
AGENDA ITEM: Proposed Rulemaking**Issue**

As described at the October 2013 Board meeting, the Board's staff has begun the rulemaking process 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, and address items identified in the Board's Five-Year Review Reports to the Governor's Regulatory Review Council. A second rulemaking packet, presented in this staff report, concerns the rules governing charter monitoring and oversight.

This rulemaking packet is specifically intended to address the Office of the Auditor General's finding in the September 2013 Performance Audit and Sunset Review that the Board "should adopt rules to define board standards for academic, financial, and operational performance, sufficient progress toward standards, and consequences for not meeting or making progress toward standards." This rulemaking packet makes some revisions to the Board's policies related to the Academic Performance Framework, demonstrating sufficient progress toward the Board's academic performance expectations, and annual and interval reviews to make those policies more effective in achieving the Board's mission.

Background

In October, Board staff began reviewing the Board's current rules addressing charter monitoring and oversight to determine whether the rules needed to be revised. Based on the 2009 Five-Year-Review Report to the Governor's Regulatory Review Council and staff's analysis of the rules, staff identified several areas that could benefit from clarification or clean up, governing policies that should be incorporated into the rules, and revisions that make current policies more effective.

Staff made proposed revisions to the rules and provided a preliminary version of these revisions to the public on November 5, seeking comments. Dr. Amy Schlessman provided comments, which were considered and some of which were incorporated into the Notice of Proposed Rulemaking. Staff made additional revisions to the proposed rulemaking and provided a revised draft to the public on December 20, seeking comments. Dr. Amy Schlessman again provided comments, which were considered and some of which were incorporated into the Notice of Proposed Rulemaking. Staff did not receive any other comments.

Staff's proposed revisions are included as an appendix to this report in the form of a Notice of Proposed Rulemaking, which staff will submit for publication in the Arizona Administrative Register to initiate rulemaking if adopted by the Board. In reading this Notice of Proposed Rulemaking Board members should understand the text of the current rules is present with insertions identified by underlined text and deletions identified by strikeouts. A summary of the changes is provided below.

In Article 1, staff added several definitions including "Academic Performance Framework," "Academic Performance Framework guidance document," "Charter Oversight," "Financial Performance Framework," "Financial Performance Framework guidance document," "Monitoring," and

"Performance frameworks." Staff also deleted the definition for "good cause," but incorporated that definition into the relevant section of the rules.

Structural revisions made as part of this rulemaking separate the Board's monitoring (Article 4) and oversight (Article 5) processes. Most of the revisions and additions in this rulemaking packet are found in the newly created Articles 4 and 5, and are broken out by rule below.

Three new sections added by this rulemaking (R7-5-403, R7-5-404, R7-5-405) establish the Board's academic and financial performance expectations for charter holders.

R7-5-403 - Academic Performance Expectations

- Implements the Academic Performance Framework as the Board's tool for evaluating academic performance
- Requires revisions to the Framework to be made at a public meeting
- Requires modifications to the framework for small schools and alternative schools
- Anticipates a transition year for PARCC by enabling the Board to calculate dashboards by using the most recent available data for each measure
- Establishes times at which the Board must review academic performance, based on the Board's Academic Performance Interventions

R7-5-404 - Demonstrating Sufficient Progress Toward the Board's Academic Performance Expectations

- Establishes that either a Performance Management Plan (PMP) or a Demonstration of Sufficient Progress (DSP) can be used to demonstrate sufficient progress toward meeting the Board's academic performance expectations
- Revises the current intervention schedule, so that:
 - PMPs will be the first intervention step for charter holders when a school receives an annual overall rating of Falls Far Below, Does Not Meet, or No Rating; rather than being assigned at 5-Year Reviews
 - DSPs will be used subsequent to a charter holder submitting a PMP for one of its schools, when the school receives an annual overall rating of Falls Far Below, Does Not Meet, or No Rating
 - DSPs will also be used when charter holders are submitting notification, amendment, replication, renewal and transfer requests, or when a school receives an "F" letter grade
- Establishes procedure for a charter holder's submission, and the Board's review of a PMP
 - Charter holders upload to ASBCS Online by the deadline provided in the initial notice
 - A PMP that does not meet the Board's formatting and page limit requirements will be rejected
 - PMPs will be evaluated according to revised evaluation criteria, which will be newly incorporated into the revised Academic Performance Framework Guidance document

- A charter holder demonstrates sufficient progress toward meeting the Board's academic performance expectations if the charter holder has effectively created a plan to improve academic performance that is based on the charter holder's analysis of the charter school's data and individual circumstances
- Establishes procedure for a charter holder's submission, and the Board's review of a DSP
 - Charter holders upload to ASBCS Online by the deadline provided in initial notice
 - A PMP that does not meet the Board's formatting and page limit requirements will be rejected
 - DSPs will be evaluated according to revised evaluation criteria found in the revised Academic Performance Framework Guidance document
 - Site visits will not be mandatory for every DSP, but will be conducted as needed to confirm information contained in the DSPs or to provide the charter holder an opportunity to correct deficiencies identified in the initial evaluation
 - Expectation set that information identified in the DSP must be provided at the time of the site visit
 - A charter holder demonstrates sufficient progress toward meeting the Board's academic performance expectations if:
 - the charter holder is implementing the PMP, or if the charter holder does not have a PMP, is implementing an improvement plan, and
 - the charter holder presents reliable assessment data that demonstrates improved performance over time

R7-5-405 - Financial Performance Expectations

- Implements the Financial Performance Framework as one of the Board's tools for evaluating financial performance
- Requires revisions to the Framework to be made at a public meeting
- Establishes times at which the Board must review financial performance, based on the Board's current policies

Five new sections added by this rulemaking (R7-5-406, R7-5-407, R7-5-409, R7-5-410, and R7-5-411) establish monitoring processes.

R7-5-406 - First Year Charter School Monitoring

- Implements first-year site visit protocol
- Requires charter holders with non-compliance issues to respond within 10 days of notice and demonstrate compliance

R7-5-407 - Annual Academic Monitoring

- Requires Board to make all its sponsored charter schools' academic ratings available on the Board's website annually

- Implements waiver of annual review for charter holders who meet the Board's Academic Performance Expectations, but provides monitoring will resume if a charter holder:
 - has a change of 50% or more of its governance structure
 - changes its charter representative, or
 - expands its operations under the charter
- Implements annual monitoring component of intervention schedule
 - Non-waived charter holders will be required to demonstrate the charter holder is making sufficient progress toward meeting the Board's academic performance expectations if any schools have overall annual rating of "does not meet," "falls far below," or "no rating"
 - A PMP or a DSP will be the two available methods for demonstrating sufficient progress, the Board will indicate which method the charter holder must use
- If a charter holder does not submit PMP or DSP by the assigned deadline, the charter holder will be brought before the Board for consideration of oversight
- If a charter holder's PMP or DSP does not demonstrate sufficient progress, the charter holder will be brought before the Board for consideration of oversight
- If a charter holder operates a charter school that has received an overall rating of "does not meet" or "falls far below" for two consecutive years, the charter holder will be brought before the Board for consideration of oversight

R7-5-409 - Five-Year Interval Reviews

- Implements interval review component of intervention schedule
- Non-waived charter holders will be required to report on:
 - Academic performance through either a PMP or DSP
 - Financial performance
 - Organizational structure
- If a charter holder does not submit all required documentation by the assigned deadline, the charter holder will be brought before the Board for consideration of oversight
- If a charter holder does not demonstrate sufficient progress, provide an adequate financial response, and/or demonstrate the charter holder's organizational structure records with the Board are accurate, the charter holder will be brought before the Board for consideration of oversight

R7-5-410 - Compliance Checks

- Implements compliance check procedures, and requires them for:
 - Amendment/notification requests
 - Placing charter holders on the Board agenda for charter holder requests
- Identifies specific compliance matters the Board may check
- Provides that if a charter holder is not in compliance, and is notified of the non-compliance, they must demonstrate compliance within 10 days

- Provides that if a charter holder is not in compliance and they are making a request to the Board, they will not be placed on the agenda for consideration of the request until they demonstrate compliance

R7-5-411 - Complaints

- Provides procedure for processing written complaints
- Allows a charter holder 10 business days to respond to the complaint in a manner that demonstrates the charter holder is in compliance
- If a charter holder does not demonstrate compliance, provides that the Board may conduct a further investigation or consider the charter holder for oversight

A new section (R7-5-408) is comprised of several old sections and states the rules governing auditing requirements for charter holders. The section also incorporates monitoring based on the Board's financial performance expectations.

R7-5-408 - Annual Audit and Financial Monitoring

- Incorporates all prior auditing rules
- Requires the Board to calculate annual financial performance ratings and make those ratings for all its sponsored charter holders available on the Board's website

Revisions to R7-5-304, which is renumbered to R7-5-501, revise procedures for the Board to impose charter oversight over non-compliant charter holders both informally and at a formal Board meeting.

R7-5-501 - General Oversight Responsibility; Consideration by the Board for Non-Compliance; Notice of Violation

- Implements Board's ability to provide oversight for charter holders who violate the charter or federal or state laws, or who do not meet the Board's performance expectations
- Lists our factors the Board may consider when deciding the appropriate oversight
- Lists out possible oversight actions

A new section added by this rulemaking (R7-5-502) sets 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.

R7-5-502 - Charter Oversight of Charter Schools Assigned an "F" Letter Grade by the Department

- Implements and enforces statutory requirements for when a school receives an F letter grade
- Upon notice, the charter holder must:
 - Notify parents within 30 days that the school has received an "F" and is demonstrating a failing level of performance

- Provide a DSP to the Board that demonstrates sufficient progress toward the Board's academic performance expectations through implementation of the school's PMP and improved pupil performance, and an acceptable financial response, if required
- Provide the Board with evidence that parents were properly notified of the letter grade
- Ensure the school's public communications all accurately state the current letter grade
- Provides list of considerations for the Board in deciding whether to restore or revoke, including whether the charter holder demonstrates sufficient progress

A new section added by this rulemaking (R7-5-503) sets out procedures that enforce a charter holder's statutory obligation, under A.R.S. § 15-241, to notify parents of enrolled students when a charter school is assigned a "D" letter grade.

R7-5-503 - Charter Oversight of Charter Schools Assigned a "D" Letter Grade by the Department

- Implements and enforces statutory requirements for when a school receives a D letter grade
- Upon notice, the charter holder must:
 - Notify parents within 30 days that the school has received a "D" and is demonstrating a below average level of performance
 - Provide the Board with evidence that parents were properly notified of the letter grade
 - Ensure public communications all accurately state the current letter grade
- Provides that a charter holder who fails to provide evidence of compliance as required will be brought before the Board for consideration of oversight

Two new sections added by this rulemaking (R7-5-505 and R7-5-506) 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).

R7-5-505 - Civil Penalty for Fingerprinting Violations

- Implements civil penalty statute
- Provides appeal procedure for a charter holder assessed a civil penalty

R7-5-506 - Withholding State Funds

- Implements withholding statute, including notice requirements and how the charter holder can have the funds restored
- Provides that certain withholdings that are not rectified within a certain time may result in revocation notice, including:
 - Withholding for 6 months and non-compliance with associated corrective action plan;
 - Withholding for 2 months because of failure to submit audit; and
 - Withholding for 2 months because of failure to properly submit PMP or DSP

A new section added by this rulemaking (R7-5-508) sets 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).

R7-5-508 - Revocation

- Implements revocation statute and policies including:
 - Charter holder notification requirements
 - Parental Notification requirements and reporting
- Provides hearings will be held before ALJ at OAH

Board Options

Option 1: The Board may vote to initiate rulemaking regarding charter monitoring and oversight by adopting the Notice of Proposed Rulemaking. Staff recommends the following language: I move that the board initiate rulemaking concerning charter monitoring and oversight using the Notice of Proposed Rulemaking presented to the Board today and found in the materials for today's Board meeting.

Option 2: The Board may vote to initiate rulemaking regarding charter monitoring and oversight by adopting the Notice of Proposed Rulemaking with modifications. The following language is provided for your consideration: I move that the board initiate rulemaking concerning charter monitoring and oversight using the Notice of Proposed Rulemaking presented to the Board and found in the materials for today's Board meeting with the modifications discussed (may require specific references depending upon whether clarification of discussion is needed).

Appendix

Notice of Proposed Rulemaking

NOTICE OF PROPOSED RULEMAKING

TITLE 7. EDUCATION

CHAPTER 5. STATE BOARD FOR CHARTER SCHOOLS

PREAMBLE

<u>1. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
R7-5-101	Amend
Article 3	Re-number
R7-5-301	Re-number
R7-5-302	Re-number
R7-5-303	Re-number
R7-5-304	Re-number
Article 4	Re-number
Article 4	Amend
R7-5-401	Re-number
R7-5-401	Amend
R7-5-402	Re-number
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	New Section
R7-5-411	New Section

Article 5	Renumber
Article 5	Amend
R7-5-501	Renumber
R7-5-501	Amend
R7-5-502	Renumber
R7-5-502	Amend
R7-5-503	New Section
R7-5-504	New Section
R7-5-505	New Section
R7-5-506	New Section
R7-5-507	New Section
R7-5-508	New Section
Article 6	Renumber
R7-5-601	Renumber

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), A.R.S. § 15-183(Q)

Implementing statute: A.R.S. § 15-182(E)(1), A.R.S. § 15-183(C)(5), A.R.S. § 15-183 (E), A.R.S. § 15-183 (F), A.R.S. § 15-183 (I)(3)-(4), A.R.S. § 15-183 (Q), A.R.S. § 15-183 (R), A.R.S. § 15-185(H), A.R.S. § 15-185 (I), A.R.S. § 15-241(M), A.R.S. § 15-241(U)

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: 19 A.A.R. 2857, September 20, 2013

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

Name: Katherine Poulos

Address: Arizona State Board for Charter Schools

P.O. Box 18328

Phoenix, AZ 85009

Telephone: (602) 364-3080

Fax: (602) 364-3089

E-mail: Katie.Poulos@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 Arizona State Board for Charter Schools (Board) is amending its rules to implement changes made in 2012 and 2013 to the Arizona Revised Statutes relating to charter schools (A.R.S. Title 15, Chapter 1, Article 8). The Board is also updating the rules to complete actions proposed in the last two five-year review reports, approved on November 3, 2009 and May 3, 2011. Finally, the Board is engaging in rulemaking to formalize policies which enable the Board to effectively carry out its legislative mission "to provide a learning environment that will improve pupil achievement." A.R.S. § 15-181(A). The rulemaking will implement recent statutory changes and Board policies and improve the clarity and conciseness of the rules.

Revisions throughout the rulemaking establish that all charter schools sponsored by the Board are required to meet the Board's performance expectations. Structural revisions made as part of this rulemaking separate the Board's monitoring and oversight processes. These structural revisions are intended to provide clarity on which processes apply to all charter holders as compared to which processes apply only to charter holders that do not meet the Board's performance expectations and/or violate contractual and statutory obligations. Three new sections added by this rulemaking (R7-5-403, R7-5-404, R7-5-405) establish the Board's academic and financial performance expectations for charter holders as required by A.R.S. § 15-183(R). Five new sections added by this rulemaking (R7-5-406, R7-5-407, R7-5-409, R7-5-410, and R7-5-411) establish monitoring processes, which are intended to implement the Board's supervision, oversight, and administrative responsibilities under A.R.S. §15-183(I)(3), A.R.S. §15-183(R), and A.R.S. § 15-182(E)(1). A new section (R7-5-408),

which is comprised of several old sections, states the rules governing auditing requirements for charter holders implementing A.R.S. §15-914. The rulemaking also incorporates one new aspect of financial monitoring based on the Board's financial performance expectations to implement the Board's supervision, oversight, and administrative responsibilities under A.R.S. §15-183(R) and A.R.S. § 15-182(E)(1). Revisions to R7-5-304, which is renumbered to R7-5-501, revise procedures for the Board to impose charter oversight over non-compliant charter holders both informally and at a formal Board meeting. A new section added by this rulemaking (R7-5-502) sets 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. A new section added by this rulemaking (R7-5-503) sets out procedures that enforce a charter holder's statutory obligation, under A.R.S. § 15-241, to notify parents of enrolled students when a charter school is assigned a "D" letter grade. Two new sections added by this rulemaking (R7-5-505 and R7-5-506) 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). A new section added by this rulemaking (R7-5-508) sets 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).

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:

None

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:

The rules impose an administrative burden on the agency. The charter monitoring and oversight will have minimal economic impact on the agency as the agency already performs these functions with the associated costs absorbed by the agency's general fund appropriation. The economic impact on other state agencies, such as the Arizona Department of Education, is expected to be minimal. The costs associated with charter monitoring and oversight arise from statutory requirements rather than from the proposed rules. The economic impact on charter holders is expected to be minimal. While the charter holder may incur additional costs based on enhanced monitoring and/or oversight, the charter holder will only incur these costs if they are not meeting their obligations. These rules provide a benefit to charter holders by clearly prescribing the monitoring processes and outcomes, and oversight processes. The public and students will benefit from these rules because they will result in more high quality alternatives to public schools and fewer low quality charter schools.

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

Name: Katherine Poulos
Address: Arizona State Board for Charter Schools
P.O. Box 18328
Phoenix, AZ 85009
Telephone: (602) 364-3080
Fax: (602) 364-3089
E-mail: Katie.Poulos@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 on the proposed rules will be held as follows:

Date: March 10, 2014
Time: 9 a.m.

Location: 1616 West Adams Street, Suite 170

Phoenix, AZ 85007

Written comments regarding the proposed rules and the economic impact of the rules may be submitted to the person identified in item #4 until 5:00 p.m. on March 10, 2014.

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:

The rules do not require issuance of a regulatory permit, license, or agency authorization.

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 is no corresponding federal law that is applicable. The rules are being promulgated under state 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:

None

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 3. CHARTER OVERSIGHT ARTICLE 4. MINIMUM PERFORMANCE

STANDARDS AND CHARTER MONITORING

Section

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

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

R7-5-403. Academic Performance Expectations

R7-5-404. Demonstrating Sufficient Progress Toward the Board's Academic Performance Expectations

R7-5-405. Financial Performance Expectations

R7-5-406. First Year Charter School Monitoring

R7-5-407. Annual Academic Monitoring

R7-5-408. Annual Audit and Financial Monitoring

R7-5-409. Five-Year Interval Reviews

R7-5-410. Compliance Checks

R7-5-411. Complaint Investigations

ARTICLE 5. CHARTER OVERSIGHT

~~R7-5-304.~~ R7-5-501. ~~Disciplinary Action~~ General Oversight Responsibility; Consideration by the Board for Non-Compliance; Notice of Violation

R7-5-502. Charter Oversight of Charter Schools Assigned an "F" Letter Grade by the Department

R7-5-503. Charter Oversight of Charter Schools Assigned a "D" Letter Grade by the Department

~~R7-5-302.~~ R7-5-504. Corrective Action Plan

R7-5-505. Civil Penalty for Fingerprinting Violations

R7-5-506. Withholding State Funds

R7-5-507. Consent Agreements

R7-5-508. Revocation

~~ARTICLE 4. ARTICLE 6. AMENDMENT TO A CHARTER~~

Section

~~R7-5-401. R7-5-601.~~ Amendment to a Charter

~~ARTICLE 5. AUDITS AND AUDIT CONTRACTS~~

Section

~~R7-5-501. Audit Guidelines~~ Renumbered

~~R7-5-502. Approval of Audit Contracts~~ Renumbered

~~R7-5-503. Audit Completeness Determinations~~ Renumbered

~~R7-5-504. Review of Complete Audits~~ Renumbered

ARTICLE 1. GENERAL PROVISIONS

R7-5-101. Definitions

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

"Academic Performance Framework" means the framework adopted by the Board and available on the Board's website, as required by A.R.S. § 15-183, which sets forth the Board's academic performance expectations; standards for academic performance; indicators, measures, metrics, targets, and ratings used to calculate and measure a charter school's academic performance; and modifications for measuring the academic performance of non-traditional charter schools, including small charter schools with very low numbers of test records and charter schools designated as alternative schools by the Department.

"Academic Performance Framework guidance document" means the document, including the appendices, that explains how the Academic Performance Framework and the Board's academic performance expectations are utilized; describes the intervention process; sets forth the requirements for and method of evaluating a charter holder's submission for demonstrating sufficient progress toward the Board's academic performance expectations.

"Accounting industry regulatory body" No change

"Administrative completeness review time-frame" No change

"Applicant" No change

"Application" No change

"Application package" No change

"Audit" No change

"Audit contract" No change

"Audit firm" No change

"Audit guidelines" No change

"Authorized representative" No change

"Board" No change

"Charter" No change

"Charter holder" No change

"Charter oversight" means follow up actions the Board imposes on a charter holder that is not in compliance with its charter or with statutory requirements, or that does not meet or is not making sufficient progress toward meeting the Board's performance expectations to ensure the charter holder comes into compliance, or meets the Board's performance expectations, which the Board carries out as part of its supervision, oversight and administrative responsibility under the law.

"Charter school" No change

"Day" No change

"Department" No change

"Financial Performance Framework" means the framework adopted by the Board and available on the Board's website, as required by A.R.S. § 15-183, which sets forth the Board's financial performance expectations; and indicators, measures, metrics, targets, and ratings used to calculate and measure a charter holder's financial performance.

"Financial Performance Framework guidance document" means the document that explains how the Financial Performance Framework and the Board's financial performance expectations are utilized, sets out the required actions if the charter holder does not meet the Board's financial performance expectations, and the expectations for and method of evaluating a charter holder's financial performance response.

"Fiscal year" No change

~~"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.~~

"Monitoring" means observing and tracking a charter holder's compliance with provisions of its charter, other contractual agreements with the Board, and federal and state statutory requirements; and observing and tracking a charter holder's performance in relation to the Board's performance expectations, which the

Board carries out as part of its general supervision, oversight, and administrative responsibility under the law.

"Overall time-frame" No change

"Peer review" No change

"Performance frameworks" means the Academic, Financial and Operational Performance Frameworks adopted by the Board and available on the Board's website which together comprise the performance framework required by A.R.S. § 15-183.

"Person" No change

"Preliminary application package" No change

"Principals" No change

"Revised application package" No change

"Serious impact finding" No change

"Substantive review time-frame" No change

"Sufficiently qualified" No change

"Supervising certified public accountant" No change

"Technical Review Panel" No change

**ARTICLE 3 4. CHARTER OVERSIGHT MINIMUM PERFORMANCE STANDARDS AND
CHARTER MONITORING**

Section

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

A. A charter holder shall comply with the provisions of its charter, all contractual agreements with the Board, Board rules, and with federal and state laws at all times; and meet the Board's performance expectations as measured according to the performance frameworks.

B. The Board may use any of the following means in performing its ~~administrative responsibilities to~~ and general supervision and oversight monitoring of a charter holder:

1. Oral, ~~or written, and electronic~~ communication with the ~~authorized~~ charter representative or authorized charter school personnel;
2. Oral, ~~or written, and electronic~~ communication with 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;
3. Oral, ~~or written, and electronic~~ communication with 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;
5. A corrective action plan as described in ~~R7-5-302~~R7-5-504;
6. The performance frameworks and guidance documents; and
7. A site visit as described in ~~R7-5-303~~R7-5-402.

~~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 business or financial operations; academic program; compliance with the provisions of its charter, contractual agreements with the Board, Board rules, and federal and state laws; and progress toward meeting the Board's performance expectations as measured according to the performance frameworks; or to investigate a complaint within its jurisdiction.
- 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~~ general supervision function under the law and ensure the charter school is in compliance with the provisions of its charter, contractual agreements with the Board, Board rules, and federal and state laws; and making sufficient progress toward meeting the Board's performance expectations as measured according to the performance frameworks.

C. A designee of the Board or Department ~~shall conduct~~ who conducts a site visit shall do so during regular operational hours of a 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. 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. Academic Performance Expectations

A. The Board shall evaluate a charter holder's academic performance using quantitative outcomes obtained from the Academic Performance Framework and use that analysis when making high stakes decisions related to the charter.

1. The Academic Performance Framework shall be revised as needed. The Board shall adopt revisions to the Academic Performance Framework at a public meeting where the public shall have the opportunity to make comments on the Academic Performance Framework and proposed revisions.
 2. The Academic Performance Framework is used to assign each charter school an annual overall academic rating based on indicators designed to evaluate a charter school's overall academic performance. Each indicator shall be scored using:
 - a. A combination of measures that evaluate different aspects of each indicator;
 - b. Metrics that quantify each measure;
 - c. Targets that identify the threshold for success within each measure; and
 - d. Ratings that identify how a charter school performs against the targets.
 3. The Academic Performance Framework shall provide modifications for non-traditional charter schools, including small charter schools with very low enrollment numbers and charter schools designated as alternative schools by the Department.
 4. The evaluation conducted with the Academic Performance Framework is contingent on a charter school's participation in annual state assessments. A charter school that has too few reportable assessments or serves a grade configuration that does not provide enough data to make a calculation shall be assigned a rating of "no rating."
 5. In any year the Department does not release timely data from the previous administration of state assessments sufficient to calculate overall ratings such that all the charter schools sponsored by the Board would be categorized as "no rating," the Board may use the most recent available data for each measure.
- B. A charter holder meets the Board's academic performance expectations if all schools operated by the charter holder receive an annual overall academic rating of "meets standard" or "exceeds standard" consecutively in both of the two most recent years for which state assessment data is available.

- C. A charter holder that has one or more schools that did not receive an annual overall academic rating of "meets standard" or "exceeds standard" consecutively in both of the two most recent years for which state assessment data is available does not meet the Board's academic performance expectations.
- D. The Board may review and consider a charter holder's academic performance as measured according to the Academic Performance Framework, at any time, but shall do so at a minimum:
1. Annually according to R7-5-407 and the Academic Performance Interventions set out in the Academic Performance Framework guidance document;
 2. At Five-Year Intervals according to R7-5-409 and the Academic Performance Framework guidance document; and
 3. When a charter holder submits certain notification, amendment, replication, renewal, and transfer requests to the Board as described in the Academic Performance Framework guidance document.
- E. A charter holder that does not meet the Board's academic performance expectations:
1. Shall be subject to additional monitoring as described in the Academic Performance Interventions set out in the Academic Performance Framework guidance document and according to R7-5-407 and may be required to demonstrate sufficient progress toward the academic performance expectations as set out in R7-5-404;
 2. Shall be subject to heightened submission requirements and review for certain notification, amendment, replication, renewal, and transfer requests to the Board as described in the Academic Performance Framework guidance document; and
 3. May be subject to charter oversight according to R7-5-501.
- F. A charter holder that meets the Board's academic performance expectations may be:
1. Waived from some monitoring requirements as described in the Academic Performance Interventions set out in the Academic Performance Framework guidance document and according to R7-5-407;

2. Entitled to reduced submission requirements for certain notification, amendment, replication, renewal, and transfer requests to the Board as described in the Academic Performance Framework guidance document; and
3. Entitled to reduced submission requirements at the charter holder's five-year interval reviews as described in in the Academic Performance Framework guidance document and R7-5-409.

R7-5-404. Demonstrating Sufficient Progress Toward the Board's Academic Performance

Expectations

- A. A charter holder that is required to demonstrate they are making sufficient progress toward the Board's academic performance expectations by providing required information shall do so by submitting a Performance Management Plan or a Demonstration of Sufficient Progress.
 1. If a charter holder is required to demonstrate they are making sufficient progress toward the Board's academic performance expectations as a result of annual academic monitoring or a five year interval review:
 - a. The charter holder that has one or more schools that have an Overall Rating of "Does Not Meet Standard," "Falls Far Below Standard," or "No Rating" for which the charter holder has not previously submitted a Performance Management Plan as an improvement plan, shall demonstrate the charter holder's progress toward the academic performance expectations set forth in the academic framework by submitting required information in the form of a Performance Management Plan;
 - b. The charter holder that has one or more schools that have an Overall Rating of "Does Not Meet Standard," "Falls Far Below Standard," or "No Rating" subsequent to submitting a Performance Management Plan shall demonstrate the charter holder's progress toward the academic performance expectations set forth in the academic framework by submitting required information in the form of a Demonstration of Sufficient Progress.
 2. If a charter holder is required to demonstrate they are making sufficient progress toward the Board's academic performance expectations as a result of certain notification, amendment,

replication, renewal, or transfer requests, the charter holder shall do so by submitting required information through a Demonstration of Sufficient Progress.

2. If a charter holder is required to demonstrate they are making sufficient progress toward the Board's academic performance expectations as a result of the Department assigning a charter school a letter grade of "F" the charter holder shall do so by submitting required information through a Demonstration of Sufficient Progress.

B. Performance Management Plan

1. By the deadline provided in the notice to a charter holder that they must submit a Performance Management Plan, the charter holder shall upload onto ASBCS Online a Performance Management Plan according to the requirements and in the format set out in the Academic Performance Framework guidance document for each charter school identified in the notice.
2. Within 30 days of receipt of a Performance Management Plan the Board shall provide the charter holder with a written evaluation of the Performance Management Plan.
 - a. A Performance Management Plan that does not meet the formatting requirements identified in the Academic Performance Framework guidance document shall be rejected as not properly submitted and the Board shall notify the charter holder the submission did not demonstrate sufficient progress.
 - b. The evaluation of a Performance Management Plan that is properly submitted shall be based on the evaluation rubric provided in the Academic Performance Framework guidance document.
3. A charter holder's Performance Management Plan demonstrates sufficient progress toward meeting the Board's academic performance expectations if the information submitted demonstrates the charter holder has effectively created a plan to improve academic performance in each of the measures in the academic framework identified as not meeting the Board's expectations that is based on the charter holder's analysis of the charter school's data and

individual circumstances, as evaluated using the criteria set out in the Academic Performance Framework guidance document.

C. Demonstration of Sufficient Progress

1. By the deadline provided in the notice to a charter holder that they must submit Demonstration of Sufficient Progress, the charter holder shall upload onto ASBCS Online a Demonstration of Sufficient Progress according to the requirements and in the format set out in the Academic Performance Framework guidance document for each charter school identified in the notice.
2. Within 30 days of receipt of a Demonstration of Sufficient Progress, the Board shall provide the charter holder with a written initial evaluation of the Demonstration of Sufficient Progress.
 - a. A Demonstration of Sufficient Progress that does not meet the formatting requirements identified in the Academic Performance Framework guidance document shall be rejected as not properly submitted and the Board shall notify the charter holder the submission did not demonstrate sufficient progress.
 - b. If the Demonstration of Sufficient Progress is submitted properly and more information is necessary to confirm the information contained in the Demonstration of Sufficient Progress or to correct deficiencies identified in the initial evaluation, the Board shall schedule a meeting with the charter holder's designees.
 - c. If the Demonstration of Sufficient Progress is submitted properly and no additional information is required, the Board's initial evaluation shall be the final evaluation and the Board shall notify the charter holder whether they demonstrated sufficient progress toward meeting the Board's academic performance expectations.
3. If more information is required the charter holder's designees shall provide, at the meeting, all previously identified evidence to support the narratives provided in the Demonstration of Sufficient Progress and provide information to correct all deficiencies identified in the initial evaluation of the Demonstration of Sufficient Progress. The charter holder shall have

48 hours after the meeting to submit any additional documentation, not previously identified in the Demonstration of Sufficient Progress, the charter holder wants considered as part of the Board's evaluation of the Demonstration of Sufficient Progress. Within 30 days of the meeting, the Board shall provide written notice to the charter holder of the Board's final evaluation of the Demonstration of Sufficient Progress and whether the charter holder has demonstrated sufficient progress toward meeting the Board's academic performance expectations.

4. A charter holder's Demonstration of Sufficient Progress demonstrates sufficient progress toward meeting the Board's academic performance expectations if, for each charter school receiving the overall rating of "does not meet," "falls far below," or "no rating":
 - a. The information submitted demonstrates the charter school's Performance Management Plan is being implemented, with modifications as appropriate or necessary, to create comprehensive systems that improve pupil achievement as evaluated using the criteria set out in the Academic Performance Framework guidance document; if the charter school does not have a Performance Management Plan, the Board will use the criteria set out in the Academic Performance Framework guidance document to evaluate implementation of any school improvement plan to determine whether the charter holder has implemented comprehensive systems that align with the academic framework; and
 - b. The information submitted demonstrates improved academic pupil performance over time based on data generated from valid and reliable assessment sources.

R7-5-405. Financial Performance Expectations

- A. The Board shall evaluate a charter holder's financial performance using quantitative outcomes obtained from the Financial Performance Framework and use that analysis when making high stakes decisions related to the charter.
 1. The Financial Performance Framework shall be revised as needed. The Board shall adopt revisions to the Financial Performance Framework at a public meeting where the public

shall have the opportunity to make comments on the Financial Performance Framework and proposed revisions.

2. The Financial Performance Framework shall be used annually to evaluate indicators of a charter holder's near-term financial health and longer term financial sustainability; each indicator shall be evaluated using:

a. A combination of measures;

b. Metrics that quantify each measure;

c. Targets that identify the threshold for success within each measure; and

d. Ratings that identify how a charter holder performs against the targets for each measure.

B. A charter holder meets the Board's financial performance expectations if the charter holder receives no more than one measure rated "does not meet standard" and receives no measures rated "falls far below standard" based on the most recent audit.

C. A charter holder that receives two or more measures rated "does not meet standard" and/or one or more measures rated "falls far below standard" based on the most recent audit does not meet the Board's financial performance expectations.

D. The Board may review and consider a charter holder's financial performance ratings at any time, but shall do so at a minimum:

1. If a charter holder is required to demonstrate it is making sufficient progress toward meeting the Board's academic performance expectations under R7-5-407(D);

2. At Five-Year Intervals according to R7-5-409 and the Financial Performance Framework guidance document;

3. When a charter holder submits certain notification, amendment, replication, renewal, and transfer requests to the Board as described in the Financial Performance Framework guidance document;

and

4. If the Board is notified that a charter school that the charter holder operates has been designated a failing school by the Department.

E. A charter holder that does not meet the Board's financial performance expectations shall be subject to:

1. Heightened submission requirements and review as part of annual academic monitoring as described in the Financial Performance Framework guidance document;
2. Heightened submission requirements and review for certain notification, amendment, replication, renewal, and transfer requests to the Board as described in the Financial Performance Framework guidance document;
3. Heightened submission requirements at the charter holder's five-year interval reviews as described in in the Financial Performance Framework guidance document and R7-5-409;
4. Heightened submission requirements and review when the Board is considering imposing charter oversight under R7-5-502; and
5. Heightened review when the Board is considering imposing charter oversight according to R7-5-501.

F. A charter holder that meets the Board's financial performance expectations may be entitled to reduced submission requirements:

1. As part of annual academic monitoring as described in the Financial Performance Framework guidance document;
2. For certain notification, amendment, replication, renewal, and transfer requests to the Board as described in the Financial Performance Framework guidance document;
3. At the charter holder's five-year interval reviews as described in in the Financial Performance Framework guidance document and R7-5-409; and
4. When the Board is considering imposing charter oversight under R7-5-502.

R7-5-406. First Year Charter School Monitoring

The Board shall conduct a site visit to each charter school in the first year of operation to evaluate compliance with the charter, and federal and state laws.

- A. Within 10 days of the visit, the Board shall provide written notice to the charter holder of any compliance issues.
- B. The charter holder shall provide a written response demonstrating compliance to the Board within 10 days of the date of notice.
- C. A charter holder that fails to demonstrate compliance in relation to all identified issues shall be brought before the Board for consideration of non-compliance and may be subject to charter oversight as described in R7-5-501.

R7-5-407. Annual Academic Monitoring

Upon the release of State assessment data for the prior year, the Board shall calculate an annual overall academic rating for each charter school sponsored by the Board using the Academic Performance Framework, and State testing and graduation rate data from the Department.

- A. The Board shall make each charter school's annual overall academic rating available on the Board's website.
- B. Each year the Board shall review the annual overall academic ratings for each charter school, as described in the Academic Performance Interventions set out in the Academic Performance Framework guidance document.
- C. If a charter holder meets the Board's academic performance expectations, described in R7-5-403, the charter holder may be waived from further annual Board review of its charter school or schools' annual overall academic ratings until the charter holder's next five-year interval review. However, if the charter holder has a change of 50% or more of its governance structure, changes its charter representative, or expands operations the charter holder will no longer be waived and the Board will resume reviewing the annual overall academic ratings of all of the schools operated under the charter when the state assessment data is released for the year the change occurred.
- D. A charter holder that is not waived from annual Board review as provided in subsection (C) above, and that operates a charter school or schools that receive an annual overall academic rating of "does not meet," "falls far below," or "no rating" for the most current year for which state assessment data

is available shall demonstrate the charter holder is making sufficient progress toward meeting the Board's academic performance expectations according to R7-5-404.

1. The Board shall provide a charter holder written notice if the charter holder is required to demonstrate it is making sufficient progress toward meeting the Board's academic performance expectations, the form in which the charter holder must submit the required information, and the deadline by which the charter holder must submit the required information.
 2. The charter holder shall submit a Performance Management Plan or a Demonstration of Sufficient Progress, as directed in the notice, according to R7-5-404 and the requirements set out in the Academic Performance Framework guidance document for each charter school that received an annual overall academic rating of "does not meet," "falls far below," or "no rating" and any other documents requested in the notice by the deadline provided in the notice.
 3. A charter holder that does not submit a Performance Management Plan or a Demonstration of Sufficient Progress by the deadline in the notice shall be brought before the board for consideration of non-compliance and may be subject to charter oversight as described in R7-5-501.
 3. The Board shall process and evaluate the charter holder's submission as described in R7-5-404.
- E. A charter holder that is required to demonstrate sufficient progress toward meeting the Board's academic performance expectations but does not provide the required information shall be brought before the Board for consideration of non-compliance and may be subject to charter oversight as described in R7-5-501.
- F. A charter holder that is not waived from annual Board review as provided in subsection (C) above, and that operates a charter school that has received an overall rating of "does not meet" or "falls far below" for two consecutive years shall be brought before the Board for consideration of non-compliance and may be subject to charter oversight as described in R7-5-501.

R7-5-408. Annual Audit and Financial Monitoring

A charter holder shall submit to the Board an annual audit and the Board shall review a charter holder's audit as provided in this section.

~~R7-5-501. Audit Guidelines~~

~~A.~~ By July 1 of each year, the Board shall make available to the public ~~at its office and~~ online at its web site, written audit guidelines that provide general guidance on charter school audit requirements, including the deadline for submitting the completed audit to the Board and information that must be included for the audit to be deemed complete.

~~R7-5-502. Approval of Audit Contracts~~

~~A.B.~~ In accordance with A.R.S. § 15-914 and Laws 1999, 1st S.S., Ch. 4, § 15, a charter holder shall submit to the Board for approval an audit contract for each audit before the audit begins.

~~B.~~ 1. The Board shall disapprove an audit contract only for the following reasons:

- ~~1.~~ a. Board knowledge that a person employed by the audit firm has been convicted under a federal or state statute for embezzlement, theft, fraudulent schemes and artifices, fraudulent schemes and practices, bid rigging, perjury, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty;
- ~~2.~~ b. Failure of the audit firm or supervising certified public accountant to maintain good standing with an accounting industry regulatory body, defined to mean the 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;
- ~~3.~~ c. Violation of or failure of the audit firm to meet generally accepted auditing standards or generally accepted government auditing standards as identified by an accounting industry regulatory body;
- ~~4.~~ d. ~~Failure of the~~ The audit firm ~~to receive~~ receives an ~~unmodified~~ opinion of "fail" during the audit firm's most recent peer review or ~~failure of~~ any auditor working on the audit fails to

meet the continuing professional education requirements prescribed by generally accepted government auditing standards; or

- 5. ~~e.~~ Failure to acknowledge that the audit firm shall adhere to the audit requirements listed in the Board's audit guidelines.
- ~~C.~~ 2. The Board shall provide written notification of approval or disapproval of an audit contract to the charter holder and the audit firm within 10 days of receipt of the audit contract.
- ~~D.~~ 3. The Board shall include the cause for disapproval in a notice of disapproval.
- ~~E.~~ 4. If the charter holder or audit firm provides documentation that demonstrates the cause for disapproval no longer exists, the Board shall approve the audit contract and notify all parties of the approval.

~~R7-5-503. Audit Completeness Determinations~~

- ~~A.C.~~ In accordance with A.R.S. § 15-914 and Laws 1999, 1st S.S., Ch. 4, § 15, a charter holder shall submit an audit to the Board for a determination regarding the audit's completeness.
- ~~B.~~ 1. The Board shall find that an audit is incomplete if it does not include all of the items listed in the Board's audit guidelines or if the audit is submitted by an audit firm that fails to meet the requirements of subsections (B)(1)(a)-(d).
- ~~C.~~ 2. The Board shall provide written notification of a complete audit to the charter holder and the audit firm within five days of the receipt of the audit. The Board shall provide written notification of an incomplete audit to the charter holder and the audit firm within five days of receipt of the audit.
- ~~D.~~ 3. The Board shall include the cause for the determination in a notice of an incomplete audit.
- ~~E.~~ 4. If the charter holder or audit firm provides documentation that demonstrates the cause for an incomplete audit no longer exists, the Board shall deem the audit complete and notify the charter holder.
- ~~F.~~ 5. ~~The Board shall require that a~~ A charter holder whose with an incomplete audit does not include ~~the items stated in the audit guidelines~~ pursuant to R7-5-408(C)(1) after the applicable deadline

provided in the guidelines, shall appear before the Board for possible disciplinary action consideration of non-compliance may be subject to charter oversight under ~~R7-5-304~~R7-5-501.

R7-5-504. Review of Complete Audits

- A.D. The Board staff shall review each audit deemed complete.
- B. 1. The Board shall send a letter to a charter holder after the audit is reviewed. If the Board identifies an issue in the audit, the Board shall direct the charter holder to address the issue and based on ~~an~~ assessment of the factors in R7-5-302(A) the Board's Audit & Compliance Questionnaire Follow-up Matrix available on the Board's website, may require the charter holder to submit a corrective action plan as described in R7-5-502.
- C. 2. ~~The Board shall require that a~~ A charter holder with a serious impact finding shall appear before the Board for possible disciplinary action consideration of non-compliance and may be subject to charter oversight under ~~R7-5-304~~ R7-5-501.
- E. After the Board has reviewed a charter holder's audit, the Board shall use the Financial Performance Framework and the charter holder's audit to calculate financial performance ratings for the charter holder. The Board shall make each charter holder's financial performance ratings available on the Board's website.

R7-5-409. Five-Year Interval Reviews

At five-year intervals throughout the term of a charter, the Board shall conduct a review of the charter holder to ensure compliance with the charter, all contractual agreements with the Board, Board rules, and federal and state laws, and to ensure the charter holder is meeting the performance expectations of the Board.

- A. The Board shall provide a charter holder written notice of its five-year interval review. In the notice the Board will specify the submission deadline and the charter holder's submission requirements, which will be based, in part, upon the performance of the charter holder as measured according to the performance frameworks. The submission requirements may include, but are not limited to, the following:

1. A charter holder that does not meet the Board's academic performance expectations shall demonstrate the charter holder is making sufficient progress toward the Board's academic performance expectations according to R7-5-404.
 2. A charter holder that does not meet the Board's financial performance expectations shall submit a financial performance response, as described in the Financial Performance Framework guidance document, that addresses each measure where the charter holder received a "Does Not Meet Standard" or "Falls Far Below Standard" that explains the charter holder's situation and efforts to improve.
 3. A charter holder whose organizational structure does not conform to its contract and/or that is not in "good standing" with the Arizona Corporation Commission shall provide evidence of the appropriate filings that will correct the contractual deficiency and/or put the charter holder in "good standing" with the Arizona Corporation Commission.
- B. Charter holders that meet the Board's performance expectations as measured according to the performance frameworks will be waived from certain submission requirements, as identified in the notice of the five-year interval review.
- C. A charter holder shall submit all required documentation to the Board by the deadline identified in the notice of the five-year interval review. A charter holder that fails to timely respond to the notice and submit all required documents shall be brought before the Board for consideration of non-compliance and may be subject to charter oversight as described in R7-5-501.
- D. A charter holder that fails to provide all the required information shall be brought before the Board for consideration of non-compliance and may be subject to charter oversight as described in R7-5-501.

R7-5-410. Compliance Checks

The Board may at any time conduct a compliance check to determine the charter holder's compliance with contractual, statutory, and Board requirements. The Board shall conduct a compliance check as part of the amendment and notification request approval process, and prior to a charter school being placed on an

agenda for charter holder requests to the Board. The Board may conduct a compliance check when requested by an outside entity that has oversight responsibility over a charter school or a business relationship with a charter school.

A. When conducting a compliance check, the Board may review the charter holder's compliance with any provisions of its charter or other contractual agreements with the Board, federal or state statutory requirements, or the Board's performance expectations, which may include but is not limited to:

1. The Board's academic performance expectations as measured according to the Academic Performance Framework and the Department's accountability system;
2. The Board's financial performance expectations as measured according to the Financial Performance Framework;
3. The Board's annual audit requirements;
4. Federal education laws;
5. State and federal grant terms through the Department's grants management system;
6. Special education requirements;
7. Arizona State Retirement System requirements;
8. Arizona Corporation Commission requirements;
9. The Department's Health and Nutrition Services requirements;
10. Corrective Action Plans, including Performance Management Plans, completed or in-progress;
and
11. Any other state or federal laws.

B. If the Board finds that the charter holder is not in compliance with any contractual, statutory, or Board requirements and the Board notifies the charter holder of required follow-up the charter holder shall provide a written response, including evidence of the actions taken to come into compliance, within 10 days of the date of notice. If the charter holder is unresponsive or fails to take the necessary steps to demonstrate compliance, the charter holder may be subject to heightened review for requests to the Board and may be subject to charter oversight as described in R7-5-501.

- C. If the Board finds that a charter holder making a request to the Board is not in compliance with any contractual, statutory, or Board requirements, the charter holder shall not be placed on the Board agenda for consideration of the charter holder request until the charter holder demonstrates compliance with all contractual, statutory, and Board requirements.
- D. The results of a compliance check are public records that shall be made available to the public upon request.

R7-5-411. Complaints

The Board shall respond to a complaint submitted in writing that alleges a violation of a charter holder's charter or federal or state laws.

- A. An individual or organization may file a signed, written complaint to the Board's office at P.O. Box 18328, Phoenix, AZ 85009, by email to charterschoolboard@asbcs.az.gov, or by fax to (602) 364-3089. The complaint shall include a statement of the violation of the charter holder's charter or federal or state laws, the facts upon which the statement of violation is based, and any supporting evidence or documentation that demonstrates the violation.
- B. If the Board receives a complaint that falls within the jurisdiction of or requires an investigation by an outside agency, the Board shall inform the complainant of the agency that has proper jurisdiction over the complaint and direct the complainant to file its complaint with that agency.
- C. If the complaint is not directed to another agency, the Board shall process a complaint as follows:
1. Board shall review a complaint within 5 days of receipt and forward the complaint to the charter holder, requesting any necessary information and/or follow up required to bring a charter holder into compliance with its charter and federal or state laws.
 2. The charter holder shall respond to the Board in writing within 10 days, providing a response to the complaint which demonstrates the charter holder is in compliance with its charter or federal or state laws.
 3. The Board shall review the charter holder's response to ensure the charter holder is in compliance with its charter and federal and state laws; if the charter holder's response does not demonstrate

the charter holder is in compliance with its charter or federal or state laws the Board may conduct a further investigation or the charter holder may be brought before the Board for consideration of non-compliance and may be subject to charter oversight as described in R7-5-501.

4. The Board shall provide a copy of the charter holder's response and notify the complainant of the Board's findings within 10 days of receiving the charter holder's final response.

ARTICLE 5. CHARTER OVERSIGHT

R7-5-304. R7-5-501. Disciplinary Action General Oversight Responsibility; Consideration by the Board for Non-Compliance; Notice of Violation

- A. The Board shall provide notice to and may discipline impose charter oversight on a charter holder for upon determining that there has been a violation of its charter or federal or state laws; or that the charter holder does not meet the performance expectations of the Board and is not making sufficient progress toward meeting the academic performance expectations of the Board.
- B. If the Board is considering imposing charter oversight on a charter holder at a public meeting, the Board shall inform the charter holder in writing of the Board's intention to consider imposing charter oversight at a Board meeting and the reason for the Board's consideration. The Board shall provide the charter holder with at least 72-hours written notice of the date, time, and place of the meeting.
- C. In determining the appropriate disciplinary charter oversight action to take, the Board shall may 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, Board rules, or federal or state laws; or failure to meet the Board's performance expectations as measured according to the performance frameworks and demonstrate sufficient progress toward meeting the Board's academic performance expectations;
 3. Whether the charter holder has failed to meet the academic needs of the children based on the evidence of the charter holder's academic performance measured according to the Academic Performance Framework;

4. Length of time the offense has been occurring;
5. The charter holder's compliance with and response to ~~staff~~ Board investigation in 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 on the charter holder's ability and willingness to operate in compliance with the provisions of its charter and federal and state laws; or meet the performance expectations of the Board as measured according to the performance frameworks.

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~~ Charter oversight actions may include, but are not limited to, any of the following:

1. Requiring a charter holder to comply with a corrective action plan as described in ~~R7-5-302 in~~ R7-5-504;
2. Imposing a civil penalty as described in R7-5-505 and in accordance with A.R.S. § 15-185;
- ~~2.3.~~ Requesting the Department to withhold up to 10 percent of the a charter school's monthly state aid as described in R7-5-506 and in accordance with A.R.S. § 15-185(H); ~~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;~~
- ~~3.4.~~ Entering into a consent agreement with the a charter holder as described in R7-5-507; ~~for the resolution of the noncompliance. 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;~~

~~4.5. Issuing a notice of intent to revoke the a charter as described in R7-5-508 and in accordance with A.R.S. § 15-183(I) if the Board determines there is cause to believe that the charter holder may have breached one or more provisions of its charter; and~~

~~5.6. Revoking the a charter as described in R7-5-508 and in accordance with A.R.S. § 15-183(I).~~

R7-5-502. Charter Oversight of Charter Schools Assigned an "F" Letter Grade by the Department

Upon receipt of information that a charter school has been assigned a letter grade of "F" by the Department, under either the traditional school achievement profile or the parallel alternative school achievement profile, the charter holder shall be brought before the Board for consideration of whether to issue a notice of intent to revoke the charter under R7-5-508 or to restore the charter to acceptable performance through a consent agreement under R7-5-507.

A. The Board shall notify the charter holder in writing that the school has been designated as a failing school, and the Board shall consider whether to restore or revoke the charter based, in part, on the charter holder's performance as measured according to the performance frameworks including whether the charter holder is able to demonstrate sufficient progress toward meeting the Board's academic performance expectations.

B. Upon receipt of a notice, the charter holder shall:

1. Notify, in writing, all parents and/or guardians of students enrolled in the school within 30 days of the date of notice, as required by A.R.S. § 15-241, that the Department has assigned the school a letter grade of "F" because the school is demonstrating a failing level of performance and provide the Board copies of the correspondence and the names and mailing addresses of all parents and/or guardians of students enrolled in the school;
 2. Submit a Demonstration of Sufficient Progress according to R7-5-404 and the requirements set out in the Academic Performance Framework guidance document by the deadline provided in the notice;
 3. If the charter holder does not meet the Board's financial performance expectations, submit a financial performance response, as described in the Financial Performance Framework guidance document, that addresses each measure where the charter holder received a "Does Not Meet Standard" or "Falls Far Below Standard" that explains the charter holder's situation and efforts to improve by the deadline provided in the notice; and
 4. Within 30 days of receiving the "F" letter grade, ensure the charter school's public communications including website and promotional materials accurately describe the school's most current academic performance rating assigned by the Department, if any of the communications make a statement concerning the academic performance of the school.
- C. The Board shall evaluate the Demonstration of Sufficient Progress according to R7-5-404 within 30 days of receipt and provide the charter holder with a written initial evaluation of the Demonstration of Sufficient Progress and schedule a meeting with the charter holder's designees.
- D. The charter holder's designees shall provide, at the meeting, all previously identified evidence to support the narratives provided in the Demonstration of Sufficient Progress and information to correct all deficiencies identified in the initial evaluation of the Demonstration of Sufficient Progress. The charter holder shall have 48 hours after the meeting to submit any additional documentation, not previously identified in the Demonstration of Sufficient Progress, the charter holder wants considered as part of the Board's evaluation of the Demonstration of Sufficient Progress.

E. The Board shall provide the charter holder with at least 72 hours written notice of the date, time, and place of the public meeting where the Board shall consider whether to restore or revoke the charter. When determining whether to revoke or restore a charter, the Board may consider any relevant factors including, but not limited to:

1. Whether the charter holder has failed to meet the academic needs of children based on the evidence of the charter holder's performance according to the Academic Performance Framework;
2. Whether the charter holder is able to demonstrate sufficient progress toward meeting the Board's academic performance expectations, as defined in R7-5-404;
3. Whether the charter holder is able to demonstrate it meets the Board's financial performance expectations or explain its reasons for not meeting the Board's financial performance expectations and demonstrate it is making efforts to improve its financial situation;
4. The charter holder's compliance with and response to Board requests in providing necessary information and documentation within requested time-frames;
5. Whether the charter holder's historical compliance record indicates repeated or multiple breaches of the provisions of its charter, Board rules, or federal or state laws; or failure to meet or demonstrate sufficient progress toward meeting the Board's performance expectations;
6. Any other factors that have a bearing on the charter holder's ability and willingness to operate in compliance with the provisions of its charter, Board rules, and federal and state laws, or meet the Board's performance expectations.

F. If the Board decides to restore the charter to acceptable performance, the Board shall enter into a consent agreement with the charter holder under R7-5-507. If the Board decides to revoke the charter, the Board shall issue a notice of intent to revoke the charter under R7-5-508.

R7-5-503. Charter Oversight of Charter Schools Assigned a "D" Letter Grade by the Department

A. If a charter school is assigned a letter grade of "D" by the Department, under either the traditional school achievement profile or the parallel alternative school achievement profile, the charter holder shall:

1. Notify, in writing, all parents and/or guardians of students enrolled in the school within 30 days of the date the letter grade is assigned, as required by A.R.S. § 15-241, that the Department has assigned the school a letter grade of "D" because the school is demonstrating a below average level of performance;
2. Provide the Board copies of the correspondence and the names and mailing addresses of all parents and/or guardians of students enrolled in the school within 10 days of sending the notice described in subsection (1); and
3. Within 30 days of receiving the "D" letter grade, ensure the charter school's public communications including website and promotional materials accurately describe the school's most current academic performance rating assigned by the Department, if any of the communications make a statement concerning the school's academic performance.

B. A charter holder that is required to provide notification as described in subsection (A) but does not provide the Board with the required documentation shall be brought before the Board for consideration of non-compliance and may be subject to additional charter oversight as described in R7-5-501.

R7-5-302, R7-5-504. Corrective Action Plan

A. Upon receipt of information under R7-5-301(B) determination that a charter holder is not in compliance with the provisions of its charter or federal or state laws; or that a charter holder does not meet the Board's performance expectations, the Board shall ~~may~~ consider the following factors in determining whether to ~~impose~~ a corrective action plan (CAP) is required.:

1. ~~The seriousness of the offense;~~
2. ~~The charter holder's history of compliance with the provisions of its charter and federal and state laws;~~

- ~~3. The length of time the offense has been occurring; and~~
- ~~4. Any other factors relating to the charter holder's compliance with the provisions of its charter and federal or state laws.~~

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:

1. A description of the ~~offense~~ reason the CAP is being imposed,
2. A list of the specific criteria to be included in the CAP,
3. A deadline for the submission of the CAP,
4. A timeline for the implementation of the CAP, and
5. The consequences for failure 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.

1. The Board shall provide written notification to the ~~authorized~~ charter representative regarding the acceptance or rejection of the CAP.
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.

D. The Board shall monitor the charter holder's implementation of the approved CAP to ensure the offense is rectified.

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~~ additional charter oversight under ~~R7-5-304~~ R7-5-501 ~~against~~ of the charter holder if the charter holder fails to implement the CAP and rectify the offense.

R7-5-505. Civil Penalty for Fingerprinting Violations

- A. Upon determination that a charter holder has failed to comply with statutory fingerprinting requirements as described in A.R.S. § 15-183 and A.R.S. § 15-512, the Board may impose a civil penalty of \$1,000.00 per occurrence as provided in A.R.S. § 15-185.
- B. The Board shall consider whether to impose a civil penalty in accordance with the requirements of A.R.S. § 15-185 at the next public Board meeting after a written notice of non-compliance with statutory fingerprinting requirements has been issued according to A.R.S. § 15-185
- C. A charter holder that wishes to appeal a civil penalty may, within 30 days of notice of a civil penalty, submit a written request for an appeal hearing before the Board.
 - 1. The charter holder's request shall:
 - a. Identify the appellant, the appellant's address, and the action being appealed;
 - b. Provide a concise statement of the reasons for the appeal or request for the hearing;
 - c. Identify the relief sought; and
 - d. If the charter holder intends to be represented by an attorney, provide the name, address and phone number of the attorney.
 - 2. The Board shall hold a hearing to consider the appeal within 60 days after receipt of the charter holder's request for an appeal hearing.

R7-5-506. Withholding State Funds

- A. Upon determining, at a public meeting, that a charter holder is not in compliance with the provisions of its charter, or federal or state laws; or that a charter holder does not meet and has not demonstrated sufficient progress toward the Board's academic performance expectations, the Board may request that the Department withhold up to 10 percent of the charter holder's monthly apportionment of state aid in accordance with A.R.S. § 15-185.
- B. If the Board decides to request that the Department withhold up to 10 percent of the charter holder's monthly apportionment of state aid in accordance with A.R.S. § 15-185, the Board shall notify the charter holder in writing and the notice shall include:
 - 1. A description of the reason the withholding is being imposed;

2. The date on which the withholdings will begin; and

3. The actions the charter holder must complete for the full amount of state aid payments to be restored.

C. If a charter holder has had state aid withheld for non-compliance for six months and has not complied with the terms of its corrective action plan, the Board shall consider the charter for non-compliance and may issue a notice of intent to revoke under R7-5-508.

D. If a charter holder has had state aid withheld for failure to submit its audit for two months, the Board shall consider the charter for non-compliance and may issue a notice of intent to revoke under R7-5-508.

E. If a charter holder has had state aid withheld for failure to properly submit its Performance Management Plan or Demonstration of Sufficient Progress for two months, the Board shall consider the charter for non-compliance and may issue a notice of intent to revoke under R7-5-508.

F. Upon determining that the charter holder has completed the actions required by the Board to come into compliance, the Board shall request that the Department restore the full amount of state aid payments to the charter holder.

R7-5-507. Consent Agreements

A. Upon determination that a charter holder is not in compliance with the provisions of its charter, or federal or state laws; or that a charter holder does not meet and has not demonstrated sufficient progress toward the Board's academic performance expectations, the Board may ~~Entering~~ enter into a consent agreement with the charter holder as ~~described in R7-5-505~~ for the resolution of the noncompliance.

B. The Board shall ensure that the consent agreement:

a.1. Describes ~~each offense~~ the reason for the consent agreement;

b.2. Stipulates the facts and conditions agreed to by the Board and the charter holder;

e.3. Specifies the actions the charter holder must take to demonstrate compliance and avoid further ~~disciplinary action~~ charter oversight;

- ~~d.~~ 4. Provides a timeline for the charter holder to complete the actions specified in the consent agreement; and
- ~~e.~~ 5. Is approved by the Board and the charter holder and signed by the Board president or designee and the ~~authorized~~ charter representative;

R7-5-508. Revocation

- A. Upon determination that a charter holder breaches of one or more provisions of its charter, has failed to meet and/or make sufficient progress toward meeting the Board's academic performance expectations, has failed to meet the Board's operational performance expectations or any improvement plans, or is not in compliance with federal or state laws, the Board may Issuing issue a written notice of intent to revoke the charter as described in R7-5-506 and in accordance with A.R.S. § 15-183(I). if the Board determines there is cause to believe that the charter holder may have breached one or more provisions of its charter; and
- B. Upon receipt of a notice of intent to revoke, the charter holder shall:
 - 1. Notify, in writing, all staff and all parents and/or guardians of students enrolled in the school within 48 hours of receiving the notice that a notice of intent to revoke has been received, inform recipients that a copy of the notice may be inspected at the charter school location, and inform recipients of the date, time, and location of the hearing;
 - 3. Provide the Board copies of all correspondence and communications to all staff and all parents and/or guardians of students enrolled in the school concerning the notice of intent to revoke within 20 days of the receipt of notice; and
 - 4. Provide the Board with the names and mailing addresses of all parents and/or guardians of students enrolled in the school within 20 days of the receipt of the notice of intent to revoke.
- C. The Board and the 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. In accordance with A.R.S. § 41-1092.08, the Board shall hold a public meeting to decide whether to accept, reject, or modify the administrative law judge's decision and take action on the charter.

ARTICLE ~~4~~6. AMENDMENT TO A CHARTER

Section

~~R7-5-401.~~ R7-5-601. Amendment to a Charter

- A. No change
 - 1. No change
 - 2. No change
 - 3. No change
- B. No change
 - 1. No change
 - 2. No change
 - 3. No change
- C. No change

~~ARTICLE 5. AUDITS AND AUDIT CONTRACTS~~

Section

~~R7-5-501.~~ Renumbered

~~R7-5-502.~~ Renumbered

~~R7-5-503.~~ Renumbered

~~R7-5-504.~~ Renumbered