

AGENCY RECEIPT

NOTICE OF FINAL EXEMPT RULEMAKING

SECRETARY OF STATE

2018 JUL -9 PM 3:18

1. **Agency name:** State Board for Charter Schools

FILED

2. **The Subchapters, if applicable; the Articles; the Parts, if applicable; and the Sections involved in the rulemaking, listed in alphabetical and numerical order:**

| <u>Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|--|---------------------------------|
| R7-5-101 | Amend |
| R7-5-208 | Amend |
| R7-5-301 | Amend |
| R7-5-402 | Amend |
| R7-5-501 | Amend |
| R7-5-504 | Amend |
| R7-5-506 | Amend |
| R7-5-509 | Amend |
| R7-5-602 | Amend |

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 7. EDUCATION

CHAPTER 5. STATE BOARD FOR CHARTER SCHOOLS

PREAMBLE

| <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|--|--------------------------|
| R7-5-101 | Amend |
| R7-5-208 | Amend |
| R7-5-301 | Amend |
| R7-5-402 | Amend |
| R7-5-501 | Amend |
| R7-5-504 | Amend |
| R7-5-506 | Amend |
| R7-5-509 | Amend |
| R7-5-602 | Amend |

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:

July 8, 2019, which is the date of the Board meeting at which the Board adopted the final rules.

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: Charles Tack, Executive Director

Address: 1616 W. Adams Street, Suite 170, Phoenix, AZ 85007

or

P.O. Box 18328, Phoenix, AZ 85005

Telephone: (602) 364-3080

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 An agency’s justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:

As amended in 2018, 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 make them consistent with statutory changes made in 2018, to place the Board’s updated financial

framework in rule, and to place additional transparency recommended by the Board in rule.

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 rulemaking is expected to have minimal, if any, economic impact on charter holders assigned “Good Standing” or “Adequate Standing” summative financial performance ratings under the financial framework. For those charter holders assigned an “Intervention” summative financial performance rating, the Board believes the economic impact will be minimal. Generally, the cost will result from compiling and submitting the required documentation and not from having to create it as a charter holder should, for example, already have and be regularly reviewing a budget and internal, unaudited financial statements.

The Board recognizes that procedures necessary to comply with the additional transparency filings and postings identified in the rulemaking involve cost for a charter holder, but believes the economic impact on charter holders will be minimal.

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

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

R7-5-501(D)(1)-(2): References to “education service provider” were changed to “Education Service Provider” to align with other rules.

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 4 through June 24, 2019. During the public comment period, no public comments were received on the rules. The second opportunity for public comment occurred at the Board’s July 8, 2019 meeting. Three stakeholders provided oral comment at the July 8, 2019 meeting. No comments specific to the rules were made, but the following matters were discussed:

| Comment | Analysis | Board Response |
|---|---|-------------------------|
| Appreciation was expressed for the thoughtfulness and time taken to develop the financial framework and for the public comment and involvement opportunities. | The Board appreciates the support. | No rule change required |
| The Board must be careful of unintended consequences that may surface during the financial framework’s implementation. | The Board will revisit the financial framework and rules to address any unintended consequences or other matters that may come to the Board’s attention during the transition year. | No rule change required |
| The applicable financial framework measures do not include adjustments | The Board will review data from the transition year and consider adjust- | No rule change required |

| | | |
|---|---|-------------------------|
| for non-capital expenses made from a charter holder's reserve. A request was made for the Board to look for a way that would allow such charter holders to demonstrate their financial health while continuing to invest in their students. | ments to improve the financial framework and rules. | |
| Charter holders may have thought they had until the August meeting to provide verbal comment to the Board. | At prior Board meetings, the Board had talked about holding a meeting to act on the rules. At the May meeting, the Board was informed that the meeting had not yet been scheduled, but could be held in June or July. | No rule change required |

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 2. APPLICATION FOR A NEW CHARTER; APPLICATION FOR CHARTER REPLICATION

Section

R7-5-208 Application for Replication Charter

ARTICLE 3. POST-CHARTER ACTIONS

Section

R7-5-301 Application for Charter Renewal; Early Renewal of Charter

ARTICLE 4. MINIMUM PERFORMANCE EXPECTATIONS

Section

R7-5-402 Minimum Financial Performance Expectations

ARTICLE 5. CHARTER SUPERVISION

Section

R7-5-501 General Supervision

R7-5-504 Annual Audit and Financial Performance Review

R7-5-506 Five-year-interval Review

R7-5-509 Financial Performance Response Intervention Submissions

ARTICLE 6. CHARTER OVERSIGHT

Section

R7-5-602 Oversight of Charter Schools Assigned a Letter Grade of “F” by the Department

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 web site 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.

“ASBCS Online” means the Board’s web-based interface, which is accessible through the web site of the Arizona State Board for Charter Schools.

“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 ~~comprehensive 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 ~~two~~-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 web site, 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. In its response, the charter holder must:

- Provide the charter holder’s annual 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 the charter holder’s budget for each quarter in the fiscal year;
- Provide a quarterly financial report for each applicable quarter as defined in R7-5-509(B)(3);
- Provide a schedule of debt and lease obligations and the current outstanding balances for each;
- 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.

“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. 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 budget that includes actual results versus budgeted results for the quarter ending June 30; and
- The charter holder’s calculation of its performance on all six of the Financial Performance Framework’s measures.

“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 web site 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. 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 for the quarter end date;
- The charter holder’s budget for the applicable quarter that includes actual results versus budgeted results; and
- The charter holder’s calculation of its performance on the default, unrestricted days liquidity, adjusted net income and average daily membership measures.

“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.

R7-5-208. Application for Replication Charter

- A. The charter holder of an existing high quality charter school may be eligible to apply for a replication charter rather than a new charter. A replication charter allows the charter holder to implement the existing educational program, corporate and governance structure, and financial and operational processes at a new charter school.
- B. A charter holder that wishes to apply for a replication charter shall submit to the Board a Replication Eligibility form. Board staff shall review the form and determine whether the charter holder is eligible to apply for a replication charter. A charter holder is eligible to apply for a replication charter if the charter holder is in compliance with provisions of its charter, contractual agreements with the Board, federal and state law and this Chapter, and meets the academic and financial eligibility requirements specified in the replication application instructions, which are publicly available and posted on the Board's web site.
- C. Within 15 days after receiving a Replication Eligibility form, Board staff shall provide written notice to the charter holder of whether the charter holder may apply for a replication charter and, if eligible, shall make the replication application available to the charter holder.
- D. If a charter holder submits an application package for a replication charter by the last business day of September, Board staff shall process the application package in an expedited manner and ensure the application package is considered at the Board's meeting in November.
- E. As required under A.R.S. § 41-1073, the Board establishes the following time frames for approving or disapproving a replication charter:
 - 1. Administrative review time frame: 15 days;
 - 2. Substantive review time frame: 50 days; and
 - 3. Overall time frame: 65 days.
- F. The provisions at R7-5-205(A), regarding execution of a new charter, apply to a replication charter.
- G. R7-5-206, regarding a good-cause extension to execute a new charter, and R7-5-207, regarding good-cause suspension of a new charter, do not apply to a replication charter.

R7-5-301. Application for Charter Renewal; Early Renewal of Charter

- A. The Board shall make available on its web site instructions regarding eligibility and submission requirements for renewal and early renewal of a charter.
- B. A charter holder shall submit to the Board electronically through ASBCS Online the renewal application package identified in subsection (E) or the early renewal application package identified in subsection (L). The Board shall not accept a paper submission.
- C. The Board shall provide the charter holder at least 72-hours' written notice of the date, time, and location of the Board meeting at which the Board will consider the charter holder's renewal or early renewal application package. The charter holder shall attend the Board meeting.
- D. At least 18 months before a charter is scheduled to expire, the Board shall provide the charter holder with a renewal application that is customized based on the charter holder's performance history. The Board shall require a charter holder that does not meet the performance expectations specified in Article 4 to submit more information than a charter holder that does meet the performance expectations.
- E. As required under A.R.S. § 15-183(I), a charter holder that intends to seek renewal of the charter shall submit to the Board a renewal application package at least 15 months before the charter is scheduled to expire.
- F. The Board shall not consider a renewal application package that is not submitted by the date specified in subsection (E).
- G. As part of the charter renewal process, Board staff shall conduct an academic-systems-review site visit, as described in R7-5-506, of the charter holder.
- H. The Board shall notify a charter holder of the Board's decision to renew or deny renewal of the charter at least 12 months before the charter is scheduled to expire.

- I. As specified under A.R.S. § 15-183(I), the Board may deny renewal of a charter if the Board determines the charter holder failed to meet or make sufficient progress toward the academic performance expectations or failed to meet the operational performance expectations specified in Article 4, meet the financial performance expectations specified in Article 4, complete the obligations of the charter, or comply with federal or state law or this Chapter. If the Board denies renewal of a charter, Board staff shall provide written notice to the charter holder that includes the information required under A.R.S. § 41-1092.03(A).
- J. A charter holder is eligible to apply for early renewal of the charter if the charter holder:
 - 1. Submits to the Board a letter of intent to apply for early renewal at least 24 months before the charter is scheduled to expire;
 - 2. Has operated a school under the charter for at least five years;
 - 3. Meets the performance expectations specified in Article 4; and
 - 4. Had no compliance matters within the last three years that required action by the Board or other governmental entity.
- K. Within 15 days after receiving a letter of intent to apply for early renewal under subsection (J)(1), Board staff shall provide written notice to the charter holder of whether the charter holder is eligible to apply for early renewal and, if eligible, shall provide the charter holder with the renewal application referenced in subsection (D).
- L. A charter holder that receives notification under subsection (K) of eligibility to apply for early renewal shall submit to the Board the early renewal application package no later than one month after the charter holder receives notification under subsection (K).
- M. A charter holder applying for early renewal shall continue to meet the eligibility requirements specified in subsection (J) until the Board considers the early renewal application package at the Board meeting referenced under subsection (C). The Board shall not consider an early renewal application package submitted by a charter holder that has a change in eligibility status.
- N. Within three months after a charter holder timely submits an early renewal application package, Board staff shall conduct an academic-systems-review site visit, as described in R7-5-506, of the charter holder and shall place the charter holder's early renewal application package on an agenda for Board consideration.
- O. As specified under A.R.S. § 15-183(I)(2), the Board may deny early renewal of a charter if the Board determines the charter holder failed to meet or make sufficient progress toward the academic performance expectations or failed to meet the operational performance expectations specified in Article 4, meet the financial performance expectations specified in Article 4, complete the obligations of the charter, or comply with federal or state law or this Chapter. If the Board denies early renewal of a charter, Board staff shall provide written notice to the charter holder that includes the information required under A.R.S. § 41-1092.03(A).

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. When considering an expansion request submitted by the charter holder to:~~
 - ~~i. Add a new charter school to an existing charter,~~
 - ~~ii. Add an Arizona Online Instruction program, or~~
 - ~~iii. Replicate an existing charter;~~
 - ba. During the five-year-interval review required under A.R.S. § 15-183(I);
 - eb. When considering a charter contract renewal request submitted by the charter holder;

- dc. 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;
 - ed. 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
 - fe. 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, which reflects both the charter holder’s near-term financial health and longer term financial stability.
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” 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).
- CE.** 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. The Board shall determine a charter holder meets the annual financial performance standard if the charter holder receives no measure rated “falls far below standard” and no more than one measure rated “does not meet standard” 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. 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.
 2. 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.
 3. Since Board staff made the determination in R7-5-509(D), 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.

4. Since Board staff made the determination in R7-5-509(D), the charter holder has not been required to make any submissions under R7-5-501(C).
- 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. 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.
 2. 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.
 3. Since Board staff made the determination in R7-5-509(D), 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.
 4. Since Board staff made the determination in R7-5-509(D), the charter holder has been required to make at least one submission under R7-5-501(C).
- 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.”
- 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.”
- DJ.** The Board shall determine that a charter holder meets the minimum financial performance expectations if the charter holder:
1. Receives ~~an overall rating of “meets the annual financial performance standard”~~ a summative financial performance rating of “Good Standing” or “Adequate Standing” based on the most recent audit conducted under R7-5-504; or
 2. Receives a determination of “Not on Probation” under subsection (F)~~, an overall rating of “meets the annual financial performance standard” based on the previous audit and receives an overall rating of “does not meet the annual financial performance standard” based on the most recent audit with no measure rated “falls far below standard.”~~
- EK.** 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. Receives ~~an overall rating of “does not meet the annual financial performance standard” and one or more measures rated “falls far below standard” based on the most recent audit conducted under R7-5-504~~ May be subject to charter oversight specified in Article 6 unless and until the charter holder achieves the minimum financial performance expectations; ~~or~~
 2. Shall be required to submit to the Board 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; and
 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. ~~Receives an overall rating of “does not meet the annual financial performance standard” based on both of the last two audits conducted under R7-5-504.~~
- 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 performance expectations under subsection (I):

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
 2. Shall be required to submit to the Board 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.
- 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.
- ~~**N.** If a charter holder fails to submit or fails to submit timely the information required by subsections (K)(2), (K)(3) or (L)(2), the failure shall be noted in the charter holder's operational performance dashboard posted on ASBCS Online. A charter holder that meets the minimum financial performance expectations may be entitled to reduced submission requirements at the times specified under subsection (A). The Board shall require a charter holder that does not meet the minimum financial performance expectations to submit a financial performance response as specified under R7-5-509 at the times specified in subsections (A)(2)(a)-(e) and may require a charter holder that does not meet the minimum financial performance expectations to submit a financial performance response as specified under R7-5-509 at the times specified in subsection (A)(2)(f).~~

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, ~~a~~ the financial performance response intervention submissions as described in R7-5-509;
 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(s) 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 posted on ASBCS Online.
- CG.** 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), R7-5-502(G), R7-5-504(G), R7-5-505(D), R7-5-505(E), R7-5-506(B)(2), R7-5-507(C), ~~or R7-5-509(B)~~, or R7-5-509(F). In determining whether to grant an extension, Board staff shall consider the following, as applicable:
1. ~~In determining whether to grant an extension, Board staff shall consider the following, as applicable:~~ Whether the charter school at issue was in session when the Board provided notice to the charter holder:
 - a. ~~Whether the charter school at issue was in session when the Board provided notice to the charter holder;~~
 - b. ~~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~~
 - c. ~~Whether additional time is required by the charter holder because of the number or complexity of matters to be addressed.~~
 2. ~~Even if the specified deadline has not passed, Board staff shall not grant an extension for a financial performance response required as part of the charter holder's renewal application.~~ 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.

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

- A.** By July 1 of each year, the Board shall make available on its web site 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)-(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 submit timely 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 and post it on ASBCS Online.
- GH.** 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 to prepare the financial intervention submissions as described in R7-5-509.
- HI.** 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.
- I.** ~~The Board shall annually calculate a financial performance rating for each charter holder using the Financial Performance Framework and the annual audit submitted to the Board by the charter holder. The Board shall make each charter holder’s financial performance dashboard publicly available and post it on ASBCS Online.~~

R7-5-506. Five-year-interval Review

- A.** As required under A.R.S. § 15-183(I)(3), the Board shall review a charter holder at five-year intervals for:
1. Compliance with its charter, other contractual agreements with the Board, federal and state law, and this Chapter; and
 2. Achievement of the minimum performance expectations specified in Article 4.
- B.** Board staff shall provide a charter holder with notice of a five-year-interval review. Board staff shall include in the notice:
1. The information the charter holder is required to submit to the Board,
 2. The deadline by which the charter holder shall submit the required information, and

3. A request for the charter holder to identify dates within a specified time frame not conducive to an unscheduled academic-systems-review site visit. This includes dates of an early release, parent conferences, or school not being in session.
- ~~C.~~ The Board shall require a financial performance response, as described under R7-5-509, from a charter holder that does not meet the Board's minimum financial performance expectations.
- ~~DC.~~ The Board shall require a charter holder to review and confirm information concerning the charter's mission statement, program of instruction, instructional days, school calendar, charter representative, grade levels served, enrollment cap, principals, school site, and charter holder locations and, as applicable submit requests for appropriate post-charter actions as described in Article 3.
- ~~ED.~~ A charter holder that fails to submit the information required by the deadline specified in subsection (B) shall appear before the Board and may be subject to charter oversight as described in Article 6.
- ~~FE.~~ As part of a five-year-interval review, Board staff shall conduct an unscheduled academic-systems-review site visit, in accordance with R7-5-502, to gather evidence regarding the charter holder's implementation of a comprehensive program of instruction and a method to measure pupil progress toward outcomes required in the charter. Using the information provided by the charter holder under subsection (B)(3), Board staff shall provide written notice to the charter holder of the two-week interval during which Board staff will conduct the unscheduled academic-systems-review site visit.

R7-5-509. Financial Performance Response Intervention Submissions

- A. The Board shall require a charter holder assigned a summative financial performance rating of "Intervention" under R7-5-402 to prepare an initial financial response, quarterly financial reports and a June 30 quarterly financial report. ~~a financial performance response if the Board determines under R7-5-402(E) the charter holder does not meet the minimum financial performance expectations at one of the times specified in R7-5-402(A)(2)(a)-(e).~~
- B. Board staff shall provide written notice to a charter holder that is required to submit ~~an initial financial performance response.~~ Board staff shall ensure the notice includes the following:
1. Information on how to access the charter holder's financial performance dashboard, ~~and~~
 2. The deadline, which will be set 30 calendar days from the written notice's date, for submitting the initial financial performance response to the Board, ~~and,~~
 3. The quarters that must be addressed in the charter holder's initial financial response.
 - a. If the written notice date is between October 1 and December 31, the initial 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 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 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 must address the quarters ending September 30, December 31, March 31 and June 30.
- 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: For each measure for which a charter holder received a "does not meet standard" or "falls far below standard" during the most recent audited fiscal year presented in the financial performance dashboard and by the deadline specified in subsection (B)(2), the charter holder shall:
1. Explain why the charter holder failed to meet the measure's target in the audited fiscal year. Is there a sound explanation for why the charter holder underperformed on the Financial Performance Framework's measures?;
 2. Explain the charter holder's effort to improve its performance so it is possible to meet the measure's target in the next fiscal year or a subsequent fiscal year, and Did the charter holder perform at a level just below or well below the Financial Performance Framework's measure(s) targets?

3. ~~Provide evidence that supports the charter holder's explanation and analysis under subsections (C)(1) and (2)~~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?-

D. 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 notwithstanding subsection (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 (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 (D)(4), (D)(6), (D)(7), (D)(8) or (D)(9).
4. If the report prepared by Board staff identifies a "No" as the answer to the question identified in subsection (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.

DE. ~~Within 60-30 calendar days after receiving an initial financial performance response or when the five-year interval review is closed out for a financial performance response submitted as part of a five-year interval review, Board staff shall provide the charter holder with written notice that includes the following: that the response is acceptable or not acceptable. Board staff shall find a financial performance response acceptable if it includes the explanations and evidence required under subsection (C).~~

1. The charter holder's intervention tier as determined under subsection (D);
 2. The quarterly financial report requirements and submission deadlines;
 3. The availability of Board staff's report specified in subsection (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.
- F.** The submission deadlines for quarterly financial reports submitted subsequent to the initial 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. July 30 for the quarter ending June 30.
- ~~E~~G.** For each quarterly financial report submitted subsequent to the initial financial response and prior to the June 30 quarterly financial report, 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:~~If Board staff finds a financial performance response is not acceptable, the Board shall allow the charter holder to supplement the financial performance response if the charter holder is in a process that requires the financial performance response to be considered at a Board meeting.~~
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~~H.** ~~If the Board allows a charter holder to supplement a financial performance response under subsection (E)~~Within 45 calendar days after receiving a June 30 quarterly financial report, Board staff shall:
1. ~~Include the deadline for submitting the supplemented financial performance response in the notice provided under subsection (D)~~Determine the charter holder's probation status under R7-5-402(F)-(H); and
 2. Update the charter holder's financial performance dashboard to reflect the charter holder's probation status; and~~Find the supplemented financial performance response acceptable if it includes the explanations and evidence required under subsection (C).~~
 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).
- I.** 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. Time permitting, Board staff may visit each school operated by a charter holder placed in intervention tier 2 under subsection (D).
- ~~G~~J.** ~~Board staff shall include the supplemented financial performance response and the determination made under subsection (F)(2) in the meeting materials provided to the Board.~~The charter holder's initial financial response, quarterly financial reports and June 30 quarterly financial report supplemented financial performance response and the Board staff's report under subsection (C)~~Board's final determination~~ shall be posted on ASBCS Online.
- ~~H~~K.** If a charter holder fails to submit or fails to submit timely a required initial financial performance response, required quarterly financial report or June 30 quarterly financial report, the failure shall be noted in the charter holder's operational performance dashboard posted on ASBCS Online.

R7-5-602. Oversight of Charter Schools Assigned a Letter Grade of "F" by the Department

- A. If the Department notifies the Board, as required under A.R.S. § 15-241, that a charter school has been assigned a letter grade of "F," the Board shall require the charter holder to appear before the Board for consideration of whether the Board will issue a notice of intent to revoke the charter under R7-5-607 or restore the charter to acceptable performance through a consent agreement under R7-5-606.
- B. Upon receipt of the Department's notice under subsection (A), the Board shall provide written notice to the charter holder that the school has been designated a failing school.

- C.** Within 30 days after receipt of the notice provided under subsection (B), the charter holder shall:
1. As required under A.R.S. § 15-241, provide written notice to the parents or guardians of all students attending the school that the Department has assigned the school a letter grade of “F” because the school is demonstrating a failing level of performance. The charter holder shall provide to the Board a copy of the notice required under this subsection;
 2. Provide the Board with a list of the names and mailing addresses of the parents or guardians of all students attending the school; and
 3. Ensure the charter school’s public communications that make a statement concerning the charter school’s academic performance, including the charter school’s web site and promotional materials, accurately describe the charter school’s most current annual achievement profile assigned by the Department; and
 4. ~~If notified the charter holder does not meet the minimum financial performance expectations, submit a financial performance response as described under R7-5-509.~~

~~**D.** If required, Board staff shall evaluate the financial performance response specified under R7-5-509.~~

ED. The Board shall provide the charter holder with at least 72 hours’ written notice of the date, time, and location of the public meeting at which the Board will consider whether to restore the charter to acceptable performance or revoke the charter. In making this decision, the Board shall consider all relevant factors including:

1. Whether the charter holder complied fully with the provisions of subsection (C);
2. Whether the charter holder failed to meet the minimum academic performance expectations based on student achievement measures specified in the Academic Performance Framework;
3. Whether the charter holder has demonstrated, under R7-5-508, sufficient progress toward achieving the minimum academic performance expectations;
4. Whether the charter holder meets the minimum financial performance expectations;
5. Whether the charter holder timely complied with Board requests for information and documents;
6. Whether the charter holder’s historical compliance record indicates repeated or multiple breaches of its charter, other contractual agreements with the Board, federal or state law, or this Chapter; and
7. Any other factor the Board determines has a bearing on the charter holder’s ability or willingness to comply with the provisions of its charter, other contractual agreements with the Board, federal and state law, and this Chapter.

EE. If the Board decides to restore the charter to acceptable performance, the Board shall enter into a consent agreement with the charter holder as provided under R7-5-606. If the Board decides to revoke the charter, the Board shall issue a notice of intent to revoke the charter as provided under R7-5-607.