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## AGENDA ITEM: Proposed Rulemaking

### Issue

When it established charter schools in Arizona, the legislature created the Board but delegated to the Board the responsibility to define how its own authorizing practices would function. The legislature specifically required that the Board "adopt rules for its own government." A.R.S. § 15-182.A, and E.5. A "rule" is an agency statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of an agency.

The Board initially engaged in rulemaking and adopted rules for its government 2004. In 2006, the Board again engaged in rulemaking and revised its rules.

In the nearly eight years since the Board last engaged in rulemaking, the legislature has revised the statutes that establish broad charter school and Board policy. During that same time, the Board has publicly adopted several new or revised policies and conducted its operations accordingly to implement the statutes governing charter schools and the Board. In adopting these new policies, the Board has allowed the public the opportunity to provide input at the Board's public meetings where the policies have been adopted. As a result of changes in legislation and Board policies and practices, the Board's rules could be more effective in facilitating the Board's work if they were revised.

The Board recognized the need to make revisions to its rules in its 2009 and 2011 Five-Year-Review Reports to the Governor's Regulatory Review Council. In both these reports, the Board indicated that while its rules are mostly effective and the public interest is protected by the Board's many methods of notifying the public of policies and procedures, the rules could be more effective and clearer. Additionally, the September 2013 Performance Audit and Sunset Review of the Board prepared by the Office of the Auditor General specifically recommends that the Board adopt additional rules to implement recent changes to statute and help enforce the Board's publicly adopted policies and practices. The Board's staff has begun planning to conduct and complete several packets of rulemaking over the next year. The plan created by the Board's staff will be presented at the Board meeting. The first rulemaking packet, presented in this staff report, addresses the rules governing applications for and execution of new charters.

### Background

In September, Board staff began reviewing the Board's current rules governing applications for and execution of new charters 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 and governing policies that should be incorporated into the rules. Staff made proposed revisions to the rules and provided a preliminary version of these revisions to the public, seeking comments. The Arizona Charter Schools Association provided comments, which were incorporated into the Notice of Proposed Rulemaking.

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 revised several definitions to correspond with Board usage and practice. Additionally, staff added definitions for "annual application cycle," "ASBCS Online," "charter representative," "date of notice," and "submission deadline."

Most of the revisions in this rulemaking packet are found in Article 2 and are broken out by rule below.

#### Rule 7-5-201

- Staff revised the rule to clarify that all applications are now submitted online and not available in paper form. Additionally, staff inserted the Board's "alternate submission process" for individuals who are unable to submit an application online, which has been laid out in the application each year.
- Staff replaced the listing of specific application pieces with the broader substantive application components to provide the Board with flexibility to improve the application's format each year.

#### Rule 7-5-202

- Staff included a process for paying the newly authorized application processing fee.

#### Rule 7-5-203

- Staff revised the description of what is required for an application to be deemed "administratively complete," providing greater specificity concerning old requirements and incorporating new requirements.
- Staff inserted two existing board policies governing applicants whose application packages are deemed "administratively incomplete." First, staff provided language that affirms that Board's long-standing policy that applicants may resubmit a new, revised application package if the submission deadline has not passed. Second, staff inserted language formalizing the Board's current "request for reconsideration" procedure.

#### Rule 7-5-204

- Staff inserted the definitions of the scores and the scoring requirements used by the TRP when conducting substantive review of an application package. These scoring requirements have previously been identified in the application each year.
- Staff inserted language affirming the Board's practices concerning the process by which a principal is able to respond to information obtained from the background and credit checks.
- Staff included a process for the recently implemented in-person interview conducted for all new charter applications, based on current practice.
- Staff revised the list of items that is reviewed by the Board when deciding whether to grant or deny an application package and grant or deny a new charter, to clean up language in the old rule.

#### Rule 7-5-205

- Staff revised the list of documents required prior to signing the charter to correspond with the Board's long-standing practice.
- Staff cleaned up the language explaining the date by which a charter holder must begin operating a charter school under a new charter.
- Staff included language, which has been previously communicated to charter holders, notifying them that state aid funding does not initiate until all occupancy submissions are correct

#### Rule 7-5-206

- Staff inserted and revised the Board's "good cause extension" procedure for applicants who are unable to timely execute their charter.

#### Rule 7-5-207

- Staff inserted and revised the Board's "good cause extension" procedure for applicants who are unable to begin providing educational instruction within the required time, breaking it out from the "good cause extension" regarding execution and renaming it a "good cause suspension."

#### Board Options

Option 1: The Board may vote to initiate rulemaking regarding new charters by adopting the Notice of Proposed Rulemaking. Staff recommends the following language: I move that the board initiate rulemaking concerning new charters 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 new charters 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 new charters 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
R7-5-201	Amend
R7-5-202	Re-number ( <i>moving to R7-5-203, and receiving New Section</i> )
R7-5-202	New Section
R7-5-203	Re-number ( <i>moving to R7-5-204, and receiving R7-5-202</i> )
R7-5-203	Amend
R7-5-204	Re-number ( <i>moving to R7-5-205, and receiving R7-5-203</i> )
R7-5-204	Amend
R7-5-205	Re-number ( <i>receiving R7-5-204</i> )
R7-5-205	Amend
R7-5-206	New Section
R7-5-207	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. § 15-183(A) through (C), A.R.S. § 15-183(E) through (F), A.R.S. § 15-183(I), A.R.S. § 15-183(CC), and A.R.S. § 15-183.01

**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

Notice of Proposed Rulemaking: 19 A.A.R. \_\_\_\_, November \_\_\_\_, 2013 (*in this issue*)

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

Name: Katherine Poulos

Address: Arizona State Board for Charter Schools

1616 West Adams Street, Suite 170

P.O. Box 18328

Phoenix, AZ 85007

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 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. The rulemaking will implement recent statutory changes and Board policies, make citation references consistent with current statute and improve the clarity and conciseness of the rules.

A new section added by this rulemaking establishes the procedures for paying the new application processing fee under A.R.S. § 15-183(CC) (R7-5-202). Two other new sections add request procedures relating to an extension of the time period provided to recent charter grantees to execute their charters (R7-5-206) and begin operation of a charter school (R7-5-207). Revisions to section

R7-5-201 improve the clarity and update of the rules concerning the form and availability of the new charter application. Revisions to section R7-5-203 improve the clarity and update of the rules concerning the application process and application timeframes, and establish a procedure for the recently implemented in-person interview conducted as part of new charter applications. Revisions to section R7-5-205 improve the clarity and update of the rules concerning the execution of new charters.

**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 primary economic impact of the rules is from providing procedures necessary to implement recent statutory changes. A new section added by this rulemaking establishes the procedures for paying the new application processing fee under A.R.S. § 15-183(CC) (R7-5-202). Two other new sections add request procedures relating to an extension of the time period provided to recent charter grantees to execute their charters (R7-5-206) and begin operation of a charter school (R7-5-207). Revisions to section R7-5-201 improve the clarity and update of the rules concerning the form and availability of the new charter application. Revisions to section R7-5-203 improve the clarity and update of the rules concerning the application process and application timeframes, and establish a procedure for the recently implemented in-person interview conducted as part of new charter applications. Revisions to section R7-5-205 improve the clarity and update of the rules concerning the execution of new charters.

Changes to formalize procedures and additional changes to clarify existing rules should have a beneficial economic impact on all users of the rules. The rulemaking will apply to all persons who submit an application to open a new charter school at any time in the future.

The economic impact of the rulemaking is expected to be moderate (less than \$10,000) for all persons involved in applying for and opening a new charter school. The rules establishing procedures make the most efficient use of staff resources while providing necessary information to the Board and new charter applicants and holders in a timely fashion.

**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

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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: December 9, 2013

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 December 9, 2013.



**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.

**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 2. NEW CHARTERS**

Section

R7-5-201. Application for a New Charter

R7-5-202. New Charter Application Processing Fee

~~R7-5-202.~~ R7-5-203. Time-frames for Granting or Denying a New Charter

~~R7-5-203.~~ R7-5-204. Review of Application Package and Technical Assistance

~~R7-5-204.~~ 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

## ARTICLE 1. GENERAL PROVISIONS

### R7-5-101. Definitions

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

"Accounting industry regulatory body" No change

"Administrative completeness review time-frame" means the number of days from the Board's receipt of ~~an application package to obtain a charter~~ a submission for Board consideration until the Board staff determines whether the ~~application package~~ 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 ~~application~~ submission.

"Annual application cycle" means a new charter application process which is conducted each year to grant 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 that applies to the Board for a new charter ~~or, a person who applies to transfer a charter from another charter school sponsor under A.R.S. § 15-181 et seq., 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 ~~for a stated fiscal year, which are available on line and in writing~~ 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 application, ~~narrative~~ narratives, and documents ~~described in the application~~ including exhibits and attachments as submitted by an applicant.

"ASBCS Online" means the Board's web-based interface accessible through the Arizona State Board for Charter Schools' website.

"Audit" No change

"Audit contract" No change

"Audit firm" No change

"Audit guidelines" means the Board-approved general guidance on charter school audit requirements, which is available online ~~and in writing~~.

"Authorized representative" means an individual with the power to bind ~~a charter holder~~ an applicant contractually according to the ~~charter holder's~~ applicant's Articles of Incorporation, operating agreement, or by-laws.

"Board" No change

"Charter" No change

"Charter holder" No change

"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 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.

"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" No change

"Department" No change

"Fiscal year" No change

"Good standing" No change

"Overall time-frame" means the number of days after receipt of ~~an application package~~ a submission for Board consideration until the Board ~~determines~~ decides whether to grant or deny ~~a charter~~ the request contained within the submission. The overall time-frame consists of both the administrative completeness review time-frame and the substantive review time-frame.

"Peer review" No change

"Person" No change

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

"Principals" No change

"Revised application package" means ~~a complete~~ 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 ~~criteria~~ requirements of R7-5-204.

"Serious impact finding" means an issue identified by the Board that in the opinion of the Board has or potentially has a significant 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 issues of non-compliance.

"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" means the number of days after ~~an application package~~ a submission for Board consideration is determined to be administratively complete until the Board decides whether to grant or deny ~~a charter~~ the request contained within the submission.

"Sufficiently qualified" means the Board's determination that an applicant's ~~or charter holder'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 the performance frameworks adopted by the Board and requirements of statute and rule.

"Supervising certified public accountant" No change

"Technical Review Panel" means individuals ~~appointed~~ 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 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 ~~in writing at its office and~~ online at its web site an application for a new charter for a specified ~~fiscal year~~ annual application cycle.
- B. A person desiring to establish a charter school shall submit an ~~unbound original~~ application package ~~and five bound copies of the application package to the Board~~ 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 acknowledgement 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 ~~the~~ following in the order listed: all of 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. ~~Cover Sheet form;~~
2. ~~Title Page form;~~
3. ~~Target Population form;~~
4. ~~Curricular Emphasis. A narrative describing the proposed charter school's program of instruction including its philosophy, special emphasis, and methods of instruction and assessment in relation to achieving the school's mission;~~
5. ~~Goals form;~~
6. ~~Curriculum Sample. A reading, writing, and math sample for each grade level to be served. Each sample will include a student assessment, description of instruction, description of student activities, and an indication of alignment with the Arizona Academic Standards;~~
7. ~~Monitoring of Program of Instruction. A narrative and examples regarding dissemination of information to teachers, tracking of students' progress toward mastery of state standards, and integration of Arizona Academic Standards into instructional practices;~~
8. ~~Special education delivery models to be used;~~
9. ~~Business Plan. A detailed business plan including:~~
  - a. ~~Business description;~~
  - b. ~~Marketing plan;~~
  - c. ~~Management plan;~~
  - d. ~~Resumes of the principals and authorized representative;~~
  - e. ~~Background information form;~~
  - f. ~~Valid fingerprint clearance cards for the principals and authorized representative;~~
  - g. ~~Affidavit form;~~
  - h. ~~Copy of Arizona filing required to conduct business in Arizona by the Arizona Corporation—Commission or Arizona Secretary of State;~~

- i. ~~Financial plan;~~
- j. ~~Start up budget with assumptions form;~~
- k. ~~Three year operating budget form, and~~
- l. ~~First year month by month cashflow form;~~
- 10. ~~Compliance Assurances form;~~
- 11. ~~Certificate of Workshop Attendance or Workshop Waiver form;~~
- 12. ~~Bibliography; and~~
- 13. ~~Application Checklist form.~~
- 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. Application Processing Fee**

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

- A. The application processing fee is \$6,500 for each application package an applicant submits to the Board.
- B. Each applicant shall pay the 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.
- C. Failure to timely submit the application processing fee shall result in the application package being deemed administratively incomplete under R7-5-203(B).
- D. All checks shall be deposited within five days of submission. If an applicant's application processing fee payment to the Board is dishonored for any reason including an insufficient funds check:
  - 1. The application package shall be deemed administratively incomplete under R7-5-203(B),  
and



2. The applicant shall use a cashier's check to pay the application processing fee for any application package submitted to the Board by the applicant at any later date.
- E. If an application package is found to be administratively incomplete, under R7-5-203(B), and the applicant paid the application processing fee, the fee shall be refunded to the applicant. The application processing fee refund shall be mailed by U.S. Postal Service regular mail to the authorized representative at the address provided in the application package.
- F. If an application package is found to be administratively complete under R7-5-203(B), the application processing fee shall become non-refundable, except if A.R.S. § 41-1077 applies.

**R7-5-202. R7-5-203. Time-frames for Granting or Denying a New Charter**

- A. No change
  1. No change
  2. No change
  3. No change
- B. An ~~administratively complete~~ application package for a charter school shall be administratively complete if the application package consists of contains all the information, materials, and documents listed in R7-5-201, attachments, signatures, and notarizations identified in the application for a new charter for the current annual application cycle; all the application package's components are formatted as required by that application; all curriculum samples address the required standard; all templates are unmodified, completely filled out, and from the current annual application cycle; and the application processing fee has been paid according to R7-5-202(A), (B), and (D).
- C. The administrative completeness review time-frame, as described in A.R.S. § 41-1072(1) and listed in subsection (A)(1), ~~begins on the date~~ day after the Board receives an application package.
  1. If the application package is ~~not administratively complete~~ incomplete when received, the Board staff shall provide to the applicant a notice of deficiency that states the documents and information that are missing 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 or materials.
    - ii. A request for reconsideration that does not address each deficiency identified in the notice or that contains new or additional information 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. No change

- 4. No change
- D. A substantive review time-frame, as described in A.R.S. § 41-1072(3) and 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. No change
  - 1. No change
    - a. Submit a new application package under R7-5-201 for consideration by the Board in any later annual application cycle; or
    - b. No change
  - 2. No change

**~~R7-5-203.~~ R7-5-204. Review of Administratively Complete Application Package, and Technical Assistance, and In-Person Interview**

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

~~4.A.~~ The Technical Review panel shall score the preliminary application package using the ~~scoring~~ evaluation criteria to determine whether an application package meets the Board's scoring requirements.

- 1. An application package shall be assigned a score of "Meets the Criteria," "Approaches the Criteria," or "Falls Below the Criteria" for each of the evaluation criterion.
  - a. An evaluation criterion shall be scored "Meets the Criteria" when the section within which that evaluation criterion is identified by the application:
    - i. Addresses the evaluation criterion fully with specific and accurate information; and
    - ii. Reflects a thorough understanding of the evaluation criterion; and
    - iii. Is clear and coherent.
  - b. 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:

- i. Addresses the evaluation criterion partially and lacks specific and accurate information for some aspect of the evaluation criterion; or
- ii. Presents a partial understanding of the evaluation criterion; or
- iii. Is not clear and coherent.
- c. 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.

2. An application package meets the Board's scoring requirements if:

- a. No evaluation criterion receives a score of Falls Below the Criteria; and
- b. No more than one evaluation criterion in each section is scored as Approaching the Criteria; and
- c. 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, business plan).

~~2.B.~~ The Board staff shall conduct a background investigations and credit check of the applicant each principal of the applicant and confirm each principal possesses a valid fingerprint clearance card.

- 1. If issues arise from the information obtained during the background and credit checks of any principal, the Board staff shall, in writing, notify the pertinent principal of the issues and the principal will have the opportunity to provide a written response clarifying the information.
- 2. 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.C.~~ The Board staff shall notify the applicant if the preliminary application package fails to meet the expectations 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 with the notice the comments of the Technical Review Panel, which will serve as technical assistance, and suggestions for improving the application package.

~~4.D.~~ An applicant who receives notification ~~of failure~~ that a preliminary application package fails to meet the ~~expectations~~ scoring requirements as evaluated by the Technical Review Panel may, within 20 days of the ~~postmark date on the~~ of notice, submit a revised application package or a ~~letter requesting~~ written request that the preliminary application package be forwarded to the Board.

~~5.E.~~ If a revised application package or ~~letter~~ written request is not submitted to the Board within 20 days of the ~~postmark date on the~~ of notice ~~of failure~~ that a preliminary application package fails to meet the ~~expectations~~ 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.F.~~ If a revised application package is submitted, the Technical Review Panel shall score the revised application package using the scores and scoring requirements ~~criteria provided in the application~~ described in subsection (A).

~~7.G.~~ If a revised application package fails to meet the ~~expectations~~ 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.H.~~ An applicant who receives notification of the ~~Board's~~ Board staff's intent to close the file may, within 20 days of the ~~postmark date on the~~ of notice, submit a ~~letter requesting~~ written request that the revised application package be forwarded to the Board.

~~9.I.~~ 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.

J. 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 request under subsection (D) or (H) 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:

1. The applicant's understanding of the components presented in the written application package;
2. The applicant's capacity to implement a plan to operate a charter school in accordance with the performance frameworks adopted by the Board;
3. 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
4. Any other factors relevant to determining whether the applicant is sufficiently qualified to operate a charter school.

~~40.K.~~ 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 ~~expectations~~ scoring requirements or if the applicant requests under subsection ~~(4) (D)~~ or ~~(8) (H)~~ that the Board consider an application package that fails to meet the ~~expectations~~ scoring requirements as evaluated by the Technical Review Panel. In conducting its consideration of an application package, the Board shall:

1. For the purpose of deciding whether to approve or deny the application package, the Board shall consider:
  - a. The application package; and
  - b. A copy of the scoring rubric completed by the Technical Review Panel.
2. 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:
  - a. ~~Review a copy of the~~ The application package scored by the Technical Review Panel;
  - b. ~~Review a~~ A copy of the scoring rubric completed by the Technical Review Panel;
  - c. The results of the in-person interview of the applicant's principals;

- d. ~~Review all~~ Information obtained through verification and investigation of ~~an~~ the applicant's ~~background~~ backgrounds including employment, experience, education, fingerprint clearance card, and assessment of creditworthiness for each of the principals of the applicant;
- e. Information concerning any current or former charter operations for any Education Service Provider or principal of the applicant;
- f. A Board staff report; and
- d. ~~Hear a brief presentation by the applicant; and~~
- e. ~~Listen to the applicant's responses to Board questions.~~
- g. Testimony presented at the Board meeting.

~~11.N.~~ 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.

**~~R7-5-204.~~ R7-5-205. Execution of a Charter**

A. After the ~~Board grants~~ Board's decision to grant a new charter, and before the ~~contract~~ charter is signed, the ~~charter holder~~ applicant shall submit to the Board the following:

1. No change
2. ~~School~~ 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 ~~Board~~ Department;
4. ~~Copy of the~~ A statement filed with 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, ~~if any,~~ or other documentation of a secured charter school facility for each charter school site.

B. A ~~new~~ charter shall be signed by the Board President or designee and ~~the charter holder or~~ authorized representative of the applicant within 12 months after the ~~Board grants~~ 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. ~~If the holder of an expired charter wants to obtain a new charter, the holder shall apply again under R7-5-201, unless the applicant applies for and is granted a good cause extension of the execution of the charter under section R7-5-206.~~

2. If the holder of an expired charter 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 ~~holder~~ applicant shall apply again under R7-5-201 in any later annual application cycle.

C. ~~A charter that is not timely signed expires. If the holder of an expired charter wants to obtain a new charter, the holder shall apply again under R7-5-201.~~

~~D.C.~~ A charter holder shall begin providing educational instruction ~~within 12 months after signing the charter or within 24 months~~ no later than the second fiscal year after the Board grants Board's decision to grant the charter, whichever occurs later unless the charter holder is granted a good cause extension to execute a charter or good cause suspension of a charter under R7-5-206 or R7-5-207.

1. A charter holder who is granted a good cause extension to execute a charter or good cause suspension of a charter under R7-5-206 or 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 this subsection 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 ~~of operation of the charter school~~ it will begin providing educational instruction by submitting:



1. ~~School~~ Charter school site contact information;
  - ~~2. Certificate of occupancy for each school site, approved for educational use;~~
  - ~~3. Fire marshal report for each school site, approved for educational use;~~
  4. ~~2.~~ Insurance policy binder issued by an insurance company licensed to do business in Arizona;
  5. ~~3.~~ County health certificate for each site at which students will be taught;
  6. ~~4.~~ Evidence of a public meeting, required by A.R.S. § ~~15-183(C)(5)~~ 15-183(C)(7), at least 30 days before the charter holder opens a site for the charter school; ~~and~~
  7. ~~5.~~ Certificate of attendance of the authorized representative or principal at the special education training for new charters offered by the ~~Arizona Department of Education, Department's~~ 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 ~~from commencing~~ on the first day of operation of the charter school 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.

- A. The written request for a good cause extension to execute a charter shall:
1. Explain and provide evidence of why the applicant is unable implement the plans contained in the application package and execute the charter within the allotted 12 months;
  2. Explain the applicant's new timeline for implementing the plans contained in the application package, and why the timeline is viable and adequate for implementing 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.

3. 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).

B. 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:

1. The timeliness of the submission of the request and the proposed extension date;
2. The viability of the applicant's new timeline for implementing the plans contained in the application package;
3. 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;
4. Unforeseen circumstances affecting the applicant's ability to execute the charter within the allotted 12 months; and
5. Whether there have been changes in the principals of the applicant.

C. The Board shall not grant more than one good cause extension to execute a charter to any applicant for the same charter.

D. 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.

E. A charter holder who is granted a one-time good cause extension to execute a charter shall notify the Board staff of the charter holder's intention to begin providing educational instruction at least four months prior to the first day it will begin providing educational instruction.

**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.

A. A charter holder is eligible to apply for a good cause suspension of a charter if:

1. The charter holder has not been granted a good cause extension to execute a charter,
2. The charter holder has not begun providing educational instruction under the charter, and
3. 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.

B. The written request for a good cause suspension of a charter shall:

1. Explain and provide evidence for why the charter holder is unable to implement the plans contained in their application package and begin providing educational instruction as required under R7-5-205(C);
2. 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 implementing 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.
3. Provide clear and specific action steps with target completion dates that will enable to 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).

C. 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:

1. The timeliness of the submission of the request and the proposed extension date;
2. The viability of the charter holder's new timeline for implementing the plans contained in the application package;

3. 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;
  4. Unforeseen circumstances affecting the charter holder's ability to begin providing educational instruction as required under R7-5-205(C), and
  5. Whether there have been changes in the principals of the charter holder.
- D. 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.
- E. 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.
- F. 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.
- G. A charter holder granted a good cause suspension of a charter shall begin providing educational instruction as required by R7-5-205(C)(1). 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).
- H. An applicant or charter holder who is granted a good cause suspension of a charter shall notify the Board staff of the charter holder's intention to begin providing educational instruction at least 90 days prior to the first day it will begin providing educational instruction.