



# THE WASHINGTON STATE BOARD OF EDUCATION

Governance | Accountability | Achievement | Oversight | Career & College Readiness

<b>Title:</b>	<b>Rules to RCW 28A.710.120, Oversight of Charter Authorizers</b>	
<b>As Related To:</b>	<input checked="" type="checkbox"/> Goal One: Effective and accountable P-13 governance. <input type="checkbox"/> Goal Two: Comprehensive statewide K-12 accountability. <input type="checkbox"/> Goal Three: Closing achievement gap.	<input checked="" type="checkbox"/> Goal Four: Strategic oversight of the K-12 system. <input type="checkbox"/> Goal Five: Career and college readiness for all students. <input type="checkbox"/> Other
<b>Relevant To Board Roles:</b>	<input checked="" type="checkbox"/> Policy Leadership <input checked="" type="checkbox"/> System Oversight <input type="checkbox"/> Advocacy	<input type="checkbox"/> Communication <input type="checkbox"/> Convening and Facilitating
<b>Policy Considerations / Key Questions:</b>	<ol style="list-style-type: none"> <li>1. Is SBE oversight of charter authorizers intended by this statute to be general and ongoing, or limited only to the specific powers, duties and procedures outlined in the statute?</li> <li>2. What is the role of the special review in oversight of authorizers? What results would issue from it? How does it relate to the revocation process?</li> <li>3. What are reasonable timelines for actions by the board, authorizer and other interested parties, and how specific should they be?</li> <li>4. How does the SBE ensure, in meeting its responsibilities under this section, that it respects the principal responsibilities of the charter school board and authorizer for oversight and operation of charter schools?</li> <li>5. What steps should be taken to achieve the timely and orderly transfer of a charter contract to another authorizer, if a district's chartering authority is revoked?</li> </ol>	
<b>Possible Board Action:</b>	<input type="checkbox"/> Review <input type="checkbox"/> Adopt <input checked="" type="checkbox"/> Approve <input type="checkbox"/> Other Approve for filing of CR 102 and public hearing.	
<b>Materials Included in Packet:</b>	<input checked="" type="checkbox"/> Memo <input checked="" type="checkbox"/> Graphs / Graphics <input checked="" type="checkbox"/> Third-Party Materials <input type="checkbox"/> PowerPoint	
<b>Synopsis:</b>	<p>RCW 28A.710.120 requires the State Board of Education to oversee the performance and effectiveness of school districts it has approved to be charter school authorizers under RCW 28A.710.090. The section delegates broad authority to the SBE to ensure that district authorizers carry out their duties at the high standard required of them. It sets out specific powers and duties for the SBE for oversight, including special reviews triggered by findings of certain deficiencies in performance, notification of the authorizer of identified authorizing problems, and if found warranted, revocation of the authorizer's chartering authority. It directs the SBE, in the event of revocation, to manage the transfer of each charter contract held by the authorizer to another authorizer. Because RCW 28A.710.120 is broader and less prescriptive than other parts of the charter school law examined so far, it raises major questions for rule-making. In your packet you will find a memo that discusses key issues for rule-making to this section, and describes how members and staff addressed each in preparing draft rules for consideration by the Board for public hearing. You will also find in your packet the draft rules, prepared as five new sections to WAC 180-19, a table cross-walking policy considerations to rule recommendations, and a copy of RCW 28A.710.120. Also enclosed is the authorizing contract with Spokane Public Schools, which as an approved charter authorizer would be subject to the rules.</p>	



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This table provides an overview of the policy considerations addressed in the following memo and rules for oversight of charter school authorizers.

Policy Consideration	Questions	How Addressed	Rule Provision
<b>Regular oversight of authorizers</b>	<ul style="list-style-type: none"> <li>What is the authority and process for general oversight?</li> </ul>	<ul style="list-style-type: none"> <li>The statute allows for continuous oversight of authorizers, outside of the special review and annual report processes.               <ul style="list-style-type: none"> <li>Problems may be identified through this process</li> <li>Additional information/data may be requested from authorizers</li> </ul> </li> </ul>	<p>WAC 180-19-XXX Oversight of Authorizers. General Provisions (1)</p> <p>WAC 180-19-XXX Oversight of Authorizers. Notice of Identified Problems (3)</p>
	<ul style="list-style-type: none"> <li>Are there actions the SBE can take that do not lead to contract revocation?</li> </ul>	<ul style="list-style-type: none"> <li>When a problem is identified by the SBE as needing remedy, districts are given two opportunities, in statute, to fix the problem.               <ul style="list-style-type: none"> <li>Lack of response or lack of effectiveness warrants revocation.</li> <li>Statute contemplates a broad range of reasons for revocation</li> </ul> </li> </ul>	
<b>Protecting authorizer role</b>	<ul style="list-style-type: none"> <li>How can SBE ensure that overseeing the authorizers does not become overseeing the schools?</li> </ul>	<ul style="list-style-type: none"> <li>Be mindful of authorizer's role, include language in rule highlighting SBE's respect for authority of authorizers</li> </ul>	<p>WAC 180-19-XXX Oversight of Authorizers. General Provisions (6)</p>

Policy Consideration	Questions	How Addressed	Rule Provision
<b>Role of special review</b>	<ul style="list-style-type: none"> <li>How is the special review connected to the revocation process?</li> </ul>	<ul style="list-style-type: none"> <li>No explicit connection made in statute</li> <li>A report of findings should be created</li> <li>Special review may or may not identify a problem that will require corrective action</li> <li>If a problem is identified, it will begin the remedy and revocation process</li> </ul>	WAC 180-19-XXX Oversight of Authorizers. Special Review (6)
	<ul style="list-style-type: none"> <li>Under what circumstances would a special review take place?</li> </ul>	<ul style="list-style-type: none"> <li>Special reviews should be exceptional circumstances</li> <li>Special reviews may be undertaken once an issue is identified by SBE even if the district has already identified and remedied the problem</li> </ul>	
<b>Defining special review triggers</b>	<ul style="list-style-type: none"> <li>What is the process for determining if a complaint is well-founded?</li> </ul>	<ul style="list-style-type: none"> <li>When a complaint is received, SBE will send to district authorizer for response.</li> <li>SBE may ask for additional information from district and complainant.</li> <li>Staff will review to determine whether well-founded and bring sorted complaints to the Board.</li> </ul>	WAC 180-19-XXX Oversight of Authorizers. Special Review (3 a-e)

Policy Consideration	Questions	How Addressed	Rule Provision
	<ul style="list-style-type: none"> <li>How is persistently unsatisfactory performance of school portfolio defined and what categories should be included?</li> </ul>	<ul style="list-style-type: none"> <li>Academic, financial, and organizational performance will be evaluated according to national standards (all will impact school quality.)</li> <li>Base on targets and standards in the charter contracts.</li> <li>Use “repeated failure to meet targets/standards” to define persistently unsatisfactory, to allow for flexibility in identifying trends over time.</li> </ul>	WAC 180-19-XXX Oversight of Authorizers. Special Review (2 a-c)
	<ul style="list-style-type: none"> <li>What are “other objective circumstances”?</li> </ul>	<ul style="list-style-type: none"> <li>Include violation of state and federal laws and regulations.</li> </ul>	WAC 180-19-XXX Oversight of Authorizers. Special Review (4)
<p><b>Level of involvement in district remedies</b></p>	<ul style="list-style-type: none"> <li>Should the SBE give feedback on district plans for remedying identified problems?</li> </ul>	<ul style="list-style-type: none"> <li>District authorizers are responsible for developing effective remedies to identified problems. <ul style="list-style-type: none"> <li>Failure to do so may indicate ineffectiveness as an authorizer</li> </ul> </li> <li>The SBE respects the role of the authorizer to address problems within its portfolio.</li> </ul>	

Policy Consideration	Questions	How Addressed	Rule Provision
<b>Transfer of charter contracts if authorizer contract revoked</b>	<ul style="list-style-type: none"> <li>What is the process for reaching “mutual agreement” between the new authorizer (the Commission) and the charter schools in the event that a district’s chartering authority is revoked?</li> </ul>	<ul style="list-style-type: none"> <li>The Commission and the schools will submit written agreement that will be certified by the SBE.</li> </ul>	WAC 180-19-XXX Oversight of Authorizers. Transfer of Charter Contract
	<ul style="list-style-type: none"> <li>Who is responsible for the transfer of students and records in the event that a school’s charter contract is not transferred and the school closes?</li> </ul>	<ul style="list-style-type: none"> <li>The statute is silent on this issue.</li> </ul>	Address in rules to RCW 28A.710.210 (Charter school termination protocol – Transfer of charter contract)



## CHARTER AUTHORIZER OVERSIGHT

### Policy Considerations

The State Board of Education will consider the extent and manner of oversight it will exercise over the performance of school district charter school authorizers under RCW 28A.710.120. Policy considerations for rule-making include, but are not limited to:

1. What means for regular oversight of the performance and effectiveness of district authorizers should be provided for, in addition to the annual authorizer reports submitted under RCW 28A.710.100? What action, if any, can be taken outside of the revocation process?
2. How does the Board ensure it fulfills its oversight duties while respecting the authorizer's principal role in overseeing schools?
3. What is the role of the special review in the oversight and revocation process? How is it to be conducted, by whom, and to what end?
4. To what extent should the triggers for a special review be defined in rule?
5. How prescriptive should the board be in a remedy to identified problems that require authorizer action and process timelines?
6. What steps should be taken to achieve the "timely and orderly" transfer of a charter contract to another authorizer, if necessary? How would the mutual agreement of the affected charter school and proposed new authorizer be obtained and documented?

### Summary

RCW 28A.710.120 establishes the responsibility of the SBE for authorizer oversight. This section is much more open-ended and much less prescriptive than RCW 28A.710.090, which charged the board with setting an application and approval process and timelines for districts seeking approval to be charter school authorizers.

Subsection (1) states simply that "The state board of education is responsible for overseeing the performance and effectiveness of all authorizers approved under RCW 28A.710.090." This provision appears to delegate broad authority to the SBE to ensure that district authorizers carry out their duties at the standard of quality required of them by the charter school law.

The rest of the section sets out specific powers and duties for SBE oversight. These include:

- (2) Initiate a "special review," which may be triggered by persistently unsatisfactory performance of an authorizer's portfolio of charter schools, a pattern of well-founded complaints about the authorizer or its charter schools, or other objective circumstances;
- (3) Revoke the authorizing contract, based on material or persistent failure by an authorizer to carry out its duties in accordance with nationally recognized standards for quality charter authorizing;

- (4) Notify the authorizer in writing of identified problems, if at any time the board finds the authorizer is not in compliance with a charter contract, its authorizing contract, or its duties under the law, and give the authorizer reasonable opportunity to respond and remedy the problems;
- (5) Notify the authorizer, if it persists after due notice in violating a material provision of a charter contract or its authorizing contract, or fails to remedy other identified problems, that it intends to revoke the authorizer's chartering authority unless it demonstrates a timely and satisfactory remedy for the violation or deficiencies; and
- (6) In the event of revocation of an authorizer's chartering authority, manage the timely and orderly transfer of each charter contract held by that authorizer to another authorizer, with the mutual consent of each affected charter school and proposed new authorizer.

Subsection (7) requires the State Board to establish timelines and processes for taking action under this section in response to performance deficiencies by an authorizer. Timelines may need to address:

- The opportunity afforded an authorizer to respond and remedy identified problems, after notification by the SBE, characterized as a "reasonable amount of time";
- If the authorizer fails to remedy identified problems, the notification that the board intends to revoke the chartering authority, and the timeframe given for an authorizer to provide a "timely and satisfactory" remedy;
- The effective date of revocation if the authorizer does not adequately remedy the identified problems; and
- The timeline for reaching mutual agreement and completing the transfer of the charter contracts to another authorizer.

Processes that need to be established in rule include:

- General oversight of authorizers;
- Receipt and investigation of complaints about an authorizer or its charter schools;
- Special reviews by the SBE;
- Notification of the authorizer of identified problems and, if warranted, intent to revoke chartering authority; and
- Transfer of a charter contract to another authorizer, in the event of revocation of the authorizers' chartering authority.

## Background

Staff examined the practices of other states for authorizer oversight to determine if there were any applicable to Washington and the drafting of these new rules. A relative few of the 42 charter states assign duties to a state education agency to protect authorizing quality at both the front end of the process – approval to be an authorizer – and the back end – oversight once approved, with the power to revoke chartering authority. A survey of charter school laws by the National Alliance for Public Charter Schools indicates that six states – Maine, Minnesota, Hawaii, Illinois, Missouri and Nevada – provide for some form of oversight of the performance of authorizers by a state agency.

- **Maine** authorizes the Department of Education to investigate and impose sanctions on authorizers in response to deficiencies in authorizer performance or legal compliance. NACSA's *Principles & Standards for Quality Charter School Authorizing* is named as the

standard for determining whether an authorizer's performance conforms to nationally recognized principles and professional standards. (Code of Maine Rules, 05-071.)

- **Minnesota** requires the Commissioner of the Department of Education to review an authorizer's performance every five years, and authorizes review of its performance more frequently at the commissioner's initiative or at the request of any interested party. If the commissioner finds upon review that the authorizer has not fulfilled the requirements of the law, he may take corrective action, which can include terminating the authorizer's ability to charter a school. Even without a performance review, the commissioner may subject the authorizer to corrective action at any time for one of several reasons enumerated in law. (Minnesota Statutes, 124D.10.) The department sets out in administrative procedures an eight-step oversight and resolution process, beginning with receipt and investigation of complaints and ending with imposition of corrective action and provision for appeal.
- **Nevada** provides that evidence of material or persistent failure to carry out the duties of charter school sponsor (i.e., authorizer) as prescribed in law constitutes grounds for revocation by the Department of Education of the entity's authority to sponsor charter schools. (Nevada Revised Statutes, 386.515.)

So far, staff have found limited applicable rules or laws. Some language from Minnesota's processes has been helpful, particularly for the rules on receiving and addressing complaints.

## **Key Issues**

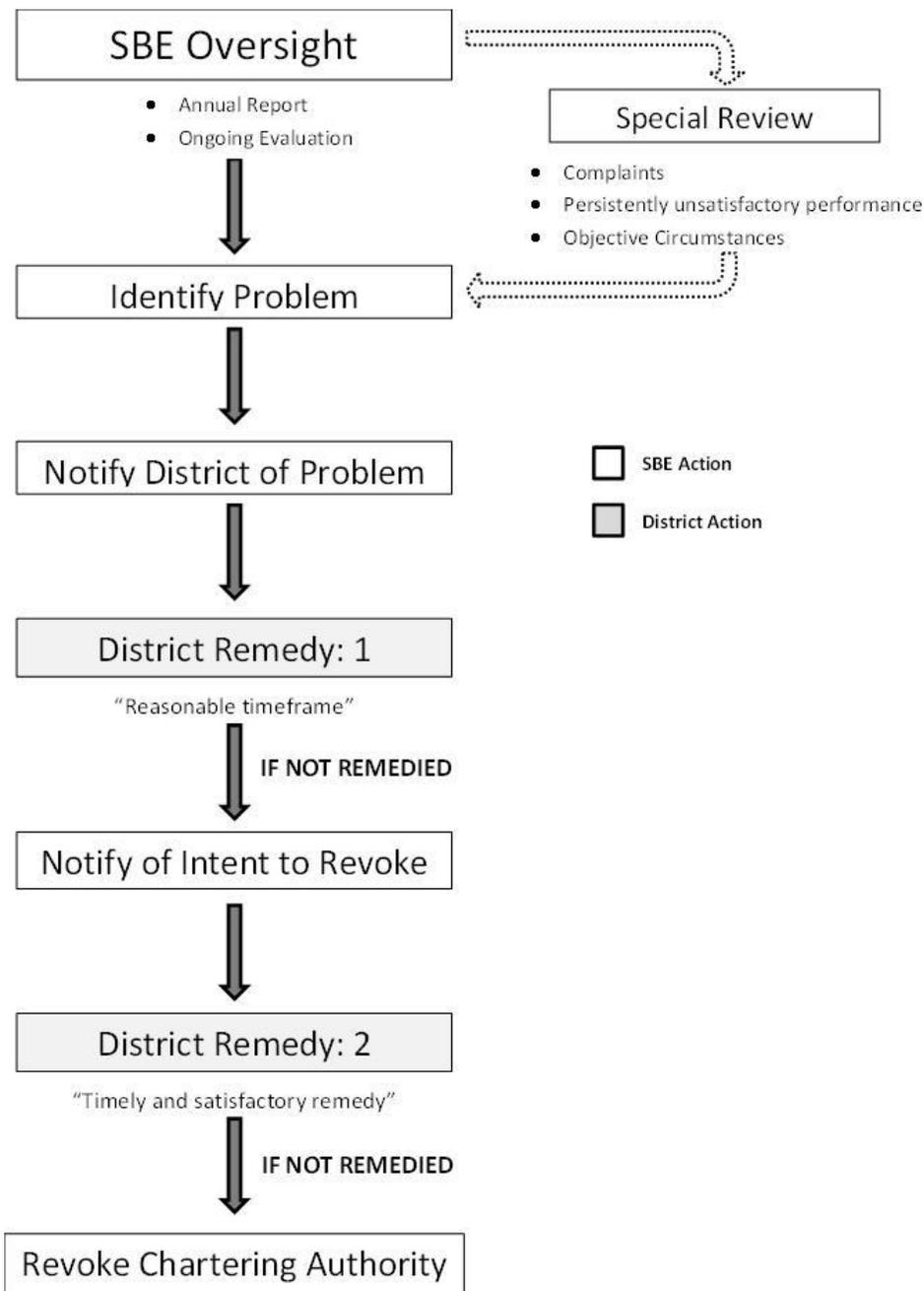
A perennial consideration in rulemaking is the level of specificity that is appropriate for the sake of clarity while allowing for the flexibility to respond to varying circumstances. The tension between the two goals was evident in discussions of timelines and oversight processes with board members and national experts. These rules represent a desire to allow for the processes to be tailored to each situation.

### ***General Oversight of Authorizers***

The statute gives the State Board broad authority to oversee district authorizers. The statute makes clear that the board should exercise continuous review of the performance and effectiveness of authorizers. RCW 28A.710.120 (4) states that, "If at any time the state board of education finds that an authorizer is not in compliance...the board must notify the authorizer in writing of the identified problems..." This language was understood by staff and board members to indicate that the board is expected to engage in ongoing oversight of authorizers, and may identify and notify authorizers of problems outside of the special review process or annual report timeline. Members and staff found it useful to include language that explicitly states this authority to clarify the board's oversight duty. The rule also details the information that the board will use in its evaluation of authorizers, and adds that the board may require the submission of additional data or information in the fulfillment of its oversight duties.

Staff and board members also discussed the process leading from identified problems to revocation and whether the board may take action without the potential result of revoking the contract. However, the statute does not seem to contemplate this. Authorizers are given two opportunities to remedy identified problems before the authorizing contract is revoked, and failure to satisfactorily remedy the identified problems warrants revocation. Lack of response or lack of effective action on the part of the authorizer constitutes a material violation of the authorizer contract, which is grounds for revocation under the statute. The statute itself also

provides broad grounds for revocation, including material violation of the authorizing contract, material violation of a charter contract, and failure to meet nationally recognized standards for effective authorizing.



### ***Protecting the Authority of the District Authorizer***

Staff and board members wanted to be mindful of the tension inherent in overseeing authorizers and using the performance of a school or schools to evaluate the authorizer, and the potential for the board to become de facto overseer of the schools themselves. National experts characterized this balance as "attentive, but not aggressive". The authorizer has the responsibility to monitor the performance of the schools in its portfolio. School performance over time within the authorizer's portfolio may be used by the state board as a measure of the

effectiveness of the authorizer, but the board may not take action within schools. In order to assuage concerns about the scope of the board's oversight role, staff and board members added language to the rules on general oversight affirming the board's recognition and respect for the authorizer's role and duties in overseeing its schools.

### ***Role and Structure of Special Reviews***

The statute allows for the State Board of Education to conduct special reviews of authorizers in the event of persistent underperformance of the authorizer's portfolio, a pattern of well-founded complaints, or other objective circumstances. The statute does not indicate any specific role that the special review has in the revocation process. Staff and members found it necessary to make the link between the special review and the potential for revocation of the authorizing contract explicit; if a problem is identified through the special review that will require corrective action on the part of the authorizer, the remedy and revocation process will be initiated. However, not every special review may result in the identified need for such action.

Staff and board members also contemplated the need to conduct a special review in the event that an authorizer may have already identified and begun to remedy a problem itself. This would allow the board to evaluate the problem, the authorizer's plan for a remedy, and hold the authorizer accountable if the remedy does not have the intended effect. Staff and board members found that a special review will likely be an exceptional circumstance, in addition to the general oversight, remedy, and revocation processes.

### ***Special Review Triggers***

The statute provides that a special review may be triggered by "persistently unsatisfactory performance of an authorizer's portfolio of charter schools, a pattern of well-founded complaints about the authorizer or its charter schools, or other objective circumstances." Staff and members determined that these triggers require definition in rule.

#### ***Well-Founded Complaints***

Staff and members sought to create a balance between investigating each complaint and considering the capacity of the board and the need for discretion in identifying a "pattern." Every complaint received by the state board will be sent to the district authorizer for a response. Complaints will also be forwarded on to the appropriate agency if it is determined that the complaint does not fall within the board's purview. Board staff will investigate each complaint, determine if the complaint is well-founded, and present findings to the board. Board members also requested language clarifying that the board may ask for further information from either the complainant or the district after the initial contacts.

The board will have the discretion to determine what constitutes a pattern of well-founded complaints on a case-by-case basis. There may be some complaints, determined to be well-founded, that allege a violation or failure to meet responsibility of such a magnitude that a single complaint would be enough to trigger a special review.

#### ***Persistently Unsatisfactory Performance of Authorizer Portfolio***

In accordance with the national standards for authorizers, staff and members determined that performance of the authorizer's portfolio will include academic performance, financial performance, and organizational performance. In order to recognize the varying performance frameworks and standards of each authorizer, the rules provide for satisfactory performance to be measured against the charter contracts.

The term “persistent” was defined as “repeated failure to meet expectations or targets”. Using a concrete timeframe to define persistent, such as three consecutive years of not meeting academic performance standards, was also considered. However, board members were concerned this would constrain the board’s authority if an academic issue was identified that required more immediate action. There was also the potential that the three-year term would be interpreted to start over with a new contract term. The term consecutive was also problematic because it did not allow for situations such as a year of improved performance between multiple years of poor performance. Using “repeated failure” allows for flexibility in examining patterns of performance across years and accounting for anomalies. The rule also allows for the consideration of trends of improvement in academic performance that indicate a school will meet standard by the end of the contract term.

#### *Other Objective Circumstances*

Staff and board members determined that it would be useful to define objective circumstances as including but not limited to violations of federal or state laws and regulations. This allows for the same flexibility that statute allows, but also provides greater clarity to authorizers.

#### ***Identified Problem Remedies and Revocation Process Timelines***

The statute requires that once an authorizer has been notified of a board-identified problem that requires corrective action, the authorizer must respond and remedy the problem in a “reasonable” amount of time. If the authorizer does not respond, or the remedy is ineffective, the board will issue a notice of intent to revoke, to which the authorizer will have another opportunity to respond and remedy in a “timely” manner.

Staff and board members discussed whether the board would have input on the authorizer’s proposed remedies, and what constituted “reasonable opportunity” and “timely.” In both instances, staff and members decided that the rule will remain flexible. Part of an authorizer’s duty is to develop effective remedies to problems within its portfolio of charter schools. If the selected remedies are ineffective, it may be an indicator of overall authorizer quality. Timelines were also left undefined beyond “reasonable” or “timely” as potential problems could require different timelines. An academic problem may require a full academic year to determine if the remedy was effective, while the discovery of a problem with the authorizer’s RFP process may be remedied by a quick change in policy.

The timeline for revoking an authorizer contract and transferring charter contracts to another authorizer requires more definition than other timelines in the statute because revocation falls under the Washington Administrative Procedure Act. The board must allow at least 20 days for the authorizer to request a hearing after the board has notified the authorizer that its contract is being revoked. If no hearing is requested, then the revocation goes into effect. The board also has the option of assigning an effective date later than 21 days. The timeline for transferring the charter contracts to another authorizer needs to allow enough time for mutual agreement between the new authorizer and the school to be reached and transfer of records, or, in the event agreement cannot be reached, the closing of the school and transfer of students to other schools. However, board members were concerned about issues that may impact the timing of revocation, including the time during the school year and instances of health and safety issues as cause for revocation. Members decided to not specify a timeframe for the effective date of contract revocation in rule, but assign on a case-by-case basis.

### ***Process for Obtaining Mutual Agreement and Transferring Charter Contracts***

In the event that an authorizing contract is revoked, the charter contracts in that authorizer's portfolio may be transferred to another authorizer. Under the law, the only eligible other authorizer is the Washington Charter School Commission (the Commission), because school districts cannot authorize outside of their boundaries. The SBE is responsible for overseeing the "timely and orderly transfer" of these contracts, including reaching "mutual agreement" between the school and Commission. Staff have reached out to the Commission regarding their rule process and developed rules that include a written agreement between the school and Commission, to be certified by SBE.

### **Action**

Approve the draft rules for filing CR 102 and public hearing.

NEW SECTION

**WAC 180-19-XXX. Oversight of authorizers. General Provisions.**

(1) The state board of education is responsible under RCW 28A.710.120 for oversight of the performance and effectiveness of all authorizers approved under RCW 28A.710.090. This oversight is ongoing and is not limited to the specific actions and procedures described in these rules. For the purposes of the board's rules governing the oversight of authorizers, the term "authorizer" means a school district board of directors that has been approved to be a charter school authorizer under RCW 28A.710.090.

(2) In reviewing or evaluating the performance of authorizers against nationally recognized principles and standards for quality authorizing, the board will compare the authorizer's performance to the standards for quality set forth in the Principles and Standards for Quality Charter School Authorizing, 2012 edition, published by the national association of charter school authorizers. A link to this publication shall be posted on the board's public web site.

(3) In carrying out its responsibilities for overseeing the performance and effectiveness of authorizers under RCW 28A.710.120, the board shall utilize information including but not limited to the annual authorizer reports submitted to the board under RCW 28A.710.100,

all reports and data submitted to the office of the superintendent of public instruction under Chapter 28A.710 RCW, charter contracts, and the findings of any special review conducted under RCW 28A.710.120(2). The board will require submission of or access to materials or data from the authorizer deemed reasonably necessary to evaluate the performance and effectiveness of the authorizer.

(4) The board may contract for services with persons or entities having relevant expertise in the performance of its duties under RCW 28A.710.120.

(5) The board may conduct site visits to charter schools in an authorizer's portfolio for the purpose of conducting oversight of the performance of an authorizer under these rules. The board shall provide reasonable notice to the authorizer and the charter governing board prior to a site visit.

(6) In carrying out its duties for oversight of the performance and effectiveness of authorizers under RCW 28A.710.120, the board shall respect the principal role and responsibility of the authorizer for monitoring and oversight of the charter school under RCW 28A.710.100, and the authority of the charter school board to manage and operate the charter school under RCW 28A.710.030 and the terms of its charter contract.

**WAC 180-19-XXX. Oversight of authorizers. Special review. (1)**

The Board is authorized, upon a determination of persistently unsatisfactory performance of an authorizer's portfolio of charter schools, a pattern of well-founded complaints about the authorizer or its charter schools, or other objective circumstances, to conduct a special review of an authorizer's performance. The purpose of the special review is to determine the need for additional action by the board as provided in these rules.

(2) "Persistently unsatisfactory performance of an authorizer's portfolio of charter schools" shall consist, for any school or schools, of:

(a) Repeated failure to meet the expectations for academic performance set forth in the charter contract, including but not limited to applicable state and federal accountability requirements, without evidence of a trend indicating the school will meet those expectations.

(b) Repeated failure to meet the financial performance targets within the charter contract;

(c) Repeated failure to meet the targets for organizational performance within the charter contract;

(3) "A pattern of well-founded complaints" means multiple complaints that are found by the board to be supported by sufficient factual information alleging that an authorizer is not in compliance with a charter contract, its authorizing contract, or its authorizer du-

ties, including the failure to develop and follow nationally recognized principles and standards for charter authorizing.

(a) Any individual or entity may submit a written complaint to the board about an authorizer or its charter schools. The complaint should state in specific terms the alleged violation of law, failure to comply with a charter contract or its authorizing contract, or failure to develop and follow nationally recognized principles and standards for charter authorizing. The complaint must be signed and dated and provide contact information for use by the board in requesting additional information as deemed needed. The board shall post a standard form for submission of complaints on its public web site.

(b) Upon receipt, the board shall transmit the complaint to the authorizer for its written response, which shall be submitted to the board within thirty (30) days of receipt.

(c) The board may request additional information from the complainant or the authorizer as deemed necessary to investigate the complaint.

(d) If the complaint is determined not to be well-founded, the board shall notify the complainant in writing, and the board shall not be required to take further action.

(e) If the complaint is determined to be well-founded, the board shall provide written notification of such determination to the complainant and the authorizer.

(4) "Other objective circumstances" include but are not limited to failure of the authorizer or its charter schools to comply with an applicable state or federal law or regulation.

(5) The board must provide written notice to the authorizer of initiation of a special review, documenting the reasons for the decision to conduct the review. The board must provide opportunity for the authorizer to respond in writing to the specific determinations of the need for the review.

(6) The board shall submit a written report of the results of the special review to the authorizer and other interested persons. The report may include recommended corrective actions. The report shall be posted on the board's public web site.

**WAC 180-19-XXX. Oversight of authorizers. Notice of identified problems.**

(1) If at any time the board finds that an authorizer is not in compliance with a charter contract, its authorizing contract, or the authorizer duties under RCW 28A.710.100, it shall provide the authorizer with written notification of the identified problems, with specific reference to the charter contract, the authorizing contract, or the authorizer duties under RCW 28A.710.100.

(2) The authorizer shall respond to the written notification and remedy the problems within a specific time frame as determined reasonable by the board under the circumstances.

(3) Nothing in this section requires the board to conduct a special review under WAC 18-19-XXX before providing an authorizer with notice of identified problems.

**WAC 180-19-XXX Oversight of authorizers. Revocation of authorizing contract.**

(1) Evidence of material or persistent failure by an authorizer to carry out its duties according to nationally recognized principles and standards for charter authorizing is grounds for revocation of an authorizer's chartering contract. This may include:

(a) Failure to comply with the terms of the authorizing contract between the authorizer and the board;

(b) Violation of a term of the charter contract between the authorizer and a charter school;

(c) Demonstrated failure to develop and follow chartering policies and practices that are consistent with the principles and standards for quality charter authorizing developed by the national association of charter school authorizers in any of the following areas, as required by RCW 28A.710.100:

(i) Organizational capacity;

(ii) Soliciting and evaluating charter applications;

(iii) Performance contracting;

(iv) Ongoing charter school oversight and evaluation;

(v) Charter renewal decision making.

(2) Notice of Intent to Revoke. If the board makes a determination, after due notice to the authorizer and reasonable opportunity to effect a remedy, that the authorizer continues to be in violation of a material provision of a charter contract or its authorizing contract, or has failed to remedy other identified authorizing problems:

(a) The board shall notify the authorizer in writing that it intends to revoke the authorizer's chartering authority under RCW 28A.710.120. The notification to the authorizer shall explain and document the reasons for the intent to revoke chartering authority.

(b) The authorizer shall, within thirty (30) days of notification, submit a written response showing clearly that the authorizer has implemented, or will promptly implement, a sufficient remedy for the violation or deficiencies that are the stated grounds for the intent to revoke chartering authority.

(3) Notice of Revocation. If the authorizer fails to provide a timely written response or if the response is deemed inadequate by the Board to meet the requirement set forth in subsection (1):

(a) The board shall provide the authorizer with written notice of revocation of the authorizer's chartering authority. The notice of revocation shall state the effective date of revocation, which shall not be sooner than 20 days from the date of receipt of the notice of revocation by the authorizer, unless a timely notice of a request for an adjudicative proceeding is filed as set forth herein.

(b) The authorizer may request an adjudicative proceeding to contest the revocation. The request for an adjudicative proceeding

must be submitted in writing by the authorizer to the board within 20 days of receipt of the notice of revocation at the following address: Old Capitol Building, Room 253, P.O. Box 47206, 600 Washington St. SE, Olympia, Washington 98504. Any adjudicative proceeding shall be conducted in accordance with the Washington Administrative Procedure Act (APA).

**WAC 180-19-XXX. Authorizer oversight. Transfer of charter contract.**

(1) In the event that a notice of revocation is provided to the authorizer under WAC 180-19-XXX, any charter contract held by that authorizer shall be transferred, for the remaining portion of the charter term, to the Washington charter school commission on documentation of mutual agreement to the transfer by the charter school and the commission.

(2) Documentation of mutual agreement shall consist of a written agreement between the charter school board and the commission, signed and dated by the chair or president of the charter school board and the chair of the commission. The agreement shall include any modification or amendment of the charter contract as may be mutually agreed upon by the charter school board and the commission.

(3) The commission shall submit the agreement to the state board of education. The board shall review the agreement, and on a determination that the requirements of these rules have been met, issue written certification of the transfer of the charter contract to the charter school governing board and the commission.

(4) On certification by the board of the transfer of the charter contract, the prior authorizer shall transfer to the commission all student records and school performance data collected and maintained in the performance of its duties as an authorizer under RCW 28A.710.100 and RCW 28A.710.170.

(5) The commission, in consultation with the charter school governing board, shall develop and implement a procedure for timely notification to parents of the transfer of the charter contract and any modifications or amendments to the charter included in the memorandum of understanding.

## **RCW 28A.710.120**

### **Oversight of authorizers — Notification of identified problems — Process for revocation of authorizer's authority — Timelines for actions.**

- (1) The state board of education is responsible for overseeing the performance and effectiveness of all authorizers approved under RCW [28A.710.090](#).
- (2) Persistently unsatisfactory performance of an authorizer's portfolio of charter schools, a pattern of well-founded complaints about the authorizer or its charter schools, or other objective circumstances may trigger a special review by the state board of education.
- (3) In reviewing or evaluating the performance of authorizers, the board must apply nationally recognized principles and standards for quality charter authorizing. Evidence of material or persistent failure by an authorizer to carry out its duties in accordance with the principles and standards constitutes grounds for revocation of the authorizing contract by the state board, as provided under this section.
- (4) If at any time the state board of education finds that an authorizer is not in compliance with a charter contract, its authorizing contract, or the authorizer duties under RCW [28A.710.100](#), the board must notify the authorizer in writing of the identified problems, and the authorizer shall have reasonable opportunity to respond and remedy the problems.
- (5) If an authorizer persists after due notice from the state board of education in violating a material provision of a charter contract or its authorizing contract, or fails to remedy other identified authorizing problems, the state board of education shall notify the authorizer, within a reasonable amount of time under the circumstances, that it intends to revoke the authorizer's chartering authority unless the authorizer demonstrates a timely and satisfactory remedy for the violation or deficiencies.
- (6) In the event of revocation of any authorizer's chartering authority, the state board of education shall manage the timely and orderly transfer of each charter contract held by that authorizer to another authorizer in the state, with the mutual agreement of each affected charter school and proposed new authorizer. The new authorizer shall assume the existing charter contract for the remainder of the charter term.
- (7) The state board of education must establish timelines and a process for taking actions under this section in response to performance deficiencies by an authorizer.

[2013 c 2 § 212 (Initiative Measure No. 1240, approved November 6, 2012).]



**Chapter 28A.710 RCW. Charter Schools  
Provisions for Rule-Making**

RCW	Subject	Provision	Action	Recommendation
28A.710.090	Authorizers -- approval	<p>(1) The state board of education shall establish an annual application and approval process and timelines for school district boards of directors seeking approval to be charter school authorizers. The initial process and timelines must be established no later than ninety days after the effective date of this section.</p> <p>(2) At a minimum, each applicant must submit to the state board . . .</p> <p>(3) The state board of education shall consider the merits of each application and make its decision whether to grant approval within the timelines established by the board.</p> <p>(4) Within thirty days of making a decision to approve an application under this section, the state board of education must execute a renewable authorizing contract with the [school district board of directors] . . .</p>	<p>Public hearing 2/26/13</p> <p>Adopted 2/26/13</p>	
28A.710.100	Authorizers – Annual report	<p>(4) Each authorizer must submit an annual report to the state board of education, according to a timeline, content, and format specified by the board, which includes . . .</p>	<p>Draft rules for approve CR 102 7/10/13</p> <p>Public hearing 9/11/13</p> <p>Scheduled for adoption 11/15/13</p>	
28A.710.110	Authorizers -- funding	<p>(1) The state board of education shall establish a statewide formula for an authorizer oversight fee, which shall be calculated as a percentage of the state operating funding allocated under section 223 of this act to each charter school, but may not exceed four percent of each charter school's annual funding.</p> <p>(2) The state board may establish a sliding scale for the authorizer oversight fee, with the funding percentage decreasing after the authorizer has achieved a certain threshold . . .</p>	<p>Public hearing 5/8/13</p> <p>Adopted 5/9/13</p>	
28A.710.120	Authorizers -- oversight	<p>(4) If at any time the state board of education finds that an authorizer is not in compliance with a charter contract, its authorizing contract, or the authorizer duties under section 210 of this act, the board must notify the authorizer in writing of the identified problems, and the authorizer shall have reasonable opportunity to respond and remedy the problems.</p> <p>(5) If an authorizer persists after due notice from the state board of education in violating a material provision of a charter contract or its authorizing contract, or fails to remedy other identified authorizing problems, the state board of education shall notify the authorizer, within a reasonable amount of time under the circumstances, that it intends to revoke the authorizer's chartering authority unless the authorizer demonstrates a timely and satisfactory remedy for the violation.</p> <p>(7) The state board of education must establish timelines and a process for taking actions under this section in response to performance deficiencies by an authorizer.</p>	<p>Discussion memo 9/11/13</p> <p>Draft rules for approve for CR 102 11/15/13</p>	<p>Public hearing 1/9/14</p> <p>Schedule for adoption 3/6/13</p>

RCW	Subject	Provision	Action	Recommendation
28A.710.130	Charter applications	(1) Each authorizer must annually issue and broadly publicize a request for proposals for charter school applications by the date established by the state board of education under section 214 of this act.	Public hearing 5/8/13 Adopted 5/9/13	
28A.710.140	Charter applications	(1) The state board of education must establish an annual statewide timeline for charter application submission and approval or denial, which must be followed by all authorizers.	Public hearing 5/8/13 Adopted 5/9/13	
28A.710.150	Number of charter schools	(2) The state board of education shall establish for each year in which charter schools may be authorized as part of the timeline to be established pursuant to section 214 of this Act, the last date by which the authorizer must submit [the report to the applicant and the SBE of the action to approve or deny a charter application.  (3) If the board receives simultaneous notification of approved charters that exceed the annual allowable limits in subsection (1) of this section, the board must select approved charters for implementation through a lottery process, and must assign implementation dates accordingly.	Public hearing 5/8/13 Adopted 5/9/13	
28A.710.210	Charter school termination or dissolution	(3) A charter contract may not be transferred from one authorizer to another or from one charter school applicant to another before the expiration of the charter contract term except by petition to the state board of education by the charter school or its authorizer. The state board of education must review such petitions on a case-by-case basis and may grant transfer requests in response to special circumstances and evidence that such a transfer would serve the best interests of the charter school's students.		Draft rules for CR 102 1/9/14

**SCHOOL DISTRICT CHARTER AUTHORIZER CONTRACT**  
**Between**  
**THE WASHINGTON STATE BOARD OF EDUCATION**  
**And**  
**SPOKANE SCHOOL DISTRICT No. 81**

This School District Charter Authorizer Contract (Contract) is entered by and between the Washington State Board of Education (SBE) and Spokane School District No. 81 Board of Directors (District) (collectively the parties) under the authority set forth in the Charter Schools Act, RCW 28A.710.090.

**I. RECITALS**

On November 6, 2012, the voters of the State of Washington (State) passed Initiative 1240, codified at Chapter 28A.710 RCW (Act), providing for the establishment of public charter schools. The Act provides in RCW 28A.710.080 for school district boards of directors, approved by the SBE under RCW 28A.710.090, to be Authorizers of charter schools located within the school district's own boundaries.

On June 28, 2013, the District submitted a Charter School Authorizer application to the SBE under the authority set forth in RCW 28A.710.090 and WAC 180-19-030. SBE approved the District's application to be an Authorizer at its meeting on September 11, 2013.

The SBE authorized its Executive Director to enter into a Contract with the Board of Directors as provided in RCW 28A.710.090. Therefore, in consideration of the mutual promises and other consideration recited in this Contract, the Parties agree to the following terms set forth in this Contract.

**II. DISTRICT'S BOARD OF DIRECTORS APPROVAL AS CHARTER SCHOOL AUTHORIZER**

A. The SBE approves the District as a Charter School Authorizer (Authorizer) under the authority set forth in RCW 28A.710.090 and under the terms and conditions as set forth in this Contract. As an Authorizer, the District is responsible for authorizing high quality public charter schools within Spokane School District ensuring the highest standards of accountability and oversight for these schools. The District shall receive an authorizer oversight fee for each school that it authorizes in accordance with RCW 28A.710.110 and WAC 180-19-060.

B. The District's Board of Directors, through its management, supervision, and enforcement of a charter contract, agrees to serve as an Authorizer in accordance with the expectations of this Contract and shall administer the charter schools it authorizes in compliance with all applicable requirements of the Act, and SBE's rules governing charter schools (WAC 180-19) as the Act and rules exist now, or may be amended from time to time, and any applicable state or federal laws and regulations. The District agrees to serve as an Authorizer consistent with WAC 180-19-050 and the proposal and plan set forth in the District's application, including compliance with the Statement of Assurances signed by Susan Chapin, Vice-President on June 28, 2013, Attachment A, which is incorporated by reference as if fully set forth in this Contract; and to comply with the following additional performance terms:

1. Give priority to charter schools that serve at-risk students as defined in RCW 28A.710.010 and work diligently to recruit high-quality charter schools that are targeted toward at-risk students, particularly in the northeast and northwest sections of the District, and document the

demographic data and instructional research it has, or will use, to evaluate educational needs in the District and identify charter options with the potential for meeting those needs.

2. Establish and maintain a clear focus on college and career readiness in its chartering authorizing practices.
3. Solicit and prioritize, consistent with the District's budget and personnel capacity as described in WAC 180-19-030(b), Charter applications that promote the following: (1) Innovations in Curriculum, such as but not limited to Core Knowledge, Cambridge Curriculum, and International Baccalaureate; (2) Innovations in Pedagogy such as but not limited to dual language, project-based learning and blended learning; and (3) Proven Practices such as but not limited to Early College in the High School and operation of schools by charter management organizations with a demonstrated record of success in raising the academic performance of the at-risk students targeted for priority by the district.
4. Establish, empower, and effectively support a Department or Office within the District with organizational responsibility for management of the District's legal duties as a charter Authorizer, including but not limited to development of the public request for proposal, solicitation and evaluation of charter applications, compliance with the authorizing contract, charter contracts, and applicable laws, and ongoing charter school oversight and evaluation.
5. Annually issue a Request for Proposal that meets the requirements of RCW 28A.710.130 including criteria that will guide the decision to approve or deny a charter application.
6. Establish and make public the process by which the District will implement its plan for ongoing monitoring, oversight and reporting on a charter school's performance consistent with the performance framework in the charter contract or contracts.

### **III. STATE BOARD OF EDUCATION RESPONSIBILITIES**

The SBE is charged with the responsibility to oversee the District's compliance with the Contract, its authorizer's duties under the Act, including RCW 28A.710.100, and the District's performance and effectiveness as an Authorizer pursuant to RCW 28A.710.120. This includes the SBE taking action in response to performance deficiencies by the District as an authorizer as provided in RCW 28A.710.120, and subject to any applicable rules lawfully adopted by the SBE.

### **IV. TERM**

This Contract shall be effective upon signatures of all of the parties, shall be for a six year term commencing on October \_\_, 2013 and ending on October \_\_, 2019, subject to renewal upon mutual written agreement of the parties.

### **V. REVOCATION**

The grounds and procedures for revocation of this Contract shall be as provided in RCW 28A.710.120 as it exists now, or as later amended, and as provided in applicable rules lawfully adopted by SBE governing revocation of an authorizer contract. The District agrees to be bound by these rules when lawfully adopted, and as lawfully amended from time to time, by the SBE.

## **VI. REPORTING REQUIREMENTS**

The District shall submit an annual report to the State Board of Education as required by RCW 28A.710.100(4) and according to the timeline, content, and format specified by the Board's rules when adopted, or thereafter amended. The District will provide data and reports to the SBE on charter school enrollment and academic performance as are reasonably necessary for the SBE to submit the SBE's annual report to the governor, legislature and general public under RCW 28A.710.250.

## **VII. NO JOINT VENTURE, PARTNERSHIP OR OTHER ARRANGEMENT**

The relationship between the District and SBE is based on applicable law, including provisions of the Charter Schools Act and the terms of this Contract. It is not intended by this Contract to, and nothing contained in this Contract shall, create any partnership, joint venture, or other arrangement between the State of Washington acting through the SBE and the District. An employee hired by the District shall be an employee of the District for all purposes and not an employee of the State of Washington for any purpose. Any contract or other instrument of indebtedness entered into by the District and any third party shall not in any way constitute an obligation of the State. Likewise, any contract or other instrument of indebtedness entered into by the SBE and any third party shall not in any way constitute an obligation of the District. The District will not pledge the full fair and credit of the State for the payment of any district contract, loan or other instrument of indebtedness.

## **VIII. AMENDMENT**

No modification or amendment of this Contract shall be made except by written agreement signed by the parties. If, after the effective date of this Contract, there is a change in applicable law which alters or amends the responsibilities and obligations, rights, or remedies of either the District or the SBE, this Contract shall be amended in writing to reflect the change in existing law as of the effective date of such change.

## **IX. RECORDS RETENTION**

All documents in the possession of the District regarding a Charter School for which it is an Authorizer shall be maintained in accordance with all applicable state and federal document and record retentions requirements. If any litigation, claim or audit is started before the expiration of an applicable document retention period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

All documents in the possession of the SBE regarding its obligations under this Contract and the Act shall be maintained in accordance with all applicable state and federal document and record retentions requirements. If any litigation, claim or audit is started before the expiration of an applicable document retention period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

## **X. WAIVER**

No failure by either party to insist upon the strict performance of any condition of this Contract or to exercise any right or remedy shall constitute a waiver of any such breach of this Contract. No waiver shall affect or alter this Contract, and each and every condition of this Contract shall continue in full force and effect.

**XI. GOVERNING LAW**

This Contract shall be governed by, and construed in accordance with, the Laws of the State of Washington and the venue of any action brought under this Contract shall be in Thurston County Superior Court.

**XII. SEVERABILITY**

In case any one or more of the provisions contained in this Contract shall for any reason be held by a court of law to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Contract, and this Contract shall be construed as if such provisions had not been contained herein.

**XIII. CONTRACT REPRESENTATIVES**

All written communications regarding this Contract shall be sent to the designated representatives at the addresses listed below unless notified in writing of any change. All notices, demands, requests, and approvals that may or are required to be given by any party to any other party shall be in writing and shall be deemed to have been duly given if delivered personally, sent by a nationally recognized overnight delivery service, electronically transmitted, or if mailed or deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to the contact persons below:

Jack Archer  
Director, Basic Education Oversight  
Washington State Board of Education  
600 Washington Street SE  
P.O. Box 47206  
Olympia, WA 98504

Steven Gering  
Chief Academic Officer  
Spokane School District #81  
Spokane Public Schools  
200 N. Bernard  
Spokane, WA 99201

**XIV. TITLES OF PARAGRAPHS**

The various titles to the paragraphs in this Contract are used solely for convenience and shall not be used for the purpose of interpreting or construing any word, clause, paragraph, or subparagraph of this contract.

**XV. COUNTERPARTS**

This Contract may be executed in counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument. In addition, the parties hereto agree that this Contract may be delivered either by a party or its counsel to the other party or its counsel personally, by a nationally recognized overnight delivery service, electronically transmitted, or if mailed or deposited in the United States mail and sent by registered or certified mail and signatures so transmitted constitute original signatures and are binding on the party so signing. Upon request, the parties shall further deliver between themselves actual originally signed copies or counterparts, but such further delivery, or failure therefor, shall not affect the validity or timing of the Contract.

**XVI. FORCE MAJEURE**

In the event that either party is unable to perform its obligations under this Agreement as a result of a force majeure, neither party shall be liable to the other for direct or consequential damages resulting from lack of performance. "Force Majeure" shall mean fire, earthquake, flood, act of God, strikes, work stoppages, or other labor disturbances, riots or civil commotions, litigation, court rulings, war or other act of any foreign nation, power of government, or governmental agency or authority, or any other cause like or unlike any cause above mentioned which is beyond the control of either party.

**XVII. DISPUTE RESOLUTION**

The parties agree to make best efforts to resolve any disputes arising out of this Contract at the lowest level. Both parties shall have the right to require mediation as a condition precedent to the other party filing any action arising out of the Contract in a court of law. Each party shall split the expenses of the mediator and the facility for the mediation. Each party shall otherwise pay its own expenses. Provided, the dispute resolution described in this section shall not apply to SBE oversight and enforcement duties, activities, and procedures developed pursuant to RCW 28A.710.120.

**Washington State Board of Education**

**Spokane School District No. 81**

\_\_\_\_\_  
Ben Rarick  
Executive Director  
Washington State Board of Education  
Date: \_\_\_\_\_

\_\_\_\_\_  
Robert Douthitt  
President, Board of Directors  
Spokane School District #81  
Date: \_\_\_\_\_