “On Probation,” the Board believes the economic impact will be minimal. Generally, the costs result from scheduling a board meeting, preparing the materials for this meeting and submitting the relevant documents to the Board. The Board may act when a charter holder is placed in Probation Risk Level One. Being subject to charter oversight can be expensive for a charter holder and may lead to charter revocation proceedings or denial of renewal. These costs, though, result from the statutory authority granted to the Board in A.R.S. § 15-183 and not from authority granted to the Board through the rules. The rule addressing governing bodies’ acceptance of audit reports at a public meeting will have no economic impact on charter holders as costs, if any, would result from the underlying statutory requirement, Laws 2021, Chapter 7, sec. 3, and not the timeframe identified in the Board’s rules.

10. A description of any changes between the proposed rules, including any supplemental proposed rules, and the final rules (if applicable):

The following minor, non-substantive changes were made between the proposed and final rules:

R7-5-402(I)(1): The subsection was amended to include denial of renewal to align with the Board’s authority granted under A.R.S. § 15-183(I) and the provisions of A.A.C. R7-5-301(I).

R7-5-402(I)(2): The subsection was amended to clarify that draft minutes would be accepted.

R7-5-402(J)(1): The subsection was amended to clarify that draft minutes would be accepted.

R7-5-501(I): The placement of the comma in the phrase “accept by, roll call vote,” was changed to “accept, by roll call vote,” to correct a typo.

R7-5-509(H)(3): The extra quotation mark was removed from the below standard reference to correct a typo.

R7-5-509(N): The first reference to “required” was deleted because it was redundant based on the new language added to the subsection.

R7-5-511(B): The subsection was amended to clarify that each quarterly financial report must be submitted. This is consistent with the quarterly financial report definition.

R7-5-511(F)(3): The extra quotation mark was removed from the below standard reference to correct a typo.

R7-5-511(K): The first reference to “required” was deleted because it was redundant based on the subsection’s “required under subsection (A)” language.

11. An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:

The rules were open for the first opportunity for public comment from June 30, 2021 through July 20, 2021. During the public comment period, no public comments were received on the rules. Further, no public comments were received on the rules during the second opportunity for public comment, which occurred at the Board’s August 9, 2021 meeting.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

None

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Not applicable

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable

c. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:

No analysis was submitted.

13. A list of any incorporated by reference material and its location in the rule:

None

14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

None of the rules in this rulemaking was made, amended, or repealed as an emergency rule.

15. The full text of the rules follows:



TITLE 7. EDUCATION
CHAPTER 5. STATE BOARD FOR CHARTER SCHOOLS

ARTICLE 1. GENERAL PROVISIONS

Section
R7-5-101. Definitions

ARTICLE 4. MINIMUM PERFORMANCE EXPECTATIONS

Section
R7-5-402. Minimum Financial Performance Expectations
Table 1. ADM Category Criteria
Table 2. Probation Risk Level Criteria

ARTICLE 5. CHARTER SUPERVISION

Section
R7-5-501. General Supervision
R7-5-504. Annual Audit and Financial Performance Review
R7-5-509. Financial Intervention Submissions
R7-5-511. Financial Intervention Submissions – On Probation

ARTICLE 1. GENERAL PROVISIONS

R7-5-101. Definitions

In this Chapter, the following definitions apply:

“Academic performance dashboard” means color-coded graphics that represent a charter school’s academic performance by measure for the three most recent fiscal years and identifies whether the schools operated by the charter holder meet the minimum academic performance expectations.

“Academic Performance Framework” means a document publicly available and posted on the Board’s website that sets forth the minimum academic performance expectations for charter schools, measures of progress towards meeting the expectations, and consequences of failing to meet the expectations.

“Accounting industry regulatory body” means any state or federal regulatory body that has authority to discipline a certified public accountant or audit firm.

“Administrative completeness review time frame” means the number of days from the Board’s receipt of a submission for Board consideration until the Board staff determines whether the submission contains all components and is formatted as required by statute and rule.

“Annual application cycle” means the process the Board conducts each year to receive and review new charter application packages and grant or deny a charter.

“Applicant” means a person that applies to the Board for a new charter.

“Application” means the Board-approved forms and instructions used by an applicant or charter holder to apply for a new charter, transfer a charter as provided under R7-5-302(A)(1), transfer a charter school as provided under R7-5-302(A)(2), or renew or replicate a charter sponsored by the Board.

“Application package” means an application form, narratives, and documents, including exhibits and attachments, submitted by an applicant or charter holder.

“Audit” means a charter holder’s annual audit required under A.R.S. § 15-914.

“Audit contract” means an engagement letter provided by an audit firm that describes the terms of a contract between a charter holder and the audit firm.

“Authorized representative” means an individual with the power to bind an applicant contractually according to the applicant’s Articles of Incorporation, operating agreement, or by-laws.

“Board” means the Arizona State Board for Charter Schools.

“CAP” means corrective action plan.

“Charter” means a contract between a person and the Board to operate a charter school under A.R.S. § 15-181 et seq.

“Charter holder” means a person that enters into a charter with the Board.

“Charter representative” means an individual with the power to bind a charter holder contractually according to the charter holder’s Articles of Incorporation, operating agreement, or by-laws and is the point of contact with the Board for the purposes of communication and accountability to charter terms and conditions.

“Charter school” has the meaning specified at A.R.S. § 15-101.



“Date of notice” means the date on which an electronic notification is sent by the Board to an applicant or charter holder through the authorized representative or charter representative.

“Day” means a business day.

“Demonstration of sufficient progress” means the process for a charter holder to show the charter holder is making progress towards achieving the minimum academic performance expectations specified in the Academic Performance Framework.

“Department” means the Arizona Department of Education.

“Education Service Provider” means an organization that contracts with or has a governance relationship with an applicant or charter holder to provide academic services, administrative services or both. These organizations may also be commonly referred to as Charter Management Organizations or Education Management Organizations.

“Financial performance dashboard” means a color-coded graphic that represents a charter holder’s financial performance by measure for the most recent audited fiscal years and identifies whether the charter holder’s financial performance meets the minimum financial performance expectations.

“Financial Performance Framework” means a document publicly available and posted on the Board’s website, and incorporated herein by reference, that sets forth the minimum financial performance expectations for charter holders, measures of performance, and consequences of failing to meet the expectations.

“Fiscal year” means the 12-month period beginning July 1 and ending June 30.

“Initial financial response” means the first response submitted to the Board by a charter holder assigned a summative financial performance rating of “Intervention” under R7-5-402(F). In its response, the charter holder must:

~~Provide the agenda and minutes from the meeting where the written notice provided by the Board under R7-5-504(H)(2) of the charter holder’s intervention status, along with the Board’s probation risk levels and associated consequences identified in R7-5-402(H)-(K), were presented to and considered by the charter holder board. Draft minutes will be accepted annual revenue and expense budget for the fiscal year that begins on the July 1 following the fiscal year end of the most recent audit conducted under R7-5-504;~~

Provide a quarterly financial report for each applicable quarter as defined in R7-5-509(C)(B)(3);

Summarize the factors that caused or contributed to the charter holder’s financial performance in the audited fiscal year; and

Summarize the specific actions taken or being taken to improve the charter holder’s financial performance in the fiscal year that begins on the July 1 following the fiscal year end of the most recent audit conducted under R7-5-504.

~~“Initial probation financial response” means the first response submitted to the Board by a charter holder assigned a summative financial performance rating of “Intervention” under R7-5-402 based on the next audit conducted under R7-5-504 following the charter holder being identified as “On Probation” pursuant to R7-5-402(G), (H) or (I). In its response, the charter holder must:~~

~~Provide the charter holder’s annual revenue and expense budget for the fiscal year that begins on the July 1 following the fiscal year end of the most recent audit conducted under R7-5-504; and~~

~~Provide a quarterly financial report for each applicable quarter as defined in R7-5-509(C)(3).~~

“June 30 quarterly financial report” means the report for the quarter ending June 30 submitted to the Board by a charter holder assigned a summative financial performance rating of “Intervention” under R7-5-402(F) or a charter holder identified as “On Probation” and, therefore, under R7-5-402(G) does not meet the minimum financial performance expectations. In the June 30 report, the charter holder must include:

An unaudited balance sheet (statement of financial position) that identifies the charter holder’s results at June 30 and the charter holder’s unrestricted and restricted cash balances. Minimally, the charter holder’s restricted cash balance must include the charter holder’s unspent Classroom Site Fund monies;

An unaudited income statement (statement of activities) that identifies the charter holder’s results for the year ended June 30;

The charter holder’s revenue and expense budget that compares year-to-date actual results for the year ended June 30 to the charter holder’s annual budget and, for each line item, identifies the percentage of the annual budget represented by the actual results; and

The charter holder’s calculation of its performance on all six Financial Performance Framework measures, including all figures used in the mathematical calculations, completed using the measure calculator spreadsheet available on the Board’s website;

If not specifically listed on the unaudited income statement (statement of activities), accounting system reports or lease and debt schedules identifying, as applicable, the facility lease expense and interest expense paid by the charter holder for the fiscal year and used in the charter holder’s lease adjusted debt service coverage ratio calculation; and

Accounting system reports or debt schedules identifying, as applicable, the bond, loan and capital lease principal paid by the charter holder for the fiscal year and used in the charter holder’s lease adjusted debt service coverage ratio calculation.

“Operational performance dashboard” means a color-coded graphic that represents a charter holder’s operational performance by measure for up to the five most recent fiscal years and identifies whether the charter holder’s operational performance meets the minimum operational performance expectations.



“Operational Performance Framework” means a document publicly available and posted on the Board’s website that sets forth the minimum operational performance expectations for charter holders, measures of performance, and consequences of failing to meet the expectations.

“Overall time frame” means the number of days after receipt of a submission for Board consideration until the Board decides whether to grant or deny the request contained in the submission. The overall time frame consists of both the administrative completeness review time frame and the substantive review time frame.

“Peer review” means an external quality-control review, required by generally accepted government auditing standards, which determines whether an audit firm’s internal quality-control system exists, is operating effectively, and provides assurance that established policies and procedures and applicable auditing standards are being followed.

“Performance expectations” means the minimum academic, financial, and operational performance expectations established by the Board.

“Person” means an individual, partnership, corporation, association, or public or private organization of any kind.

“Principals” means the officers, directors, members, partners, or board of an applicant or charter holder.

“Quarterly financial report” means the report for the quarters ending September 30, December 31 and March 31 submitted to the Board by a charter holder assigned a summative financial performance rating of “Intervention” under R7-5-402(F) or a charter holder identified as “On Probation” and, therefore, under R7-5-402(G) does not meet the minimum financial performance expectations. In each quarterly report, the charter holder must include:

An unaudited balance sheet (statement of financial position) that identifies the charter holder’s results at the quarter end date and the charter holder’s unrestricted and restricted cash balances. Minimally, the charter holder’s restricted cash balance must include the charter holder’s unspent Classroom Site Fund monies;

An unaudited income statement (statement of activities) that identifies the charter holder’s results year-to-date through the quarter end date;

The charter holder’s revenue and expense budget that compares year-to-date actual results through the quarter end date to the charter holder’s annual budget and, for each line item, identifies the percentage of the annual budget represented by the actual results; and

The charter holder’s calculation of its performance on the default, unrestricted days liquidity, adjusted net income and average daily membership measures, including all figures used in the mathematical calculations, completed using the measure calculator spreadsheet available on the Board’s website.

“Serious impact finding” means an issue identified by the Board that the Board believes has or potentially has a detrimental impact on the operation of the charter school or students, such as threat to the health and safety of children, failure to meet the academic needs of children, gross violation of generally accepted accounting principles that increases the opportunity for fraud or theft, or repeated issues of noncompliance.

“Substantive review time frame” means the number of days after a submission for Board consideration is determined to be administratively complete until the Board decides whether to grant or deny the request contained in the submission.

“Sufficiently qualified” means the Board’s determination that an applicant’s knowledge, experience, qualifications, current and prior charter compliance, capacity, personal and professional background, and creditworthiness indicate an ability to implement a charter or operate a charter school in accordance with federal and state law and the performance expectations established by the Board.

“Supervising certified public accountant” means the certified public accountant responsible for leading the audit of a charter school or signing the final audit report.

“Technical Review Panel” means individuals approved by the Executive Director of the Board who use their expertise in charter school development, curriculum, and finance to assist the Executive Director by conducting a preliminary evaluation of an application package.

ARTICLE 4. MINIMUM PERFORMANCE EXPECTATIONS

R7-5-402. Minimum Financial Performance Expectations

- A. The Board shall assess a charter holder’s achievement of the minimum financial performance expectations using data contained in the annual audit required under A.R.S. § 15-914 and conducted according to the standards specified in R7-5-504 and average daily membership calculations completed by the Department using student attendance data submitted to the Department by the charter holder.
1. The Board may assess a charter holder’s achievement of the minimum financial performance expectations at any time.
 2. The Board shall assess a charter holder’s achievement of the minimum financial performance expectations:
 - a. During the five-year-interval review required under A.R.S. § 15-183(1);
 - b. When considering a charter contract renewal request submitted by the charter holder;
 - c. Upon receipt of information that a charter school operated by the charter holder failed to meet the minimum academic performance expectations for three consecutive years;
 - d. Upon receipt of information that a charter school operated by the charter holder has been assigned a letter grade of “F” by the Department; and
 - e. When making a decision related to the charter holder’s achievement of the minimum academic performance expectations or compliance with its charter, other contractual agreements with the Board, federal and state law, and this Chapter.



- B. The Board shall annually assign a charter holder a summative financial performance rating, based on measures specified in the Financial Performance Framework.
 - 1. The Board shall assign a summative financial performance rating of “Good Standing” if the charter holder receives no measures rated “below standard” and no more than one measure rated “approaches standard” based on the most recent audit conducted under R7-5-504.
 - 2. The Board shall assign a summative financial performance rating of “Adequate Standing” if the charter holder receives no measures rated “below standard” and two or more measures rated “approaches standard” based on the most recent audit conducted under R7-5-504.
 - 3. The Board shall assign a summative financial performance rating of “Intervention” if the charter holder receives one or more measures rated “below standard” based on the most recent audit conducted under R7-5-504 or if the charter holder has received a summative financial performance rating of “Adequate Standing” for three consecutive years.
- C. A charter holder assigned a summative financial performance rating of “Good Standing” or “Adequate Standing” based on the most recent audit conducted under R7-5-504 is financially eligible to submit to the Board, if the charter holder meets all other eligibility criteria, an expansion request to:
 - 1. Add a new charter school to an existing charter;
 - 2. Add one or more grade levels to a charter;
 - 3. Increase the number of students the charter holder may serve;
 - 4. Add an Arizona Online Instruction program;
 - 5. Replicate an existing charter;
 - 6. Transfer an existing charter school to its own charter contract; or
 - 7. Transfer an existing charter school or charter contract from the current charter holder to an existing charter holder with a different financial performance dashboard.
- D. A charter holder assigned a summative financial performance rating of “Intervention” or identified as “On Probation” based on the most recent audit conducted under R7-5-504 is not eligible to submit to the Board an expansion request specified in ~~R7-5-402(C)(1)-(7) subsection (C)~~.
- E. ~~The Board shall require a charter holder assigned a summative financial performance rating of “Intervention” based on the most recent audit conducted under R7-5-504 to prepare the financial intervention submissions as described in R7-5-509 determine that a charter holder meets the minimum financial performance expectations if the charter holder receives a summative financial performance rating of “Good Standing” or “Adequate Standing” based on the most recent audit conducted under R7-5-504.~~
- F. ~~The Board shall determine that a charter holder assigned a summative financial performance rating of “Intervention” is “Not on Probation” if, after Board staff’s review of the charter holder’s submissions made under R7-5-509 and R7-5-501(C), all the following are true:~~
 - 1. ~~Notwithstanding subsection (F)(3), the going concern measure received a rating of “meets standard” based on the most recent audit conducted under R7-5-504.~~
 - 2. ~~The measure or measures rated “below standard” based on the most recent audit conducted under R7-5-504 will likely improve to at least an “approaches standard” rating when calculations are completed using the charter holder’s next audit conducted under R7-5-504.~~
 - 3. ~~None of the Financial Performance Framework’s other measures will likely be rated “below standard” when calculations are completed using the charter holder’s next audit conducted under R7-5-504.~~
 - 4. ~~Since Board staff made the determination in R7-5-509(E) or R7-5-509(F), the Board has not substantiated any complaints involving late payroll checks to employees, or health insurance or liability insurance cancellation due to nonpayment and has not substantiated any complaints involving failure to make required retirement plan contributions or received notification from the Arizona State Retirement System of delinquent retirement contributions.~~
 - 5. ~~Since Board staff made the determination in R7-5-509(E) or R7-5-509(F), the charter holder has not been required to make any submissions under R7-5-501(C). The Board shall require a charter holder assigned a summative financial performance rating of “Intervention” based on the most recent audit conducted under R7-5-504 to prepare the financial intervention submissions as described in R7-5-509.~~
- G. ~~The Board shall determine that a charter holder assigned a summative financial performance rating of “Intervention” is “On Probation” if, after Board staff’s review of the charter holder’s submissions made under R7-5-509 and R7-5-501(C), one or more of the following are true:~~
 - 1. ~~The going concern measure received a rating of “below standard” on the most recent audit conducted under R7-5-504.~~
 - 2. ~~One or more of the measures rated “below standard” based on the most recent audit conducted under R7-5-504 will likely continue to be rated “below standard” when calculations are completed using the charter holder’s next audit conducted under R7-5-504.~~
 - 3. ~~One or more of the Financial Performance Framework’s other measures will likely be rated “below standard” when calculations are completed using the charter holder’s next audit conducted under R7-5-504.~~
 - 4. ~~Since Board staff made the determination in R7-5-509(E) or R7-5-509(F), the Board has substantiated at least one complaint involving late payroll checks to employees, or health insurance or liability insurance cancellation due to nonpayment or has substantiated at least one complaint involving failure to make required retirement plan contributions or received notification from the Arizona State Retirement System of delinquent retirement contributions.~~
 - 5. ~~Since Board staff made the determination in R7-5-509(E) or R7-5-509(F), the charter holder has been required to make at least one submission under R7-5-501(C). A charter holder that receives a summative financial performance rating of “Intervention” for two or more consecutive years shall also be placed “On Probation” and be required to prepare the financial intervention submissions as described in R7-5-511. The Board shall determine that a charter holder placed “On Probation” does not meet the minimum financial performance expectations.~~



- H. After Board staff's review of the charter holder's submissions made under R7-5-509 and R7-5-501(C), the Board shall determine that a charter holder is "On Probation" if within the most recent five year period the charter holder has been assigned three summative financial performance ratings of "Intervention" and two summative financial performance ratings of "Adequate Standing." For each charter holder identified as "On Probation" and, therefore, under subsection (G) does not meet the minimum financial performance expectations, Board staff shall:
1. Determine the charter holder's "ADM category" using publicly available average daily membership calculations completed by the Department and the criteria set forth in Table 1;
 2. Determine the charter holder's "default measure category" using the following criteria:
 - a. The Board shall determine the charter holder is "low risk" is the default measure received a rating of "meets standard" based on the two most recent audits conducted under R7-5-504
 - b. The Board shall determine that a charter holder is "moderate risk" if the default measure received a "below standard" rating:
 - i. Based on the most recent prior audit conducted under R7-5-504; or
 - ii. Based on the most recent audit conducted under R7-5-504 due to the charter holder's failure to comply with non-payment related requirements.
 - c. The Board shall determine that a charter holder is "high risk" if the default measure received a rating of "below standard" based on the most recent audit conducted under R7-5-504 due to the charter holder's failure to make required payments; and
 3. Assign the charter holder a probation risk level using the charter holder's results based on the two most recent audits conducted under R7-5-504 and the criteria set forth in Table 2.
- I. If, based on the next audit conducted under R7-5-504, a charter holder identified as "Not on Probation" under subsection F is assigned a summative performance rating of "Intervention," then the Board shall determine that the charter holder is "On Probation." A charter holder assigned to probation risk level one under subsection (H)(3):
1. Shall be subject to charter oversight specified in Article 6, including a consent agreement with the Board or charter revocation proceedings, or, if applicable, to the denial of renewal under R7-5-301(I);
 2. Shall be required to submit to the Board, within 30 days of the date of the written notice provided under subsection (L), the agenda and minutes from the meeting where the charter holder board or, if applicable, charter school governing body reviewed its current financial plan and approved any necessary changes. Draft minutes will be accepted;
 3. Shall be required to submit to the Board, within 30 days of the date of the written notice provided under subsection (L), the financial plan identified in subsection (I)(2);
 4. Shall be required to submit to the Board, by the deadlines identified in R7-5-511(B), a narrative describing any deviations that have occurred from the financial plan provided under subsection (I)(3); and
 5. Shall be required to prepare the quarterly financial reports required under R7-5-511(A) by the deadlines identified in R7-5-511(B).
- J. The Board shall determine that a charter holder meets the minimum financial performance expectations if the charter holder: A charter holder assigned to probation risk level two under subsection (H)(3) shall be required to:
1. Receives a summative financial performance rating of "Good Standing" or "Adequate Standing" based on the most recent audit conducted under R7-5-504; or Submit to the Board, within 30 days of the date of the written notice provided under subsection (L), the agenda and minutes from the meeting where the charter holder board or, if applicable, charter school governing body reviewed its current financial plan and approved any necessary changes. Draft minutes will be accepted;
 2. Receives a determination of "Not on Probation" under subsection (F). Submit to the Board, within 30 days of the date of the written notice provided under subsection (L), the financial plan identified in subsection (J)(1);
 3. Submit to the Board, by the deadlines identified in R7-5-511(B), a narrative describing any deviations that have occurred from the financial plan provided under subsection (J)(2); and
 4. Prepare the quarterly financial reports required under R7-5-511(A) by the deadlines identified in R7-5-511(B).
- K. The Board shall determine that a charter holder does not meet the minimum financial performance expectations if the charter holder receives a determination of "On Probation" under subsection (G) or subsection (H). A charter holder that does not meet the minimum financial performance expectations:
1. May be subject to charter oversight specified in Article 6 unless and until the charter holder achieves the minimum financial performance expectations;
 2. Shall be required, subject to the exception set forth in subsection (K)(4), to submit to the Board a financial action plan by October 30 that:
 - a. Details the specific steps being taken by the charter holder to improve its financial performance in the fiscal year that begins on the July 1 following the June 30 quarterly financial report;
 - b. Identifies the milestones the charter holder will use throughout the fiscal year to benchmark its performance against; and
 - c. Has been developed and approved by the charter holder's governing board;
 3. Shall be required to submit quarterly financial reports to the Board until the Board receives the charter holder's next audit conducted under R7-5-504; and
 4. Shall not be required to submit a financial action plan if the Board has received the charter holder's next audit conducted under R7-5-504 by no later than October 25 and based on the next audit the charter holder will be assigned a summative financial performance rating of "Good Standing" or "Adequate Standing." A charter holder assigned to probation risk level three under subsection (H)(3) shall be required to prepare the quarterly financial reports required under R7-5-511(A) by the deadlines identified in R7-5-511(B).
- L. The Board shall determine that a charter holder does not meet the minimum financial performance expectations if the charter holder receives a determination of "On Probation" under subsection (I). A charter holder that does not meet the minimum financial perfor-



- performance expectations under subsection (I): For each charter holder identified as “On Probation” and, therefore, under subsection (G) does not meet the minimum financial performance expectations, Board staff shall notify the charter holder in writing of:
1. May be subject to charter oversight as specified in Article 6 unless and until the charter holder achieves the minimum financial performance expectations; and The probation risk level assigned to the charter holder under subsection (H)(3);
 2. Shall be required to submit to the Board with its initial probation financial response a financial action plan that:
 - a. Details the specific steps being taken by the charter holder to improve its financial performance in the fiscal year that begins on the July 1 following the June 30 quarterly financial report;
 - b. Identifies the milestones the charter holder will use throughout the fiscal year to benchmark its performance against, and
 - c. Has been developed and approved by the charter holder’s governing board. The submission requirements associated with the charter holder’s probation risk level; and
 3. The deadline or deadlines for submitting to the Board the information identified in subsection (L)(2).
- M. Board staff shall report to the Board at a public meeting the audited year performance and June 30 quarterly financial report performance by measure for each charter holder that does not meet the Board’s minimum financial performance expectations under subsection (K):
1. The probation risk level assigned to each charter holder identified as “On Probation” and, therefore, under subsection (G) does not meet the minimum financial performance expectations; and
 2. The detail underlying the probation risk level determination for each charter holder assigned to probation risk level one.
- N. Board staff shall report to the Board at a public meeting the audited year performance, June 30 quarterly financial report performance and next audited year performance by measure for each charter holder that does not meet the Board’s minimum financial performance expectations under subsection (L): “Improvement plans,” for the purpose of A.R.S. § 15-183, shall include:
1. The initial financial response and first four quarterly financial reports, including the June 30 quarterly financial report, submitted to the Board by a charter holder assigned to probation risk level one based on scenario 1, scenario 2, scenario 3, scenario 4 or scenario 5 set forth in Table 2.
 2. The initial financial response and first eight quarterly financial reports, including the June 30 quarterly financial reports, and, if applicable, financial plan and first four narratives submitted to the Board by a charter holder assigned to probation risk level one based on scenario 6 set forth in Table 2.
- O. If a charter holder fails to submit or fails to timely submit a complete financial action plan as required by subsections (K)(2) or (L)(2) by the specified deadline, Board staff shall:
1. Provide written notice to the charter holder that includes the reason for the finding and provides a three-day window for the charter holder to submit a complete financial action plan.
 2. If the charter holder does not submit a complete financial action plan to the Board within the window identified in subsection (O)(1), note the charter holder’s failure on its operational performance dashboard and provide written notice to the charter holder of the deadline by which a complete financial action plan must be received to avoid charter oversight as specified in Article 6. A charter holder’s submissions associated with its probation risk level shall be made publicly available through the charter holder’s financial performance dashboard.
- P. If a charter holder fails to submit or timely submit a complete quarterly financial report required by subsection (K)(3) by the specified deadline, Board staff shall:
1. Provide written notice to the charter holder that includes the reason for the finding and identifies the one-day deadline by which a complete quarterly financial report must be received to avoid charter oversight as specified in Article 6.
 2. Note the failure identified in subsection (P) on the charter holder’s operational performance dashboard. In general, Board staff does not grant extensions for financial submissions as the Board has an interest and duty to timely review these submissions to better understand the charter holder’s current financial status. However, if the deadline has not passed, Board staff may, for good cause, grant the charter holder an extension of time to submit the information pursuant to subsections (I)(2)-(3), subsections (J)(1)-(2), R7-5-509(B), R7-5-509(F) or R7-5-511(B). A charter holder seeking an extension of time must submit the request in writing and include the reason(s) for the request.
- Q. If a charter holder assigned a summative financial rating of “Intervention” under subsection (B)(3) fails to timely submit its next audit conducted under R7-5-504, Board staff shall report the charter holder’s intervention status to the Board when the Board considers action under R7-5-504(E). If a charter holder fails to submit or fails to timely submit by the specified deadline the agenda and minutes required by subsections (I)(2) or (J)(1) or the financial plan required by subsections (I)(3) or (J)(2), Board staff shall:
1. Provide written notice to the charter holder that includes the reason for the finding and provides a three-day window for the charter holder to submit the agenda, minutes or financial plan.
 2. If the charter holder does not submit the agenda, minutes or financial plan to the Board within the window identified in subsection (Q)(1), note the charter holder’s failure on its operational performance dashboard and provide written notice to the charter holder of the deadline by which the agenda, minutes or financial plan must be received to avoid charter oversight as specified in Article 6.
- R. If a charter holder assigned a summative financial performance rating of “Intervention” under subsection (B)(3) or a charter holder identified as “On Probation” and, therefore, under subsection (G) does not meet the minimum financial performance expectations fails to timely submit its next audit conducted under R7-5-504, Board staff shall report the charter holder’s intervention status to the Board when the Board considers action under R7-5-504(E).

Table 1. ADM Category Criteria

| Small and Medium Charter Holders (Less than 600 ADM) | | | |
|--|--|----|--|
| ADM Category | Estimated ADM Measure Performance ¹ | | Percent Loss of Total ADM ² |
| Low Risk | Greater than 0 to negative 4.99% | or | 0 to 9.99% decline |
| Moderate Risk | Negative 5% to negative 14.99% | or | 10% to 19.99% decline |
| High Risk | Negative 15% or more | or | 20% or more decline |



| Large Charter Holders (600 or more ADM) | | | |
|--|--|----|--|
| ADM Category | Estimated ADM Measure Performance¹ | | Percent Loss of Total ADM² |
| Low Risk | Greater than 0 to negative 2.99% | or | 0 to 7.99% decline |
| Moderate Risk | Negative 3% to negative 9.99% | or | 8% to 14.99% decline |
| High Risk | Negative 10% or more | or | 15% or more decline |

¹The “Estimated ADM Measure Performance” considers the charter holder’s estimated performance on the Average Daily Membership measure for the fiscal year that begins on the July 1 following the fiscal year end of the most recent audit conducted under R7-5-504.

²The “Percent Loss of Total ADM” considers the percent change in the charter holder’s ADM from the oldest year (year 3) to the most recent year (year 1) in a three-year period. To align with the year references used in the average daily membership calculation, the “oldest year” or year 3 is considered the fiscal year of the prior most recent audit conducted under R7-5-504 and the “most recent year” or year 1 is the most recently completed fiscal year.

Table 2. Probation Risk Level Criteria

| Probation Risk Level One | | | | | |
|---|--|--|--|---|--|
| Scenario 1 | Scenario 2 | Scenario 3 | Scenario 4 | Scenario 5 | Scenario 6 |
| <ul style="list-style-type: none"> • “Below standard” rating on the going concern measure for two consecutive fiscal years; and • “High risk” ADM category. | <ul style="list-style-type: none"> • “Below standard” rating on the going concern measure for two consecutive fiscal years; and • Numeric performance positively increased on less than three calculated measures¹; and • Any risk ADM category. | <ul style="list-style-type: none"> • “Below standard” rating on the going concern measure in the prior audited fiscal year; and • Numeric performance positively increased on one or fewer calculated measures¹; and • “High risk” ADM category. | <ul style="list-style-type: none"> • For two consecutive fiscal years, all three calculated measures¹ received “below standard” or “approaches standard” ratings (regardless of if numeric performance positively increased for one or more calculated measures). | <ul style="list-style-type: none"> • “High risk” default measure category. | <ul style="list-style-type: none"> • Two consecutive probation risk level two determinations; or • Two consecutive probation risk level three determinations; or • One probation risk level two determination and one probation risk level three determination in two consecutive cycles. |
| Probation Risk Level Two | | | | | |
| Scenario 1 | Scenario 2 | Scenario 3 | Scenario 4 | | |
| <ul style="list-style-type: none"> • “Below standard” rating on the going concern measure for two consecutive fiscal years; and • Numeric performance positively increased on all three calculated measures¹; and • “Low risk” or “moderate risk” ADM category. | <ul style="list-style-type: none"> • “Below standard” rating on the going concern measure in the prior audited fiscal year; and • Numeric performance positively increased on two or more calculated measures¹; and • Any risk ADM category. | <ul style="list-style-type: none"> • “Below standard” rating on the going concern measure in the most recent audited fiscal year. | <ul style="list-style-type: none"> • “Meets standard” rating on the going concern measure for two consecutive fiscal years; and • Numeric performance positively increased on one or fewer calculated measures¹; and • “High risk” ADM category. | | |
| Probation Risk Level Three | | | | | |
| Scenario 1 | Scenario 2 | | | | |
| <ul style="list-style-type: none"> • “Meets standard” rating on the going concern measure for two consecutive fiscal years; and • Numeric performance positively increased on one or more calculated measures¹; and • “Low risk” or “moderate risk” ADM category. | <ul style="list-style-type: none"> • “Meets standard” rating on the going concern measure for two consecutive fiscal years; and • Numeric performance positively increased on all three calculated measures¹; and • Any risk ADM category. | | | | |

¹“Calculated measures” include the unrestricted days liquidity measure, adjusted net income measure and lease adjusted debt service coverage ratio measure. If a charter holder’s performance on a calculated measure has decreased year over year, but continues to be rated “meets standard,” this will not be considered declining performance. The charter holder’s numeric performance will be considered to have “positively increased.”

ARTICLE 5. CHARTER SUPERVISION

R7-5-501. General Supervision

- A. A charter holder shall:
 1. Comply with the provisions of its charter, contractual agreements with the Board, federal and state laws, and this Chapter; and
 2. Meet the minimum performance expectations specified in Article 4.
- B. The Board may supervise a charter holder’s compliance with subsection (A) using any of the following means:
 1. Oral or written communication with:
 - a. The charter representative or authorized charter school personnel; and
 - b. Representatives of federal, state, and local agencies having jurisdiction over operation of the charter school or having authority to investigate or adjudicate allegations of misconduct by any member of the charter school’s staff;
 2. Collection and review of reports, audits, data, records, documents, files, and communication from any source relating to any activity or program conducted by or for the charter school;
 3. A site visit as described in R7-5-502;
 4. Annual academic performance review as described in R7-5-503;
 5. Annual audit and financial performance review as described in R7-5-504 and, if necessary, the financial intervention submissions as described in R7-5-509 and R7-5-511;



- 6. Operational performance review as described in R7-5-505;
 - 7. Five-year-interval review of academic, financial, and operational performance, as described in R7-5-506; and
 - 8. Complaints as described in R7-5-507.
- C. A charter holder must report the following to the Board within 10 days of receipt or occurrence:
- 1. Any notice from a lender or landlord regarding default;
 - 2. Filing a petition for bankruptcy;
 - 3. Any notice from the Internal Revenue Service, Arizona State Retirement System, Arizona Department of Revenue, or Arizona Department of Economic Security regarding a tax lien, levy or garnishment;
 - 4. Correspondence from an insurance provider related to cancellation of health or liability insurance due to nonpayment;
 - 5. Notice of termination of line of credit whether initiated by financial institution or charter holder when replacement credit line is not in effect; or
 - 6. Withdrawals from debt service reserve funds.
- D. By September 1 of each year, each charter holder must notify the Board, in writing, of whether they have an agreement or contract with an Education Service Provider for the current school year. If the charter holder has an agreement or contract with an Education Service Provider, then the charter holder must provide:
- 1. The name of the Education Service Provider; and
 - 2. A written statement describing the services provided to the charter holder’s charter school or schools by the Education Service Provider.
- E. Each charter school must conspicuously and permanently post a link on its website to the charter school’s academic performance dashboard and the charter holder’s financial and operational performance dashboards on the Board’s website. For new schools, the link must be conspicuously posted by September 1 of the charter school’s first school year of operation.
- F. If the charter holder fails to submit or fails to timely submit the information required in subsection (C) or subsection (D) or fails to post the link required in subsection (E) on the charter school’s website, the failure shall be noted in the charter holder’s operational performance dashboard.
- G. If the specified deadline has not passed, Board staff may grant a charter holder an extension to submit a CAP or other response required under subsection (C), subsection (D), subsection (E), ~~R7-5-402(K)(2)~~, R7-5-502(G), ~~R7-5-504(H)(1)~~, R7-5-505(D), R7-5-505(E), or R7-5-506(B)(2), R7-5-507(C), R7-5-509(C), or R7-5-509(I). In determining whether to grant an extension, Board staff shall consider the following, as applicable:
- 1. Whether the charter school at issue was in session when the Board provided notice to the charter holder;
 - 2. Whether the charter school at issue was in session during the period provided in the notice for the charter holder to respond to the Board; and
 - 3. Whether additional time is required by the charter holder because of the number or complexity of matters to be addressed.
- H. If the Department notifies the Board that a charter holder has failed to timely submit, to the Department, the adopted budget, annual financial report, classroom site project narrative results summary, school-level reporting form, food service annual financial report or results-based funding expenditure report or their successor reports, then Board staff shall note such failure on the charter holder’s operational performance dashboard. The charter holder may be subject to charter oversight as specified in Article 6.
- I. Within 30 calendar days of the final audit being issued by the audit firm, each charter school governing body shall meet and publicly accept, by roll call vote, the charter holder’s audit conducted under R7-5-504, including the compliance questionnaire. Should the written audit requirements released under R7-5-504(A) establish different submission deadlines for certain audit components (e.g., single audit reports) and should the audit firm not issue all components of the final audit at one time, the charter school governing body shall, within 30 calendar days of each component being issued, meet and publicly accept, by roll call vote, the aforementioned issued audit component.

R7-5-504. Annual Audit and Financial Performance Review

- A. By July 1 of each year, the Board shall make available on its website written requirements regarding the audit each charter school is required to submit annually under A.R.S. §§ 15-183(E)(6) and 15-914.
- B. Before beginning the audit, a charter holder or the audit firm shall submit for the Board’s approval a copy of the audit contract the charter holder intends to execute with an audit firm.
- 1. Board staff shall approve the audit contract unless the Board has knowledge that one of the following is applicable:
 - a. A person employed by the audit firm has been convicted under federal or state law of a crime indicating lack of business integrity or honesty;
 - b. The audit firm or supervising certified public accountant is subject to a current or pending disciplinary action or a regulatory action requiring the audit firm or supervising certified public accountant to complete conditions specified by an accounting industry regulatory body;
 - c. The audit firm violates or fails to meet generally accepted auditing standards or generally accepted government auditing standards as identified by an accounting industry regulatory body;
 - d. The audit firm receives an opinion of “fail” during the audit firm’s most recent peer review;
 - e. An auditor scheduled to work on the audit fails to meet the continuing professional education requirements prescribed by generally accepted government auditing standards; or
 - f. The audit firm fails to agree to adhere to the audit requirements specified in subsection (A).
 - 2. Within 10 days after receiving a copy of an audit contract under subsection (B), the Board shall provide the charter holder and audit firm written notice whether the audit contract is approved.
 - 3. If the Board disapproves an audit contract submitted under subsection (B), the Board shall include the reason for the disapproval in the written notice provided under subsection (B)(2). If the charter holder or audit firm provides documentation to the Board demonstrating the cause for the disapproval no longer exists, Board staff shall approve the audit contract and provide written notice to the charter holder and audit firm.



- C. A charter holder or the audit firm that conducts an audit for the charter holder shall submit the annual audit to the Board for a determination whether the audit is complete. Within five days after receiving the annual audit, Board staff shall provide the charter holder and audit firm written notice whether the audit is complete.
- D. Board staff shall find an audit is incomplete if it does not comply with all requirements specified under subsection (A) or if the audit is prepared by an audit firm that fails to meet the requirements under subsection (B)(1)(a) through (e). If Board staff finds an audit is incomplete, Board staff shall include the reason for the finding in the notice provided under subsection (C). If the charter holder or audit firm provides documentation to the Board demonstrating the reason for the finding no longer exists, Board staff shall find the annual audit is complete and provide written notice to the charter holder and audit firm.
- E. A charter holder that fails to timely submit a complete audit may be subject to charter oversight as specified in Article 6.
- F. Board staff shall review each audit deemed complete.
- G. The Board shall annually calculate a performance rating for each charter holder using the Financial Performance Framework, the annual audit submitted to the Board by the charter holder and the average daily membership calculations completed by the Department using student attendance data submitted to the Department by the charter holder. The Board shall make each charter holder's financial performance dashboard publicly available on the Board's website.
- H. Board staff shall send notice to a charter holder after the audit is reviewed unless the Board has been notified the charter holder will not be operating during the next fiscal year.
 1. If the Board identifies an issue in the audit, Board staff shall direct the charter holder to address the issue and may require the charter holder to submit a CAP, as described in R7-5-510.
 2. The Board shall require a charter holder that receives a summative financial performance rating of "Intervention" under R7-5-402(F) to prepare the financial intervention submissions as described in R7-5-509.
 3. The Board shall require a charter holder identified as "On Probation" and, therefore, pursuant to R7-5-402(G) does not meet the minimum financial performance expectations to prepare the financial intervention submissions as described in R7-5-511.
- I. If Board staff identifies a serious impact finding in the audit, the charter holder shall be subject to charter oversight as specified in Article 6 unless the charter holder provides credible evidence to the Board that the charter holder's next audit will find the charter holder in compliance.
- J. In general, Board staff does not grant extensions for corrective action plan submissions under R7-5-504(H)(1) as the Board has an interest and duty to timely review these submissions to better ensure the charter holder addresses identified concerns quickly. However, if the deadline has not passed, Board staff may, for good cause, grant the charter holder an extension of time to submit the CAP pursuant to subsection (H)(1) or any additional information pursuant to R7-5-510. A charter holder seeking an extension of time must submit the request in writing and include the reason or reasons for the request.

R7-5-509. Financial Intervention Submissions

- A. ~~Except as set forth in subsection (B), the~~ The Board shall require a charter holder assigned a summative financial performance rating of "Intervention" under R7-5-402(F) to prepare an initial financial response, quarterly financial reports and a June 30 quarterly financial report. The charter holder shall be required to submit quarterly financial reports, including the June 30 quarterly financial report, to the Board until the Board receives the charter holder's next audit conducted under R7-5-504.
- B. ~~For a charter holder identified as "On Probation" pursuant to R7-5-402(G), (H) or (I), the Board shall require a charter holder assigned a summative financial performance rating of "Intervention" under R7-5-402 based on the next audit conducted under R7-5-504 to prepare an initial probation financial response, quarterly financial reports and a June 30 quarterly financial report.~~
- ~~C.B.~~ Board staff shall provide written notice to a charter holder that is required to submit an initial financial response ~~or initial probation financial response~~. Board staff shall ensure the notice includes the following:
 1. Information on how to access the charter holder's financial performance dashboard,
 2. The deadline, which will be set 30 calendar days from the date of the written notice, for submitting the initial financial response ~~or initial probation financial response~~ to the Board, and
 3. The quarters that must be addressed in the charter holder's initial financial response ~~or initial probation financial response~~.
 - a. If the written notice date is between October 1 and December 31, the initial financial response ~~or initial probation financial response~~ must address the quarter ending September 30.
 - b. If the written notice date is between January 1 and March 31, the initial financial response ~~or initial probation financial response~~ must address the quarters ending September 30 and December 31.
 - c. If the written notice date is between April 1 and June 30, the initial financial response ~~or initial probation financial response~~ must address the quarters ending September 30, December 31 and March 31.
 - d. If the written notice date is after June 30, the initial financial response ~~or initial probation financial response~~ must address the quarters ending September 30, December 31, March 31 and June 30.
- ~~D.C.~~ Board staff shall review the initial financial response and prepare a report on the initial financial response. Board staff's report will answer each of the following questions and briefly explain the basis for each answer:
 1. Is there a sound explanation for why the charter holder underperformed on the Financial Performance Framework's measures?
 2. Did the charter holder perform at a level just below or well below the Financial Performance Framework's measure targets?
 3. In what direction is the charter holder's financial health heading?
 4. Do the charter holder's proposed or implemented actions address the problems that contributed to or caused the charter holder's underperformance on the Financial Performance Framework's measures and are they realistic to implement?
- ~~E.D.~~ For each charter holder that submitted an initial financial response, Board staff shall place the charter holder in the intervention tier that aligns with the following criteria:
 1. If the charter holder's financial performance dashboard based on the most recent audit conducted under R7-5-504 indicates a rating of "below standard" for the going concern or default measure and indicates a rating of "approaches standard" on zero or more measures, then the charter holder shall be placed in intervention tier 1, except as set forth in subsection ~~(E)~~(D)(5).
 2. If the charter holder's financial performance dashboard based on the most recent audit conducted under R7-5-504 indicates a rating of "below standard" on two or more measures and indicates a rating of "approaches standard" on zero or more measures,



then the charter holder shall be placed in intervention tier 1 unless the charter holder is placed in intervention tier 2 under subsection ~~(E)(D)(5)~~.

- 3. If the charter holder’s financial performance dashboard based on the most recent audit conducted under R7-5-504 indicates a rating of “below standard” on one measure other than the going concern measure or default measure and indicates a rating of “approaches standard” on zero or more measures, then the charter holder shall be placed in intervention tier 2 unless the charter holder is placed in intervention tier 1 under subsections ~~(E)(D)(4)~~, ~~(E)(D)(6)~~, ~~(E)(D)(7)~~, ~~(E)(D)(8)~~ or ~~(E)(D)(9)~~.
- 4. If the report prepared by Board staff identifies a “No” as the answer to the question identified in subsection ~~(D)(C)(4)~~, then the charter holder shall be placed in intervention tier 1.
- 5. If the charter holder’s initial financial response supports that the charter holder has cured the default, then the charter holder shall either be:
 - a. Removed from the intervention process if the default measure was the only measure for which the charter holder received a rating of “below standard” based on the most recent audit conducted under R7-5-504, or
 - b. Placed in intervention tier 2 instead of intervention tier 1 if the charter holder had received a rating of “below standard” on only one other measure based on the most recent audit conducted under R7-5-504.
- 6. If the charter holder was required to submit a corrective action under R7-5-504(H)(1) based on the most recent audit conducted under R7-5-504 for failure to pay taxes or contributions due to the Internal Revenue Service, Arizona Department of Revenue, Arizona Department of Economic Security or Arizona State Retirement System, failure to have sufficient cash at June 30 to cover the charter holder’s unspent Classroom Site Fund balance, or failure to maintain worker’s compensation insurance or liability insurance, then the charter holder shall be placed in intervention tier 1.
- 7. If the Board has substantiated in the audited fiscal year, subsequent fiscal year or both at least one complaint involving late payroll checks to employees, or health insurance or liability insurance cancellation due to nonpayment or if the Board has substantiated in the audited fiscal year, subsequent fiscal year or both at least one complaint involving failure to make required retirement plan contributions or received notification from the Arizona State Retirement System of delinquent retirement contributions, then the charter holder shall be placed in intervention tier 1.
- 8. If the charter holder has been required to make at least one submission under R7-5-501(C) in the audited fiscal year, subsequent fiscal year or both, then the charter holder shall be placed in intervention tier 1.
- 9. If the charter holder’s performance fluctuates from a summative financial performance rating of “Intervention” to a summative financial performance rating of “Adequate Standing” and then back to a summative financial performance rating of “Intervention” within the most recent three-year period, then the charter holder shall be placed in intervention tier 1.

~~F. For each charter holder that submitted an initial probation financial response, Board staff shall place the charter holder in intervention tier 1 and shall determine the applicability of the criteria specified in subsections (E)(6) (E)(8) to the charter holder.~~

~~G.E.~~ Within 30 calendar days after receiving an initial financial response, Board staff shall provide the charter holder with written notice that includes the following:

- 1. The charter holder’s intervention tier as determined under subsection ~~(E)(D)~~;
- 2. The quarterly financial report requirements and submission deadlines;
- 3. The availability of Board staff’s report specified in subsection ~~(D)(C)~~; and
- 4. Any differences identified between the calculations included by the charter holder in its initial financial response and those completed by Board staff.

~~H.~~ Within 30 calendar days after receiving an initial probation financial response, Board staff shall provide the charter holder with written notice that includes the following:

- ~~1. The charter holder’s intervention tier as determined under subsection (F);~~
- ~~2. The quarterly financial report requirements and submission deadlines; and~~
- ~~3. Any differences identified between the calculations included by the charter holder in its initial probation financial response and those completed by Board staff.~~

~~H.E.~~ The submission deadlines for quarterly financial reports, including the June 30 quarterly financial report, submitted subsequent to the initial financial response ~~or initial probation financial response~~ are as follows:

- 1. October 30 for the quarter ending September 30;
- 2. January 30 for the quarter ending December 31;
- 3. April 30 for the quarter ending March 31; and
- 4. August 15 for the quarter ending June 30.

~~J.G.~~ For each quarterly financial report submitted subsequent to the initial financial response ~~or initial probation financial response~~ and prior to the June 30 quarterly financial report and for each quarterly financial report submitted subsequent to the June 30 quarterly financial report pursuant to subsection (A)R7-5-402(K)(3), Board staff shall determine the charter holder’s current performance and compare Board staff’s results to the charter holder’s calculation results. Within 30 calendar days of each quarterly financial report’s receipt, Board staff shall notify the charter holder in writing of:

- 1. The submission deadline for the next quarterly financial report; and
- 2. Any differences identified between the calculations completed by the charter holder and those completed by Board staff.

~~H.~~ For each charter holder that submitted a June 30 quarterly financial report, Board staff shall determine whether:

- 1. The going concern measure received a rating of “below standard” on the most recent audit conducted under R7-5-504.
- 2. The measure or measures rated “below standard” based on the most recent audit conducted under R7-5-504 will likely improve to at least an “approaches standard” rating or remain rated “below standard” when calculations are completed using the charter holder’s next audit conducted under R7-5-504.
- 3. One or more of the Financial Performance Framework’s other measures will likely be rated “below standard” when calculations are completed using the charter holder’s next audit conducted under R7-5-504.
- 4. Since Board staff made the determination in subsection (D), the Board has substantiated any complaint involving late payroll checks to employees, health insurance or liability insurance cancellation due to nonpayment or failure to make required retire-



- ment plan contributions, or the Board has received notification from the Arizona State Retirement System of delinquent retirement contributions.
5. Since Board staff made the determination in subsection (D), the charter holder has been required to make at least one submission under R7-5-501(C).
 6. Within the most recent five-year period the charter holder has been assigned three summative financial performance ratings of “Intervention” and two summative financial performance ratings of “Adequate Standing.”
- KJ.** Within 45 calendar days after receiving a June 30 quarterly financial report, Board staff shall notify the charter holder in writing of:
1. Determine the charter holder’s probation status under R7-5-402(F) (H)The determinations made by Board staff under subsection (H);
 2. Update the charter holder’s financial performance dashboard to reflect the charter holder’s probation statusThe submission deadline for the next quarterly financial report required under subsection (A); and
 3. Notify the charter holder of its probation status and, if applicable, the deadline for submitting the information identified in R7-5-402(K)(2) (3)Any differences identified between the calculations completed by the charter holder and those completed by Board staff.
- KJ.** Subject to the provision set forth in subsection (L)(J)(1), for each charter holder placed in intervention tier 1 under subsection (E)(D) or subsection (F), Board staff shall visit each school operated by the charter holder to conduct a physical count of students and compare the information observed and obtained onsite with the number of students reported to the Department.
1. Should extraordinary circumstances preclude Board staff from completing one or more intervention tier 1 site visits, Board staff shall:
 - a. Report to the Board at a public meeting the specific extraordinary circumstance and the number of site visits affected;
 - b. Propose an alternative method for conducting the intervention tier 1 site visits, request a waiver of one or more intervention tier 1 site visits, or both; and
 - c. Provide at least 5 days’ public notice of the Board meeting identified in subsection (L)(J)(1)(a).
 2. Time permitting, Board staff may visit each school operated by a charter holder placed in intervention tier 2 under subsection (E)(D).
- MK.** The charter holder’s initial financial response, initial probation financial response, quarterly financial reports and June 30 quarterly financial report and Board staff’s report under subsection (D)(C) shall be made publicly available through the charter holder’s financial performance dashboard.
- NL.** If a charter holder fails to submit or fails to timely submit a required an initial financial response, initial probation financial response, required quarterly financial report or June 30 quarterly financial report required under subsection (A), Board staff shall note the failure on the charter holder’s operational performance dashboard. The charter holder may be subject to charter oversight as specified in Article 6.
- OM.** If a charter holder fails to submit a complete initial financial response or initial probation financial response by the specified deadline, Board staff shall:
1. Provide written notice to the charter holder that includes the reason for the finding and provides a three-day window for the charter holder to submit a complete initial financial response or initial probation financial response.
 2. If the charter holder does not submit a complete initial financial response or initial probation financial response to the Board within the window identified in subsection (O)(M)(1), note the failure on the charter holder’s operational performance dashboard and provide written notice of the deadline by which a complete initial financial response or initial probation financial response must be received to avoid charter oversight specified in Article 6.
- PN.** Subsequent to the initial financial response or initial probation financial response submission, if a charter holder fails to submit a complete required quarterly financial report or June 30 quarterly financial report required under subsection (A) by the specified deadline, Board staff shall:
1. Provide written notice to the charter holder that includes the reason for the finding and identifies the one-day deadline by which a complete quarterly financial report or June 30 quarterly financial report must be received to avoid charter oversight as specified in Article 6.
 2. Note the failure identified in subsection (P)(N) on the charter holder’s operational performance dashboard.

R7-5-511. Financial Intervention Submissions – On Probation

- A.** In accordance with R7-5-402(I)-(K), the Board shall require a charter holder identified under R7-5-402(G) as “On Probation” to prepare quarterly financial reports and a June 30 quarterly financial report. The charter holder shall be required to submit quarterly financial reports, including a June 30 quarterly financial report, to the Board until the Board receives the charter holder’s next audit conducted under R7-5-504.
- B.** After being notified of its probation risk level assigned under R7-5-402(H)(3), the charter holder shall be required to submit its quarterly financial reports, including the June 30 quarterly financial report, and, if applicable, the narratives required under R7-5-402(I)(4) or R7-5-402(J)(3) to the Board by the deadlines identified in subsections (B)(1) through (B)(4). To ensure the Board receives all quarterly reports and narratives required under subsection (A), the charter holder shall submit by the deadline associated with the most recent quarterly report, any required quarterly reports and narratives not previously provided to the Board, as applicable.
1. October 30 for the quarter ending September 30;
 2. January 30 for the quarter ending December 31;
 3. April 30 for the quarter ending March 31; and
 4. August 15 for the quarter ending June 30.
- C.** Within 30 calendar days after receiving the first quarterly financial report submitted in response to the written notice provided under R7-5-402(L), Board staff shall provide the charter holder with written notice that includes the following:
1. The charter holder’s intervention tier as determined under subsection (D);
 2. The submission deadline for the next quarterly financial report required under subsection (A); and
 3. Any differences identified between the calculations completed by the charter holder and those completed by Board staff.



- D.** For each charter holder identified as “On Probation,” Board staff shall:
 - 1. Place the charter holder in intervention tier 1.
 - 2. Determine if the charter holder was required to submit a corrective action plan under R7-5-504(H)(1) based on the most recent audit conducted under R7-5-504 for failure to pay taxes or contributions due to the Internal Revenue Service, Arizona Department of Revenue, Arizona Department of Economic Security or Arizona State Retirement System, failure to have sufficient cash at June 30 to cover the charter holder’s unspent Classroom Site Fund balance, or failure to maintain worker’s compensation insurance or liability insurance.
 - 3. Determine if the Board has substantiated in the audited fiscal year, subsequent fiscal year or both at least one complaint involving late payroll checks to employees, or health insurance or liability insurance cancellation due to nonpayment or if the Board has substantiated in the audited fiscal year, subsequent fiscal year or both at least one complaint involving failure to make required retirement plan contributions or received notification from the Arizona State Retirement System of delinquent retirement contributions.
 - 4. Determine if the charter holder has been required to make at least one submission under R7-5-501(C) in the audited fiscal year, subsequent fiscal year or both.
- E.** For each quarterly financial report submitted subsequent to the quarterly financial report reviewed under subsection (C) and prior to the June 30 quarterly financial report and for each quarterly financial report submitted subsequent to the June 30 quarterly financial report pursuant to subsection (A), Board staff shall determine the charter holder’s current performance and compare Board staff’s results to the charter holder’s calculation results. Within 30 calendar days of each quarterly financial report’s receipt, Board staff shall notify the charter holder in writing of:
 - 1. The submission deadline for the next quarterly financial report; and
 - 2. Any differences identified between the calculations completed by the charter holder and those completed by Board staff.
- F.** For each charter holder that submitted a June 30 quarterly financial report, Board staff shall determine whether:
 - 1. The going concern measure received a rating of “below standard” on the most recent audit conducted under R7-5-504.
 - 2. The measure or measures rated “below standard” based on the most recent audit conducted under R7-5-504 will likely improve to at least an “approaches standard” rating or remain rated “below standard” when calculations are completed using the charter holder’s next audit conducted under R7-5-504.
 - 3. One or more of the Financial Performance Framework’s other measures will likely be rated “below standard” when calculations are completed using the charter holder’s next audit conducted under R7-5-504.
 - 4. Since Board staff made the determination in subsection (D), the Board has substantiated any complaint involving late payroll checks to employees, health insurance or liability insurance cancellation due to nonpayment or failure to make required retirement plan contributions, or the Board has received notification from the Arizona State Retirement System of delinquent retirement contributions.
 - 5. Since Board staff made the determination in subsection (D), the charter holder has been required to make at least one submission under R7-5-501(C).
 - 6. Within the most recent five-year period the charter holder has been assigned three summative financial performance ratings of “Intervention” and two summative financial performance ratings of “Adequate Standing.”
- G.** Within 45 calendar days after receiving a June 30 quarterly financial report, Board staff shall notify the charter holder in writing of:
 - 1. The determinations made by Board staff under subsection (F);
 - 2. The submission deadline for the next quarterly financial report required under subsection (A); and
 - 3. Any differences identified between the calculations completed by the charter holder and those completed by Board staff.
- H.** Subject to the provision set forth in R7-5-509(J)(1), for each charter holder placed in intervention tier 1 under subsection (D), Board staff shall visit each school operated by the charter holder to conduct a physical count of students and compare the information observed and obtained onsite with the number of students reported to the Department.
- I.** The charter holder’s quarterly financial reports, June 30 quarterly financial report and, if applicable, narratives required under R7-5-402(I)(4) or R7-5-402(J)(3) shall be made publicly available through the charter holder’s financial performance dashboard.
- J.** If a charter holder fails to submit or fails to timely submit a quarterly financial report or June 30 quarterly financial report required under subsection (A), Board staff shall note the failure on the charter holder’s operational performance dashboard. The charter holder may be subject to charter oversight as specified in Article 6.
- K.** If a charter holder fails to submit by the specified deadline a complete quarterly financial report or June 30 quarterly financial report required under subsection (A) or, if applicable, the narratives required under R7-5-402(I)(4) or R7-5-402(J)(3), Board staff shall:
 - 1. Provide written notice to the charter holder that includes the reason for the finding and identifies the one-day deadline by which a complete quarterly financial report, June 30 quarterly financial report or narrative must be received to avoid charter oversight as specified in Article 6.
 - 2. Note the failure identified in subsection (K) on the charter holder’s operational performance dashboard.