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## **AGENDA ITEM: Proposed Rulemaking**

### **Issue**

The Board's staff is requesting that the Board take action to proceed with rulemaking by directing staff to finalize the draft rules package attached to this staff report and file a Notice of Proposed Rulemaking to revise and update the Board's rules to comport with current policies, revise policies to be more effective in achieving the Board's mission, implement recent legislative changes, address the Office of the Auditor General's findings, and address items identified in the Board's Five-Year Review Reports to the Governor's Regulatory Review Council (Council).

### **Background**

In January 2016, the Board was granted an exemption from the Governor's Office to proceed with rulemaking under the moratorium. The Board filed a Notice of Rulemaking Docket Opening on April 16, 2016 and has one year from that date to file a Notice of Proposed Rulemaking. Once a Notice of Proposed Rulemaking is filed, a 30 day comment period will be opened up and notice of meeting may be published in the Register. An oral proceeding (hearing) is held no sooner than 30 days after publication of notice of hearing. If there are substantial changes, the Board may file a Notice of Supplemental Proposed Rulemaking or decide not to proceed and file a Notice of Termination of Rulemaking. The Board must submit its rule for review or terminate the rulemaking within 120 days of the record being closed. The Board will then submit its final rule package to the Council containing the preamble, rules, and Economic Impact Statement. The Council has 90 days to review and approve or return the rule package, in whole or in part. After approval by the Council, the rule becomes effective 60 days after filing with the Secretary of State, unless the Council indicates an immediate effective date.

### **Proposed Rulemaking**

This proposed rulemaking is amending the Board's rules to make them consistent with statutory changes made in 2012 and 2013, to make the changes identified as needed in a five-year-review report approved by Council on May 3, 2011, and establish rules regarding how the Board's academic, financial, and operational expectations will govern charter holders. The draft attached reflects the most recent version with changes incorporated for the proposed revisions to the Academic Performance Framework and Guidance document approved by the Subcommittee. The draft may require revisions depending on Board approval of the Academic Performance Framework and Guidance document and pending review by the rule writer and Board counsel. In addition, procedures for renewal are still being drafted for incorporation into article 2.

Summary of proposed rulemaking:

- Establish the Board's academic, operational and financial performance expectations for charter holders as required by A.R.S. § 15-183 (R)
  - Academic Performance Expectations
    - Demonstrating Sufficient Progress Toward the Board's Academic Performance Expectations
  - Financial Performance Expectations
  - Operational Performance Expectations
- Establish monitoring processes as authorized by A.R.S. § 15-182(E)(1) and §15-183(I).
  - First Year Charter School Monitoring
  - Annual Academic Monitoring
  - Five-Year Interval Reviews
  - Compliance Checks

- Complaints
- Annual Audit and Financial Monitoring
- General Oversight Responsibility; Consideration by the Board for Non-Compliance; Notice of Violation
- Set out procedures that implement the Board's statutory obligation, under A.R.S. § 15-241, concerning a charter school that is designated a failing school.
  - Charter Oversight of Charter Schools Assigned an "F" Letter Grade by the Department
  - Charter Oversight of Charter Schools Assigned a "D" Letter Grade by the Department
- Incorporate procedures and policies that implement the civil penalty for fingerprinting violations and withholding of state aid payment as set out in A.R.S. §15-185(H) and A.R.S. §15-185(I).
- Set out procedures required by A.R.S. §15-183(Q), which are intended to implement the Board's authority to revoke a charter as provided in A.R.S. §15-183(I)(3)-(4).

**Board Options**

Option 1: The Board may vote to direct staff to finalize the draft presented today with necessary amendments and file a Notice of Proposed Rulemaking when the draft is complete.

Option 2: The Board may vote to direct staff to make changes (specify changes to be made) to the draft presented today and file a Notice of Proposed Rulemaking when the draft is complete.

Option 3: The Board may vote to direct staff to make changes (specify changes to be made) to the draft presented today and bring it back to the Board for approval prior to filing a Notice of Proposed Rulemaking.

**NOTICE OF PROPOSED RULEMAKING**  
**TITLE 7. EDUCATION**  
**CHAPTER 5. STATE BOARD FOR CHARTER SCHOOLS**  
**PREAMBLE**

**1. Articles, Parts, and Sections Affected**

**Rulemaking Action**

R7-5-101	Amend
R7-5-201	Amend
R7-5-202	Amend
R7-5-203	Amend
R7-5-204	Amend
R7-5-205	Amend
R7-5-206	Amend
R7-5-207	Amend
Article 3	Renumber
Article 3	New Article
R7-5-301	Renumber
R7-5-301	New Section
R7-5-302	Renumber
R7-5-302	New Section
R7-5-303	Renumber
R7-5-303	New Section
R7-5-304	Renumber
R7-5-304	New Section
Article 4	Amend
R7-5-401	Renumber
R7-5-401	Amend
R7-5-402	Renumber
R7-5-402	Amend
R7-5-403	New Section
R7-5-404	New Section
R7-5-405	New Section
R7-5-406	New Section
R7-5-407	New Section

R7-5-408	New Section
R7-5-409	New Section
R7-5-410	Renumber
R7-5-410	Amend
Article 5	Repealed
Article 5	New Article
R7-5-501	Repeal
R7-5-501	Renumber
R7-5-501	Amend
R7-5-502	Repeal
R7-5-502	New Section
R7-5-503	Repeal
R7-5-503	New Section
R7-5-504	Repeal
R7-5-504	New Section
R7-5-505	New Section
R7-5-506	New Section
R7-5-507	New Section

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

Authorizing statute: A.R.S. § 15-182(E)(5)

Implementing statute: A.R.S. §§ 15-182(E)(1), 15-183(I)(1) through (4), and 15-183(R)

**3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**

Notice of Rulemaking Docket Opening: 22 A.A.R. 823, April 16, 2016

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

Name: Whitney Chapa, Executive Director

Address: Arizona State Board for Charter Schools

1616 W Adams Street, Suite 170

Phoenix, AZ 85007

Telephone: 602-364-3091

Fax: 602-364-3089

E-mail: whitney.chapa@asbcs.az.gov

Web site: www.asbcs.az.gov

**5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to**

**include an explanation about the rulemaking:**

The Board is amending its rules to make them consistent with statutory changes made in 2012 and 2013, to make the changes identified as needed in a five-year-review report approved by Council on May 3, 2011, and to place in rule the Board's academic, financial, and operational expectations for charter holders.

An exemption from Executive Order 2015-01 was provided for this rulemaking by Dawn Wallace, Education Policy Advisor in the Governor's office, in an e-mail dated January 6, 2016.

**6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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 does not intend to review or rely on a study in its evaluation of or justification for any rule in this rulemaking.

**7. 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

**8. The preliminary summary of the economic, small business, and consumer impact:**

Currently being drafted

**9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:**

Name: Whitney Chapa, Executive Director

Address: Arizona State Board for Charter Schools  
1616 W Adams Street, Suite 170  
Phoenix, AZ 85007

Telephone: 602-364-3091

Fax: 602-364-3089

E-mail: whitney.chapa@asbcs.az.gov

Web site: www.asbcs.az.gov

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

An oral proceeding regarding the proposed rules will be held as follows:

Date:

Time:

Location:

**11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

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:**

Charters issued under R7-5-203 are general permits consistent with A.R.S. § 41-1037 because they are issued to qualified individuals or entities to conduct activities that are substantially similar in nature.

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

There are numerous federal laws that apply to public schools. However, no federal law is directly applicable to the subject of these rules. The rules are no more stringent than federal law.

**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.

**12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

None

**13. 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. NEW CHARTERS**

Section

R7-5-201. Application for a New Charter

R7-5-202. New Charter Application Processing Fee

R7-5-203. Time-frames for Granting or Denying a New Charter

R7-5-204. Review of Administratively Complete Application Package, Technical Assistance, and In-Person Interview

R7-5-205. Execution of a Charter

R7-5-206. Good Cause Extension to Execute a Charter

R7-5-207. Good Cause Suspension of a Charter

R7-5-401. Amendment to a Charter

**ARTICLE 3. MINIMUM PERFORMANCE EXPECTATIONS**

R7-5-301. Minimum Academic Performance Expectations

R7-5-302. Minimum Financial Performance Expectations

R7-5-303. Minimum Operational Performance Expectation

R7-5-304. Development and Use of Performance Frameworks

**ARTICLE 4. AMENDMENT TO A CHARTER SUPERVISION**

Section

~~R7-5-301.~~ R7-5-401. General Supervision, Oversight, and Administrative Responsibility

~~R7-5-303.~~ R7-5-402. Site Visits; Records; Notice of Violation

R7-5-403. Annual Academic Performance Review

R7-5-404. Annual Audit and Financial Review

- R7-5-405. Operational Performance Review
- R7-5-406. Five-year-interval Review
- R7-5-407. Complaints
- R7-5-408. Demonstration of Sufficient Progress towards Minimum Academic Performance Expectations
- R7-5-409. Financial Performance Response
- ~~R7-5-302.~~ R7-5-410. Corrective Action Plan

**ARTICLE 5. ~~AUDITS AND AUDIT CONTRACTS~~    CHARTER OVERSIGHT**

Section

- ~~R7-5-304.~~ R7-5-501. Disciplinary Action    Charter Oversight: General Provisions
- R7-5-502. Approval of Audit Contracts    Charter Oversight of Charter Schools Assigned a Letter Grade of “F” by the Department
- R7-5-503. Audit Completeness Determinations    Charter Oversight of Charter Schools Assigned a Letter Grade of “D” by the Department
- R7-5-504. Review of Complete Audits    Civil Penalty for Fingerprinting Violation
- R7-5-505. Withholding State Funds
- R7-5-506. Consent Agreement
- R7-5-507. Revocation

## ARTICLE 1. GENERAL PROVISIONS

### R7-5-101. Definitions

For the purpose of In this Chapter, the following definitions apply:

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

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

“Administrative completeness review ~~time frame~~ 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. ~~The administrative completeness review time frame does not include the period during which the Board performs a substantive review of the submission.~~

“Annual application cycle” means ~~a new charter application~~ the process which is conducted the Board conducts each year to receive, review, and grant or deny charters for the operation of new charter schools ~~and is based on the earliest fiscal year in which a new charter school may begin operation.~~

“Applicant” means a person, including a charter holder, that applies to the Board for a new charter, ~~a person who applies to transfer a charter from another charter school sponsor, a charter holder who applies to renew or replicate a charter sponsored by the Board, or a charter holder who applies to transfer an existing charter school site operated under a charter sponsored by the Board to a separate Board-sponsored charter held by the same charter holder~~

“Application” means ~~the Board approved forms and instructions used by an applicant to apply for a new charter, transfer a charter, or renew or replicate a charter sponsored by the Board.~~

“Application package” means ~~an~~ a Board-approved application form, narratives, and documents, including exhibits and attachments, as submitted by an applicant.

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

“Audit” means a charter holder’s annual audit, ~~as required by~~ 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.

~~“Audit firm” means a business that conducts an independent audit for a charter school.~~

~~“Audit guidelines” means the Board approved general guidance on charter school audit requirements, which is available online.~~

“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 ~~for~~ with the Board for the purposes of communication and accountability to contract terms and conditions.

~~“Charter school” means a public school operated under a charter granted under A.R.S. § 15-181 et seq~~ 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 as set forth in the academic performance framework.

“Department” means the Arizona Department of Education.

“Financial Performance Framework” means a document posted on the Board’s web site that sets forth the minimum financial performance expectations for charter holders, measures of performance, and consequences of failing to meet the expectation.

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

~~“Good standing” means that a supervising certified public accountant or audit firm has no current or pending disciplinary action or any regulatory action that requires the supervising certified public accountant or audit firm to complete conditions specified by an accounting industry regulatory body.~~

“Operational Performance Framework” means a document 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~~ 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 ~~within~~ in the submission. The overall ~~time frame~~ time frame consists of both the administrative completeness review ~~time frame~~ time frame and the substantive review ~~time frame~~ time frame.

“Oversight” means regulatory actions of the Board towards a charter holder the Board has determined is not in compliance with its charter, other contractual agreements with the Board, or statutory requirements or is not making sufficient progress toward meeting the Board’s performance expectations.

“Peer review” means an external ~~quality control~~ quality-control review, as required by generally accepted government auditing standards, ~~that~~ which determines whether an audit firm’s internal ~~quality control~~ quality-control system ~~is in place and 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.

“~~Preliminary application package~~” means ~~an administratively complete application package that is forwarded to the Technical Review Panel for scoring.~~

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

“~~Revised application package~~” means ~~an application package including revisions submitted by an applicant after receiving written notification that the applicant’s preliminary application package failed to meet the scoring requirements of R7-5-204.~~

“Serious impact finding” means an issue identified by the Board that ~~in the opinion of the Board~~ believes has or potentially has a significant 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 ~~the~~ children, gross violation of generally accepted accounting principles that increases the opportunity for fraud or theft, or ~~repeat~~ repeated issues of ~~non-compliance~~ noncompliance.

“~~Submission deadline~~” means ~~a date and time established each year by the Board and identified in the application for a new charter by which a new charter application package shall be submitted to the Board to be considered in a specified annual application cycle.~~

“Substantive review ~~time frame~~ 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 ~~within~~ in the submission.

“Sufficiently qualified” means the Board’s determination that an applicant’s ~~application package~~, knowledge

~~and understanding of the application package~~, 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 frameworks adopted ~~expectations established~~ by the Board ~~and requirements of statute and rule~~.

“Supervision” means actions taken by the Board to observe and assess whether a charter holder is complying with its charter, other contractual agreements with the Board, and federal and state law and meeting performance expectations.

“Supervising certified public accountant” means the certified public accountant responsible for leading the audit ~~work~~ 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 ~~in the evaluation of a preliminary or revised~~ the Board by conducting a preliminary evaluation of an application package.

## ARTICLE 2. NEW CHARTERS

### **R7-5-201. Application for a New Charter**

- A. By March 31 of each year, the Board shall approve and make available online at its web site an application for a new charter for a specified annual application cycle.
- B. A person desiring to establish a charter school shall submit an application package online through the web-based application wizard on ASBCS Online by the submission deadline identified in the application. A person may utilize an alternate submission process:
  - 1. A person utilizing the alternate submission process shall submit by hand delivery or mail a signed, notarized waiver request to the Board in the form and by the waiver deadline set out in the application.
  - 2. The Board shall send an acknowledgment of timely receipt of a waiver request within 10 days of receipt of a waiver request.
  - 3. Any person who submits a timely waiver request waives the right to have the Board consider any application package submitted through ASBCS Online in the same annual application cycle. Instead, such a person shall only submit an application package according to the alternate submission process instructions and by the alternate submission process submission deadline identified in the application.
  - 4. An application package shall not be accepted through the alternative submission process unless a waiver request has been received by the waiver deadline and acknowledged as timely by the Board.
- C. An applicant for a new charter shall ensure that the submitted application package contains all the information, materials, documents, and attachments identified in the application for a new charter for the current annual application cycle and in the format specified in that application, which shall together

constitute:

1. A detailed educational plan,
2. A detailed business plan,
3. A detailed operational plan, and
4. Any other materials the Board requires.

**R7-5-202. New Charter Application Processing Fee**

Each applicant shall pay a new charter application processing fee, in accordance with A.R.S. § 15-183(CC).

1. The new charter application processing fee is \$6,500 for each application package an applicant submits to the Board.
2. Each applicant shall pay the new charter application processing fee in the form of a single personal check or cashier's check with the applicant's name clearly identified on the front of the check made payable to Arizona State Board for Charter Schools. The check shall be delivered by mail or hand delivery to the Board office during regular business hours by the submission deadline.
3. Failure to timely submit the new charter application processing fee shall result in the application package being deemed administratively incomplete under R7-5-203(B).
4. All checks shall be deposited within five days of submission. If an applicant's new charter application processing fee payment to the Board is dishonored for any reason including an insufficient funds check:
  - a. The application package shall be deemed administratively incomplete under R7-5-203(B), and
  - b. The applicant shall use a cashier's check to pay the new charter application processing fee for any application package submitted to the Board by the applicant at any later date.
5. If an application package is found to be administratively incomplete, under R7-5-203(B), and the applicant paid the new charter application processing fee, the fee shall be refunded to the applicant. The fee refund shall be mailed by U.S. Postal Service regular mail to the authorized representative at the address provided in the application package.
6. If an application package is found to be administratively complete under R7-5-203(B), the new charter application processing fee shall become non-refundable.

**R7-5-203. Time-frames for Granting or Denying a New Charter**

**A.** For granting or denying a charter, the time-frames required are:

1. Administrative completeness review time-frame: 25 days;
2. Substantive review time-frame: 175 days; and
3. Overall time-frame: 200 days.

**B.** An application package for a charter school shall be administratively complete if:

1. The application package contains all the information, materials, documents, attachments, signatures, and

- notarizations identified in the application for a new charter for the current annual application cycle;
2. All the application package's components are formatted as required by that application;
  3. All curriculum samples address the required standard;
  4. All templates are unmodified, completely filled out, and from the current annual application cycle; and
  5. The application processing fee has been paid according to R7-5-202(1), (2), and (4).
- C. The administrative completeness review time-frame, as listed in subsection (A)(1), begins the day after the Board receives an application package.
1. If the application package is administratively incomplete when received, the Board staff shall provide to the applicant a notice of deficiency that states the reasons the application package was found to be administratively incomplete.
  2. Upon written notice to the applicant that the application package is administratively incomplete, the Board staff shall close the applicant's file.
    - a. If the submission deadline has not yet passed, an applicant may correct deficiencies in an administratively incomplete application package and submit a new application package in the same annual application cycle, under R7-5-201; the applicant shall pay a new application processing fee, under R7-5-202.
    - b. An applicant who believes their application was erroneously designated as administratively incomplete may submit a written request for reconsideration to the Board within 10 days of the date of notice.
      - i. The request for reconsideration shall contain a clear statement indicating how the previously submitted application package fulfilled each of the requirements that were identified as having been deficient. The request for reconsideration shall not provide any new or additional information, documents, or materials.
      - ii. A request for reconsideration that does not address each deficiency identified in the notice or that contains new or additional information, documents, or materials shall not be considered and the applicant shall be notified that the request was not submitted according to subsection (i) and the applicant's file is closed.
      - iii. The Board staff shall review a request for reconsideration that is submitted according to subsection (i) and provide a decision on the request for reconsideration within 10 days of receipt.
      - iv. If the Board staff determines the application package was erroneously designated as administratively incomplete, the Board staff shall reopen the applicant's file and send a written notice of administrative completeness to the applicant. If the Board staff determines the application package was correctly designated as administratively incomplete, the applicant's file shall remain closed.
  3. If the application package is administratively complete, the Board shall send a written notice of

administrative completeness to the applicant.

4. If the Board does not provide a notice of deficiency or administrative completeness to the applicant within the administrative completeness review time-frame, the application package is deemed administratively complete.
- D.** A substantive review time-frame, as listed in subsection (A)(2), begins when an application package is determined to be administratively complete. The substantive review is conducted according to R7-5-204.
- E.** Within the time provided in subsection (A)(3), the Board shall provide the applicant with written notice of its decision to grant or deny a charter.
1. The Board shall deny a charter if it determines that the application package does not meet the requirements of statute or rule or the applicant is not sufficiently qualified to operate a charter school. The written notice shall include the basis for the denial. The applicant may:
    - a. Submit a new application package under R7-5-201 for consideration by the Board in any later annual application cycle; or
    - b. Appeal the Board's decision.
  2. The Board shall grant a charter if it determines that the application package meets the requirements of statute and rule and the applicant is sufficiently qualified to operate a charter school.

**R7-5-204. Review of Administratively Complete Application Package, Technical Assistance, and In-Person Interview**

The review of an administratively complete application package is as follows:

1. The Technical Review panel shall score the preliminary application package using the evaluation criteria identified in the application to determine whether an application package meets the Board's scoring requirements.
  - a. An application package shall be assigned a score of "Meets the Criteria," "Approaches the Criteria," or "Falls Below the Criteria" for each evaluation criterion.
    - i. An evaluation criterion shall be scored "Meets the Criteria" when the section within which that evaluation criterion is identified by the application:
      - (1) Addresses the evaluation criterion fully with specific and accurate information;
      - (2) Reflects a thorough understanding of the evaluation criterion; and
      - (3) Is clear and coherent.
    - ii. An evaluation criterion shall be assigned a score of "Approaches the Criteria" when the section within which that evaluation criterion is identified by the application:
      - (1) Addresses the evaluation criterion partially and lacks specific and accurate information for some aspect of the evaluation criterion;
      - (2) Presents a partial understanding of the evaluation criterion; or

- (3) Is not clear and coherent.
    - iii. An evaluation criterion shall be assigned a score of “Falls Below the Criteria” when the section within which that evaluation criterion is identified by the application does not address the evaluation criterion.
  - b. An application package meets the Board's scoring requirements if:
    - i. No evaluation criterion receives a score of Falls Below the Criteria;
    - ii. No more than one evaluation criterion in each section is scored as Approaching the Criteria; and
    - iii. The application package receives a score of Meets the Criteria for at least 95% of the evaluation criteria in each plan (educational plan, operational plan, and business plan).
2. The Board staff shall conduct a background and credit check of each principal of the applicant and confirm each principal possesses a valid fingerprint clearance card.
    - a. If issues arise from the information obtained during the background and credit checks of any principal, the Board staff shall provide the pertinent principal written notice of the issues and the principal will have the opportunity to provide a written response clarifying the information.
    - b. Information obtained and communications conducted during this process shall be considered by the Board in making its decision on whether to grant or deny a charter.
  3. The Board staff shall notify the applicant if the preliminary application package fails to meet the scoring requirements as evaluated by the Technical Review Panel. The Board staff shall provide reasons the application package fails to meet the scoring requirements and include the comments of the Technical Review Panel, which will serve as technical assistance and suggestions for improving the application package.
  4. An applicant who receives notification that a preliminary application package fails to meet the scoring requirements as evaluated by the Technical Review Panel may, within 20 days of the date of notice, submit a revised application package or a written request that the preliminary application package be forwarded to the Board.
  5. If a revised application package or written request is not submitted to the Board within 20 days of the date of notice that a preliminary application package fails to meet the scoring requirements, the Board staff shall close the applicant's file. An applicant whose file is closed and who wants to obtain a charter shall apply again under R7-5-201 in any later annual application cycle.
  6. If a revised application package is submitted, the Technical Review Panel shall score the revised application package using the scores and scoring requirements described in subsection (1).
  7. If a revised application package fails to meet the scoring requirements as evaluated by the Technical Review Panel, the Board staff shall notify the applicant of the intent to close the file. The Board staff shall include with the notice the comments of the Technical Review Panel.
  8. An applicant who receives notification of the Board staff's intent to close the file may, within 20 days of

the date of notice, submit a written request that the revised application package be forwarded to the Board.

9. If a written request is not submitted to the Board within 20 days of the date of notice that a revised application package fails to meet the scoring requirements, the Board staff shall close the applicant's file. An applicant whose file is closed and who wants to obtain a charter shall apply again under R7-5-201 in any later annual application cycle.
10. At least 30 days prior to the last Board meeting before the substantive review time-frame expires, and within 90 days of the determination that a preliminary or revised application package meets the scoring requirements as evaluated by the Technical Review Panel, or the receipt of an applicant's request under subsection (4) or (8) that the Board consider an application package that fails to meet the scoring requirements as evaluated by the Technical Review Panel, the principals of the applicant shall make themselves available for an in-person interview with two or more members of the Technical Review Panel. In the interview, the members of the Technical Review Panel shall assess:
  - a. The applicant's understanding of the components presented in the written application package;
  - b. The applicant's capacity to implement a plan to operate a charter school in accordance with the performance frameworks adopted by the Board;
  - c. The applicant's clarification of any issues that arise in the course of the due diligence process for any applicant, principal, or Education Service Provider; and
  - d. Any other factors relevant to determining whether the applicant is sufficiently qualified to operate a charter school.
11. The Board shall consider an application package to determine whether to approve or deny the application package and whether to grant or deny the charter if the Technical Review Panel determines that the application package meets or exceeds the scoring requirements or if the applicant requests under subsection (4) or (8) that the Board consider an application package that fails to meet the scoring requirements as evaluated by the Technical Review Panel.
  - a. For the purpose of deciding whether to approve or deny the application package, the Board shall consider:
    - i. The application package; and
    - ii. A copy of the scoring rubric completed by the Technical Review Panel.
  - b. For the purpose of deciding whether to grant or deny a new charter, the Board shall determine whether the applicant is sufficiently qualified by considering the following:
    - i. The application package;
    - ii. A copy of the scoring rubric completed by the Technical Review Panel;
    - iii. The results of the in-person interview of the applicant's principals;
    - iv. Information obtained through verification and investigation of the backgrounds including

- employment, experience, education, fingerprint clearance card, and assessment of creditworthiness for each of the principals of the applicant;
  - v. Information concerning any current or former charter operations for any Education Service Provider or principal of the applicant;
  - vi. A Board staff report; and
  - vii. Testimony presented at the Board meeting.
12. The Board shall provide an applicant, with at least seven days written notice of the date, time, and place of the meeting at which the Board will consider the applicant's application package.

**R7-5-205. Execution of a Charter**

- A.** After the Board's decision to grant a new charter, and before the charter is signed, the applicant shall submit to the Board the following:
1. No change
  2. Charter school site location information including:
    - a. Certificate of occupancy for each charter school site approved for educational use, and
    - b. Fire marshal report for each charter school site approved for educational use, or
    - c. If the certificate of occupancy and fire marshal report are not available, a completed Occupancy Compliance Assurance form;
  3. General Statement of Assurances form obtained from the Department;
  4. A statement indicating where all public notices of meetings will be posted as required by the Secretary of State under A.R.S. § 38-431.02; and
  5. Copy of the lease agreement or other documentation of a secured charter school facility for each charter school site.
- B.** A charter shall be signed by the Board President or designee and authorized representative of the applicant within 12 months after the Board's decision to grant the charter.
1. If a charter is not timely signed, the Board's decision to grant the new charter expires, unless the applicant applies for and is granted a good cause extension to execute the charter under R7-5-206.
  2. If an applicant who is granted a new charter but does not timely sign the charter and does not obtain a good cause extension wants to obtain a new charter, the applicant shall apply again under R7-5-201 in any later annual application cycle.
- C.** A charter holder shall begin providing educational instruction no later than the second fiscal year after the Board's decision to grant the charter, unless the charter holder is granted a good cause extension to execute a charter under R7-5-206 or good cause suspension of a charter under R7-5-207.
1. A charter holder who is granted a good cause extension to execute a charter under R7-5-206 or good cause suspension of a charter under R7-5-207 shall begin providing educational instruction no later than

the third fiscal year after the Board's decision to grant the charter.

2. If a charter holder does not begin providing educational instruction as required by subsections (C) and (C)(1) the Board shall issue the charter holder a notice of intent to revoke the charter in accordance with A.R.S. § 15-183(I).
- D.** A charter holder shall submit to the Board written proof that the charter school is in compliance with federal, state, and local rules, regulations, and statutes relating to health, safety, civil rights and insurance at least 10 days before the first day it will begin providing educational instruction by submitting:
1. Charter school site contact information;
  2. Insurance policy binder issued by an insurance company licensed to do business in Arizona;
  3. County health certificate for each site at which students will be taught;
  4. Evidence of a public meeting, required by A.R.S. § 15-183(C)(7), at least 30 days before the charter holder opens a site for the charter school;
  5. Certificate of attendance of the charter representative or principal at the special education training for new charters offered by the Department's Exceptional Student Services Division; and
  6. Any other documents required to demonstrate compliance with federal, state, and local rules, regulations, and statutes relating to health, safety, civil rights and insurance.
- E.** If a charter holder has completed an Occupancy Compliance Assurance form, state aid funding shall not initiate until the Board has determined that the required certificate of occupancy and fire marshal report submissions are complete and sufficient.
- F.** A new charter is effective upon the signing of both parties for a term of 15 years commencing on the date stated in the charter, unless revoked under A.R.S. § 15-183(I).

**R7-5-206. Good Cause Extension to Execute a Charter**

Before the Board's decision to grant a new charter expires, an applicant who has not yet executed the charter may submit to the Board a written request for a good cause extension to execute a charter.

1. The written request for a good cause extension to execute a charter shall:
  - a. Explain and provide evidence of why the applicant is unable to implement the plans contained in the application package and execute the charter within the allotted 12 months;
  - b. Explain the applicant's new timeline for implementing the plans contained in the application package, and why the timeline is viable and adequate for achieving the proposed start-up date of the school and appropriate for operating a charter school in accordance with the performance frameworks adopted by the Board and requirements of statute and rule.
  - c. Provide clear and specific action steps with target completion dates that will enable the applicant to implement the plans contained in the application package in accordance with the timeline provided and the requirements of R7-5-205(C)(1).

2. The Board may grant a good cause extension to execute a charter if an applicant demonstrates good cause. When considering a request for a good cause extension to execute a charter, the Board shall consider:
  - a. The timeliness of the submission of the request and the proposed extension date;
  - b. The viability of the applicant's new timeline for implementing the plans contained in the application package;
  - c. Whether the new timeline provided by the applicant is adequate to begin providing educational instruction as required under R7-5-205(C)(1) and complies with the plans contained in the application package;
  - d. Unforeseen circumstances affecting the applicant's ability to execute the charter within the allotted 12 months;
  - e. Whether there have been changes in the principals of the applicant; and
  - f. The status of compliance with all applicable federal, State and local laws, and with all of the terms of a charter.
3. The Board shall not grant more than one good cause extension to execute a charter to any applicant for the same charter.
4. If the Board grants a good cause extension to execute a charter, the Board shall specify the date by which the applicant shall execute the charter and begin providing educational instruction based on the timeline provided by the applicant and the requirements of R7-5-205(C)(1). If the applicant does not execute the charter by the specified date, the Board's decision to grant the charter shall expire.

**R7-5-207. Good Cause Suspension of a Charter**

Prior to the first day of the fiscal year that a charter holder must begin providing educational instruction, the charter holder of a not-yet-operational charter may submit to the Board a written request for a good cause suspension of a charter.

1. A charter holder is eligible to apply for a good cause suspension of a charter if:
  - a. The charter holder has not been granted a good cause extension to execute a charter,
  - b. The charter holder has not begun providing educational instruction under the charter, and
  - c. The charter holder has not received or has returned state equalization or other state or federal funding for which provision of instruction is a requirement of receipt.
2. The written request for a good cause suspension of a charter shall:
  - a. Explain and provide evidence for why the charter holder is unable to implement the plans contained in the application package and begin providing educational instruction as required under R7-5-205(C);
  - b. Explain the charter holder's new timeline for implementing the plans contained in the application package, and why the new timeline is viable and adequate for achieving the proposed start-up date of

- the school and appropriate for operating a charter school in accordance with the performance frameworks adopted by the Board and requirements of statute and rule.
- c. Provide clear and specific action steps with target completion dates that will enable the charter holder to implement the plans contained in the application package in accordance with the timeline provided and the requirements of R7-5-205(C)(1).
3. The Board may grant a good cause suspension of a charter if the charter holder demonstrates good cause. When considering a request for a good cause suspension of a charter, the Board shall consider:
    - a. The timeliness of the submission of the request and the proposed extension date;
    - b. The viability of the charter holder's new timeline for implementing the plans contained in the application package;
    - c. Whether the new timeline provided by the charter holder is adequate to begin providing educational instruction as required under R7-5-205(C)(1) and complies with the plans contained in the application package;
    - d. Unforeseen circumstances affecting the charter holder's ability to begin providing educational instruction as required under R7-5-205(C);
    - e. Whether there have been changes in the principals of the charter holder; and
    - f. The status of compliance with all applicable federal, State and local laws, and with all of the terms of the charter.
  4. The Board shall not grant more than one good cause suspension of a charter to any charter holder for the same charter and shall not grant a good cause suspension of a charter to any charter holder who previously received a good cause extension to execute a charter for the same charter.
  5. A charter holder who is granted a good cause suspension may execute and submit an amendment to the charter indicating a new effective date which shall conform to the date on which the charter holder shall begin providing educational instruction.
  6. A charter holder who is granted a good cause suspension of a charter shall not apply to receive any state equalization or other state or federal funding for which provision of instruction is a requirement of receipt until the fiscal year in which the charter holder plans to begin providing educational instruction and shall promptly return any such funding it receives prior to the fiscal year in which it begins providing educational instruction.
  7. A charter holder granted a good cause suspension of a charter shall begin providing educational instruction as required by R7-5-205(C). If a charter holder does not begin providing educational instruction as required, the Board shall issue the charter holder a notice of intent to revoke the charter in accordance with A.R.S. § 15-183(I).

#### ARTICLE 4. ~~AMENDMENT TO A CHARTER~~

##### **R7-5-401. Amendment to a Charter**

- A. A charter holder that wishes to amend its charter shall submit to the Board:
1. A completed charter amendment form approved by the Board,
  2. The support documentation indicated on the charter amendment form, and
  3. Evidence that the proposed charter amendment has been approved by the charter school's governing body.
- B. For approving or disapproving an amendment, the time-frames required by A.R.S. § 41-1072 et seq. are:
1. Administrative completeness review time-frame: 20 days.
  2. Substantive review time-frame: 40 days.
  3. Overall time-frame: 60 days.
- C. A charter holder shall conform to the terms of the charter until an amendment is approved by the Board.

#### ARTICLE 3. MINIMUM PERFORMANCE EXPECTATIONS

##### **R7-5-301. Minimum Academic Performance Expectations**

- A. The Board shall assess a charter holder's achievement of the minimum academic performance expectations using student achievement measures, specified in the Academic Performance Framework, that are indicators of academic performance.
1. The Board may assess a charter holder's achievement of the minimum academic performance expectations at any time.
  2. The Board shall assess a charter holder's achievement of the minimum academic performance expectations:
    - a. Annually when state assessment data are released for the previous year;
    - b. During the five-year-interval review required under A.R.S. § 15-183(I);
    - c. When considering an expansion request submitted by the charter holder;
    - d. When considering a charter contract renewal request submitted by the charter holder
    - e. If a charter school operated by a charter holder has failed to meet the Board's academic performance standard for three consecutive years;
    - f. 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

g. When the Board makes decisions related to a charter holder’s compliance with its charter and state and federal laws.

**B.** The Board shall annually assign a charter holder an overall academic performance rating that reflects the degree to which the charter holder achieved the minimum academic performance expectations.

**C.** The Board shall determine that a charter holder meets the minimum academic performance expectations if all charter schools operated by the charter holder receive an annual overall academic rating of “meets standard,” “above standard” or “exceeds standard” in the most recent year for which data are available. A charter holder that meets the minimum academic performance expectations may be:

1. Waived from some of the academic performance supervision requirements described in Article 4; and

2. Entitled to reduced submission requirements:

a. Regarding requests made to the Board; and

b. During the five-year-interval review required under A.R.S. § 15-183(I).

**D.** The Board shall determine that a charter holder does not meet the minimum academic performance expectations if one or more of the charter schools operated by the charter holder did not receive an overall academic rating of “meets standard,” “above standard” or “exceeds standard” in the most recent year for which data are available. A charter holder that does not meet the minimum academic performance expectations:

1. Shall be required to demonstrate sufficient progress towards achieving the minimum academic expectations;

2. Shall be subject to heightened submission requirements:

a. Regarding requests made to the Board; and

b. During the five-year-interval review required under A.R.S. § 15-183(I); and

3. May be subject to charter oversight as specified in Article 5.

**R7-5-302. Minimum Financial Performance Expectations**

**A.** The Board shall assess a charter holder’s achievement of minimum financial performance expectations using data contained in the annual audit reporting package required under A.R.S. § 15-914 and conducted according to the standards specified in R7-5-404.

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(I);
  - b. When considering an expansion request submitted by the charter holder to add a new school site to, add an Arizona Online Instruction program to, or replicate an existing charter;
  - c. When considering a charter contract renewal request submitted by the charter holder;
  - d. If a charter school operated by a charter holder has failed to meet the Board's academic performance standard for three consecutive years;
  - e. 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
  - f. When the Board makes decisions related to a charter holder's academic performance and/or compliance with its charter and state and federal laws.
- B.** The Board shall annually assign a charter holder a 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.
- C.** The Board shall determine that a charter holder meets the 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" using the most recent audit conducted under R7-5-404.
- D.** The Board shall determine that a charter holder meets the minimum financial performance expectations if the charter holder receives an overall rating of "meets the Board's financial performance standard" based on the most recent audit, or if the charter holder receives an overall rating of "meets the Board's financial performance standard" based on the previous audit and receives an overall rating of "does not meet the Board's financial performance standard" based on the most recent audit with no measure rated "falls far below standard". A charter holder that meets the minimum financial performance expectations may be entitled to reduced submission requirements at the times specified in subsection (A).
- E.** The Board shall determine that a charter holder does not meet the minimum financial performance expectations if the charter holder receives an overall rating of "does not meet the Board's financial performance standard" based on the most recent audit with at least one measure rated "falls far below standard", or an overall rating of "does not meet the Board's financial performance standard" based on both of the last two audits. 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-

409 at the times specified in (A)(2)(a)-(e). The Board may require a charter holder that does not meet the minimum financial performance expectations to submit a financial performance response as specified under R7-5-409 at the times specified in (A)(2)(f).

**R7-5-303. Minimum Operational Performance Expectation**

**A.** The Board shall assess a charter holder’s achievement of the minimum operational performance expectation. To avoid duplicative reporting burdens, the Board shall use data collected from a variety of sources, which reflect on the charter holder’s compliance with the charter contract, other contractual agreements with the Board, federal and state law, and this Chapter.

1. The Board may assess a charter holder’s achievement of the minimum operational performance expectation at any time.
2. The Board shall assess a charter holder’s achievement of the minimum operational performance expectations:
  - a. During five-year-interval review required under A.R.S. § 15-183(I);
  - b. When considering certain requests submitted by the charter holder;
  - c. When considering a charter contract renewal request submitted by the charter holder;
  - d. If a charter school operated by the charter holder has failed to meet the Board’s academic performance standard for three consecutive years;
  - e. Upon receipt of information that a charter school operated by the charter holder has been assigned a letter grade of “F” by the Department;
  - f. When considering new charter applications submitted by existing charter holders or authorized representatives; and
  - g. When considering transfer applications for transfer of a school site from an existing charter contract to its own charter contract.

**B.** The Board shall annually assign a charter holder an overall operational performance rating based on the measures specified in the Operational Performance Framework, which reflect the degree to which the charter holder achieved the minimum operational performance expectation.

**C.** The Board shall determine that a charter holder meets the operational performance standard if the charter holder receives no measure rated “falls far below standard” and no more than five measures rated “does not meet standard” for the evaluated year.

- D. The Board shall determine that a charter holder meets the minimum operational performance expectation if the charter holder receives an overall rating of “meets the Board’s operational performance standard” in both of the two most recent years for which an overall rating was calculated and has no measure rated “falls far below standard” in the current year.
- E. The Board shall determine that a charter holder does not meet the minimum operational performance expectation if the charter holder receives an overall rating of “does not meet the Board’s operational performance standard” in at least one of the two most recent years for which an overall rating was calculated or has at least one measure rated “falls far below standard” in the current year.
- F. If the Board determines a charter holder does not meet the minimum operational performance expectation, the Board shall consider charter oversight under Article 5.

**R7-5-304. Development and Use of Performance Frameworks**

- A. The Board shall revise the academic, financial, and operational performance frameworks as needed. During the process of revision, the Board shall provide the public with notice and an opportunity to comment on proposed revisions. The Board shall adopt revisions at a public meeting.
- B. The Board shall ensure the academic performance framework includes modifications for non-traditional charter schools, including small charter schools with very low enrollment and those designated by the Department as alternative schools.
- C. Use of the academic performance framework is contingent on a charter school’s receipt of an annual achievement profile under A.R.S. § 15-241. The Board shall assign a rating of “no rating” to a charter school that does not provide enough data to make a calculation.
- D. If the Department does not timely release annual achievement profiles under A.R.S. § 15-241, rather than assigning a rating of “no rating” to all charter schools, the Board may use the most recent available data for each measure.

**ARTICLE 4. AMENDMENT TO A CHARTER SUPERVISION**

**R7-5-301. R7-5-401. General Supervision, Oversight, and Administrative Responsibility**

- A. A charter holder shall;
  - 1. ~~empty~~ Comply with the provisions of its charter, contractual agreements with the Board, and with

federal and state laws, ~~at all times, and this Chapter; and~~

2. Meet the minimum performance expectations specified in Article 3.

B. The Board ~~may use~~ shall supervise a charter holder's compliance with subsection (A) using any of the following means in performing its administrative responsibilities to and general supervision and oversight of a charter holder:

1. ~~Oral, written, and electronic~~ or written communication with:

a. ~~the~~ The authorized representative or authorized charter school personnel;

2. ~~b. Oral, written, and electronic communication with representatives~~ Representatives of federal, state, and local agencies having jurisdiction over ~~the~~ operation of the charter school or having ~~the~~ authority to investigate or adjudicate allegations of misconduct by any member of the charter school's staff; and

3. ~~c. Oral, written, and electronic communication with students~~ Students, parents, charter school staff, or outside parties regarding any activity or program conducted by or for the charter school or regarding allegations of misconduct by any member of the charter school's staff;

4. 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 R7-5-402;

4. Annual academic performance review as described in R7-5-403;

5. Annual audit and financial performance review as described in R7-5-404 and, if necessary, a financial performance response as described in R7-5-409;

~~5-6. A~~ Annual operational performance review as described in R7-5-405; and

6. ~~7. A site visit as described in R7-5-303~~ Five-year-interval review of academic, financial, and operational performance, as described in R7-5-406.

**R7-5-303. R7-5-402. Site Visits; Records; Notice of Violation**

A. A designee of the Board or Department may conduct a site visit of a charter school to ~~a review or evaluate the charter school's financial operations, academic program, or compliance with the provisions of its charter and federal and state laws~~ holder's compliance with R7-5-401(A).

B. A designee of the Board or Department may conduct a site visit to corroborate information submitted to the Board or Department and to gather information, documentation, and testimony that permit the Board to ~~fulfill its oversight function under the law and ensure~~ evaluate the charter school ~~is in~~ holder's compliance with ~~the provisions of its charter and federal and state laws~~ R7-5-401(A).

C. A designee of the Board or Department ~~shall conduct~~ who conducts a site visit shall do so during regular operational hours of a the charter school or at any other reasonable time.

D. A designee of the Board or Department may conduct either an announced or unannounced site visit.

~~E. A designee of the Board or Department may conduct an investigation of a charter school in response to concerns raised by students, parents, employees, members of the community or other individuals or groups regarding any activity or program conducted by or for the charter school or regarding allegations of misconduct by any member of the charter school's staff.~~

**F.E.** Upon request by a designee of the Board or Department, a charter holder shall open for inspection all records, documents, and files relating to any activity or program conducted by or for the charter school or the charter holder relating to the charter school.

**G.F.** Upon request by a designee of the Board or Department, a charter holder shall provide access to all school facilities.

1. During a site visit, a charter holder shall provide access to classrooms for the purpose of counting students, observing a program of instruction, or documenting individuals providing instruction.
2. In conducting a site visit, the designee of the Board or the Department shall make every effort not to disrupt the classroom environment.

**H.G.** The Board or Department shall inform a charter holder in writing of any offense identified during a site visit and shall specify any further action that must be taken by the charter holder. ~~In determining the appropriate action to take, the Board shall consider the items in R7-5-304(A).~~

~~I. The Board shall require a charter holder with a serious impact finding to appear before the Board for possible disciplinary action under R7-5-304.~~

#### **R7-5-403. Annual Academic Performance Review**

**A.** When the Department releases the annual achievement profile under A.R.S. § 15-241, the Board shall:

1. Calculate an overall academic rating for each charter school sponsored by the Board using the Academic Performance Framework, and
2. Make the annual overall academic rating of each charter school available on the Board web site.

**B.** If the Board determines a charter holder does not meet the Board's minimum academic performance expectations, as defined under R7-5-301(D), the Board shall require the charter holder to demonstrate sufficient progress towards achieving the minimum academic performance expectations.

#### **R7-5-404. Annual Audit and Financial 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 the audit begins, a charter holder shall submit for the Board's approval a copy of the audit contract the charter holder intends to execute with the audit firm.

1. The Board 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, the Board 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 audit to the Board for a determination whether the audit is complete. Within five days after receiving the audit, the Board shall provide the charter holder and audit firm written notice whether the audit is complete.
- D.** The Board 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 of (B)(1)(a)-(e). If the Board finds an audit is incomplete, the Board 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, the Board shall find the annual audit report 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 5.
- F.** The Board shall review an audit found to be complete and send a letter to a charter holder after the audit is reviewed unless the Board has been notified that the charter holder will not be operating in the next fiscal year.
- G.** If the Board identifies an issue in the audit, the Board shall direct the charter holder to address the issue and may require the charter holder to submit a corrective action plan, as described in R7-5-410.

H. If the Board identifies a serious impact finding in the audit, the charter holder shall be subject to charter oversight as specified in Article 5 unless the charter holder has provided credible evidence that the charter holder's next audit will find the charter holder in compliance.

I. The Board shall calculate an annual financial performance rating for each charter holder using the Financial Performance Framework and the audit submitted to the Board by the charter holder. The Board shall make each charter holder's financial performance rating available on the Board's web site.

**R7-5-405. Operational Performance Review**

A. The Board shall conduct a site visit to a charter school during the charter school's first year of operation, and thereafter as specified in R7-5-402, to evaluate the charter holder's compliance with its charter, other contractual agreements with the Board, federal and state law, and this Chapter.

B. The Board may conduct a compliance check of a charter holder's operational performance at any time. The Board shall conduct a compliance check when:

1. The charter holder seeks to amend the charter or makes another request of the Board, or
2. The Board is asked to do so by an outside entity with oversight of the charter holder or a business relationship with the charter holder.

C. Within 10 days after completing the site visit under subsection (A) or a compliance check under subsection (B), the Board shall provide the charter holder with written notice of any compliance issues identified and specify a deadline for response.

D. After receiving the notice provided under subsection (C), the charter holder shall provide the Board with written notice demonstrating that all identified compliance issues have been addressed by the specified deadline.

E. The Board shall require a charter holder that fails to provide the notice required under subsection (D) or fails to demonstrate that all identified compliance issues have been addressed to appear before the Board and:

1. May subject the charter holder's requests to heightened review,
2. Shall not place the charter holder's request on a Board agenda, and
3. May subject the charter holder to charter oversight as described in Article 5.

**R7-5-406. 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 3.

B. The Board shall provide a charter holder with notice of a five-year-interval review. The Board 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. The two week window in which the Board will conduct an unscheduled site visit.
- C.** The Board shall base the submission requirements of a charter holder on the charter holder's achievement of the minimum performance expectations.
1. The Board shall waive certain submission requirements for a charter holder that meets the Board's minimum performance expectations;
  2. The Board shall require demonstration of sufficient progress, as described under R7-5-408, from a charter holder that does not meet the Board's minimum academic expectations; and
  3. The Board shall require a financial performance response, as described under R7-5-409, from a charter holder that does not meet the Board's minimum financial expectations.
- D.** 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 5.

**R7-5-407. Complaints**

- A.** To make a complaint regarding a charter holder, a person shall submit to the Board a written, document through ASBCS Online that:
1. Alleges with particularity the charter holder is not in compliance with its charter, other contractual agreements with the Board, federal or state law, or this Chapter;
  2. Includes a statement of the facts on which the allegation of violation is based; and
  3. Includes supporting evidence, if available.
- B.** The Board shall review the complaint to determine whether the complaint is within the Board's jurisdiction.
1. If the Board determines the complaint is not within the Board's jurisdiction but may be within the jurisdiction of another agency, the Board shall inform the complainant of the agency that has jurisdiction and direct the complainant to file the complaint with the appropriate agency; or
  2. If the Board determines the complaint is within the Board's jurisdiction, the Board shall, within five days after receiving the complaint, send a copy to the charter holder complained against.
- C.** A charter holder complained against shall, within 10 days after receiving a copy of the complaint provided under subsection (B)(2), provide a written response to the Board that addresses each allegation, the state of facts, and supporting evidence in the complaint. The charter holder may include evidence of compliance with the response.
- D.** The Board shall review the charter holder's response to determine whether the charter holder is in compliance with its charter, other contractual agreements with the Board, federal and state law, and this Chapter. The Board shall conduct further investigation if it determines further investigation will provide needed

information.

- E. If Board staff determines the charter holder is not in compliance with its charter, other contractual agreements with the Board, federal or state law, or this Chapter, the Board may subject the charter holder to additional supervision, as described in R7-5-410, or charter oversight as described in Article 5.
- F. Within 10 days after receiving the charter holder's response under subsection (C), the Board shall send the complainant a copy of the response and notice of the Board staff's decision regarding the charter holder's compliance.

**R7-5-408. Demonstration of Sufficient Progress towards Minimum Academic Performance Expectations**

- A. The Board shall require a charter holder to demonstrate the charter holder is making sufficient progress towards achieving the minimum academic performance expectations if:
  - 1. The Board determines under R7-5-403(D) that the charter holder does not meet the Board's minimum academic performance expectations;
  - 2. A charter school operated by the charter holder is assigned a letter grade of "F" by the Department.
- B. The Board shall provide written notice to a charter holder that is required to demonstrate sufficient progress towards achieving the minimum academic performance expectations. The Board shall ensure the notice includes the following:
  - 1. An explanation of why the charter holder is required to demonstrate sufficient progress towards achieving the minimum academic performance expectations;
  - 2. The indicators and measures in the academic performance framework that the charter holder is not meeting; and
  - 3. The deadline for meeting the Board's academic performance expectations.
- C. Within 30 days after issuing overall ratings, the Board shall provide the charter holder with a written evaluation of the charter holder's progress toward meeting the minimum academic performance expectations and shall notify the charter holder of its findings.
- D. If a charter school operated by a charter holder receives an overall rating of "does not meet" or "falls far below" for three consecutive years, the Board shall conclude that charter holder does not demonstrate sufficient progress.
- E. If the Board concludes that the charter holder does not demonstrate sufficient progress, the charter holder may be subject to charter oversight as specified in Article 5.

**R7-5-409. Financial Performance Response**

- A. The Board shall require a charter holder to prepare a financial performance response:
  - 1. If the Board determines under R7-5-302(E) that the charter holder does not meet the Board's minimum financial performance expectations; and

2. If the charter holder does not meet the Board’s minimum financial performance expectations, at the time of:
    - a. A five-year-interval review conducted under R7-5-406,
    - b. Charter renewal as described under XXX, and
    - c. When considering an expansion request submitted by the charter holder to add a new school site to, add an Arizona Online Instruction program to, or replicate an existing charter;
    - d. If a charter school operated by a charter holder has failed to meet the Board’s academic performance standard for three consecutive years; and
    - e. Upon receipt of information that a charter school operated by the charter holder has been assigned a letter grade of “F” by the Department.
- B.** The Board shall provide written notice to a charter holder that is required to submit a financial performance response. The Board shall ensure the notice includes the following:
1. Information on how to access the charter holder’s financial performance dashboard; and
  2. The deadline for submitting the financial performance response to the Board.
- C.** For each measure where the charter holder received a “does not meet standard” or “falls far below standard” for the most recent audited fiscal year presented in the 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;
  2. Explain the charter holder’s effort to improve its performance so that it is possible to meet the measure’s target in the next fiscal year or a subsequent fiscal year; and
  3. Provide support for the charter holder’s explanations and analysis for subsections (C)(1) and (C)(2).
- D.** Within 60 days after receiving a financial performance response, the Board shall provide the charter holder with a written notice that the response is acceptable or not acceptable. The Board shall find a financial performance response acceptable if it includes the explanations and support identified in (C)(1)-(3).
- E.** If a charter holder fails to submit a required financial performance response, the failure will be noted in the charter holder’s operational performance dashboard.

**R7-5-302. R7-5-410. Corrective Action Plan**

- A.** ~~Upon receipt of information under R7-5-301(B) that a charter holder is not in compliance with the provisions of its charter or federal or state laws, the Board shall consider the following factors in determining whether a corrective action plan (CAP) is required:~~ When the Board receives information that a charter holder is not in compliance with its charter, other contractual agreements with the Board, federal or state law, or this Chapter, the Board shall require the charter holder to prepare a CAP.
- B.** ~~If the Board requires a CAP, it shall make a written request to the charter holder for the submission of a CAP~~

~~to be implemented to remedy the offense. The request shall include:~~ If the Board decides to require a charter holder to prepare a CAP, the Board shall provide written notice to the charter holder. The Board shall ensure the written notice includes the following:

1. An explanation of why the charter holder is required to submit a CAP,

~~1.2.~~ A description of the offense,

~~2.3.~~ A list of the specific ~~criteria to be included~~ information required in the CAP,

~~3.4.~~ A ~~The~~ deadline for ~~the submission of~~ submitting the CAP ~~to the Board,~~

~~4.5.~~ A ~~timeline for the implementation of~~ The time during which the charter holder is required to implement the CAP, and

~~5.6.~~ The consequences ~~for failure if the charter holder fails~~ to submit or implement the CAP.

C. ~~The Board shall decide to accept the CAP based on whether the specified criteria stated in the request are included in the CAP.~~ Within 10 days after receiving the CAP, the Board shall provide written notice to the charter holder that:

1. ~~The Board shall provide written notification to the authorized representative regarding the acceptance or rejection of the CAP.~~ The CAP is completed and implementation is required; or

2. ~~Written notification that the Board rejected the CAP shall include the reason for the rejection, the deadline for submission of the revised CAP, and the consequences for failure to submit a CAP that meets the specified criteria.~~ Additional information is required and the deadline for submitting the specified information to the Board.

D. ~~The Board shall monitor, through site visits and review of documentary evidence, the charter holder's implementation of the approved CAP to ensure~~ until the Board determines the offense is rectified has been corrected.

1. ~~The charter holder shall demonstrate to the Board through documentation or a site visit that steps have been taken to correct the offense or, in the case of a serious impact finding, that the charter holder is currently in compliance.~~

2. ~~The Board shall consider possible disciplinary action under R7-5-304 against the charter holder if the charter holder fails to implement the CAP and rectify the offense.~~

E. If a charter holder fails to submit a required CAP, fails to submit a revised CAP required under subsection (C)(2), or fails to implement the CAP timely, the charter holder may be subject to charter oversight as specified in Article 5.

## **ARTICLE 5. AUDITS AND AUDIT CONTRACTS CHARTER OVERSIGHT**

### **R7-5-304. R5-5-501. Disciplinary Action Charter Oversight: General Provisions**

A. ~~The~~ If the Board may discipline determines a charter holder for violation of is not in compliance with its

charter, other contractual agreements with the Board, or federal or state laws, or this Chapter, the Board shall provide notice to and may impose charter oversight on the charter holder.

**B.** The Board shall provide the charter holder with at least 72-hours' notice of the date, time, and location of the meeting at which the Board will decide whether to impose charter oversight. The Board shall include in the notice the purpose of the meeting and why the Board is considering imposing charter oversight.

**C.** In determining the appropriate disciplinary charter oversight action to take, the Board shall consider the following, as applicable:

1. Threat to the health or safety of children;
2. Whether the charter holder's historical compliance record indicates repeated or multiple breaches of the provisions of its charter, other contractual agreements with the Board, or federal or state laws, or this Chapter;
3. Whether the charter holder has failed to meet the minimum academic needs of the children performance expectations specified under R7-5-301;
4. Length of time the offense has been occurring;
5. The charter holder's compliance with and response to staff Board investigation in by providing necessary information and documentation within requested time-frames;
6. Whether there has been a misuse of funds; and
7. Any other factor that has a bearing bears on the charter holder's ability and willingness to operate in compliance with the provisions comply with its charter, other contractual agreements with the Board, and federal and state laws, and this Chapter.

**B.D.** The Board shall take disciplinary action against a charter holder based on the Board's assessment of the factors listed in subsection (A). Disciplinary action may Charter oversight actions available to the Board include, but are not limited to any of the following:

1. Requiring a corrective action plan as described in R7-5-302 Imposing a civil penalty, as authorized under A.R.S. § 15-185 and described under R7-5-504;
2. Requesting the Department to withhold up to 10 percent of the a charter school holder's monthly state aid in accordance with as authorized under A.R.S. § 15-185(H) and described under R7-5-505 and requiring the charter holder to submit a CAP as described under R7-5-410. Upon proof of corrected deficiencies and that the charter holder is in compliance, the Board shall request the Department to restore the full amount of state aid payments to the charter school;
3. Entering into a consent agreement with the a charter holder as described under R7-5-506; for the resolution of the non-compliance. The Board shall ensure that the consent agreement:
  - a. Describes each offense;
  - b. Stipulates the facts agreed to by the Board and the charter holder;
  - c. Specifies the actions the charter holder must take to demonstrate compliance and avoid further

~~disciplinary action;~~

- ~~d. Provides a timeline for the charter holder to complete the actions specified in the consent agreement;~~
  - ~~e. Stipulates that if the charter holder fails to comply with the terms and conditions of the consent agreement, the Board may, after giving the number of days notice specified in the consent agreement, hold a hearing at which the Board receives information to determine whether evidence exists that the charter holder has failed to comply with the consent agreement. If the Board determines that the charter holder has breached the consent agreement, the Board may revoke the charter holder's charter; and~~
  - ~~f. Is approved by the Board and the charter holder and signed by the Board president or designee and the authorized representative;~~
4. Issuing a notice of intent to revoke ~~the a charter in accordance with~~ as authorized under A.R.S. § 15-183(I) ~~and described under R7-5-507.~~ if the Board determines there is cause to believe that the charter holder may have breached one or more provisions of its charter; and
  5. Revoking ~~the a charter in accordance with~~ as authorized under A.R.S. § 15-183(I) ~~and described under R7-5-507.~~

**R7-5-502. Approval of Audit Contracts Charter 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 R7-5-507 or restore the charter to acceptable performance through a consent agreement under R7-5-506.
- 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 academic 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 enrolled in the school;
  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;
  4. Demonstrate sufficient progress as described under R7-5-408; and
  5. If notified the charter holder does not meet the minimum financial performance expectations, submit a financial performance response as described under R7-5-409.
- D.** The Board shall evaluate the demonstration of sufficient progress and, if required, the financial performance response as specified under R7-5-408 and R7-5-409.
- E.** 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 academic performance expectations based on student achievement measures specified in the Academic Performance Framework;
  3. Whether the charter holder is able to demonstrate, under R7-5-408, 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.
- F.** 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 R7-5-506. If the Board decides to revoke the charter, the Board shall issue a notice of intent to revoke the charter as provided under R7-5-507.

**R7-5-503. ~~Audit Completeness Determinations~~ Charter Oversight of Charter Schools Assigned a Letter Grade of "D" by the Department**

- A.** Within 30 days after the Department notifies a charter holder under A.R.S. § 15-241 that a charter school operated by the charter holder has been assigned a letter grade of "D," the charter holder shall:
1. Comply fully with A.R.S. § 15-241 by providing written notice to the parents or guardians of all students attending the school. The charter holder shall include the following in the notice:
    - a. The Department has assigned the charter school a letter grade of "D" because the charter school is demonstrating a below average level of academic performance;
    - b. The charter holder is required to prepare an improvement plan within 90 days after the charter school was assigned a letter grade of "D;" and
    - c. The charter holder is required to present the improvement plan to the Board at a public meeting;
  2. Provide the Board a copy of the notice required under subsection (A)(1);
  3. Provide the Board with a list of the names and mailing addresses of the parents or guardians of all students enrolled in the school; and
  4. 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 academic performance rating assigned by the Department.
- B.** The Board shall require a charter holder that fails to comply fully with subsection (A) to appear before the Board for consideration of the charter holder's noncompliance and may subject the charter holder to additional charter oversight.
- C.** Under A.R.S. § 15-241, the Board is required to revoke the charter of a charter school if the Board determines the improvement plan required under subsection (A)(1)(b) was not properly implemented.

**R7-5-504. ~~Review of Complete Audits~~ Civil Penalty for Fingerprinting Violation**

- A.** The first time the Board determines a charter holder failed to comply with the fingerprinting requirement at

A.R.S. §§ 15-512 and 15-183, the Board shall:

1. Provide written notice of noncompliance to the charter holder. Both the Board and the charter holder shall sign the notice; and
  2. Provide the charter holder with 48 hours from the time of the notice under subsection (A)(1) to submit to the Board proof that the Department of Public Safety has received an application for the appropriate fingerprint check.
- B.** If the Board determines the charter holder did not timely provide the proof required under subsection (A)(2) or if the Board determines the charter holder subsequently violated the fingerprinting requirement, the Board shall:
1. Provide written notice of noncompliance to the charter holder, and
  2. At the Board's next public meeting, impose a civil penalty of \$1000 per occurrence of noncompliance with the fingerprinting requirement.
- C.** Within 30 days after a civil penalty is imposed under subsection (B)(2), the charter holder may seek to have the penalty vacated by submitting evidence to the Board that the charter holder has not violated the fingerprinting requirement multiple times.

**R7-5-505. Withholding State Funds**

- A.** Under A.R.S. § 15-185, if the Board determines at a public meeting that a charter holder is not in compliance with its charter, other contractual agreements with the Board, federal or state law, or this Chapter, the Board may request the Department to withhold up to 10 percent of the charter holder's monthly apportionment of state aid.
- B.** If the Board decides to request that the Department withhold part of the charter holder's monthly apportionment of state aid, the Board shall provide written notice to the charter holder. The Board shall include the following in the notice:
1. The reason the withholding is being imposed.
  2. The percentage of the charter holder's monthly apportionment of state aid to be withheld.
  3. The date on which the withholding will begin, and
  4. Actions required by the charter holder before the full amount of state aid is restored.
- C.** If a percentage of the charter holder's monthly apportionment of state aid is withheld for six months and the charter holder has not completed the actions required under subsection (B)(4), the Board shall consider the charter holder's noncompliance and may subject the charter holder to additional charter oversight including issuing a notice of intent to revoke under R7-5-507.
- D.** If a percentage of the charter holder's monthly apportionment of state aid is withheld for failure to submit an audit for two months, the Board shall consider the charter holder's noncompliance and may subject the charter holder to additional charter oversight including issuing a notice of intent to revoke under R7-5-507.

E. When the Board determines the charter holder is in compliance with its charter, other contractual agreements with the Board, federal and state law, and this Chapter, the Board shall request that the Department restore the full amount of state aid to the charter holder.

**R7-5-506. Consent Agreement**

A. If the Board determines that a charter holder is not in compliance with its charter, other contractual agreements with the Board, federal or state law, or this Chapter, the Board may enter into a consent agreement with the charter holder to resolve the noncompliance.

B. The Board shall include the following in a consent agreement:

1. The reason for the consent agreement;
2. The facts and conditions to which the Board and charter holder agreed;
3. The actions the charter holder must take to demonstrate compliance and avoid further charter oversight;
4. The time within which the charter holder is to complete the actions specified under subsection (B)(3); and
5. After approval by both the Board and charter holder, the signatures of both the Board president and charter representative.

**R7-5-507. Revocation**

A. If the Board determines that a charter holder is not in compliance with its charter, other contractual agreements with the Board, federal or state law, or this Chapter, the Board may issue a written notice of intent to revoke the charter as authorized under A.R.S. § 15-183.

B. When a charter holder receives a notice of intent to revoke, the charter holder shall:

1. Within 48 hours after receiving the notice of intent to revoke, provide written notice to all staff and the parents or guardians of all students enrolled in the school of the following:
  - a. A notice of intent to revoke has been received,
  - b. The notice of intent to revoke may be inspected at the charter school location, and
  - c. The date, time, and location of the hearing set with the Office of Administrative Hearings; and
2. Within 20 days after receiving the notice of intent to revoke, provide the Board with:
  - a. A copy of the notice required under subsection (B)(1); and
  - b. A list of the names and mailing addresses of the parents or guardians of all students enrolled in the school.

C. Both the Board and charter holder shall appear for an administrative hearing before an administrative law judge at the Office of Administrative Hearings on the date provided in the notice of intent to revoke.

D. After the administrative hearing under subsection (C) and receipt of the decision of the administrative law judge, the Board shall hold a public meeting at which the Board shall:

1. Decide whether to accept, reject, or modify the decision of the administrative law judge; and

2. Take action on the charter.

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