

The Washington State Board of Education

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

Title:	Charter School Rules RCW 28A.710.120, Oversight of Authorizers	
As Related To:	<input 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
Relevant To Board Roles:	<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
Policy Considerations / Key Questions:	<ol style="list-style-type: none"> 1. What should be the extent and means of regular SBE oversight of the performance of school districts in their functions as charter authorizers? 2. How should complaints about charter authorizers or their schools be handled? 3. What circumstances should trigger a special review by the SBE? How should that special review be conducted? 4. What steps should be taken, should the SBE find cause to revoke the chartering authority of a district authorizer, to accomplish the timely and orderly transfer of the authorizer's charter contracts to another authorizer? 	
Possible Board Action:	<input checked="" type="checkbox"/> Review <input type="checkbox"/> Adopt <input type="checkbox"/> Approve <input type="checkbox"/> Other	
Materials Included in Packet:	<input checked="" type="checkbox"/> Memo <input type="checkbox"/> Graphs / Graphics <input checked="" type="checkbox"/> Third-Party Materials <input type="checkbox"/> PowerPoint	
Synopsis:	<p>RCW 28A.710.120 establishes duties of the State Board of Education for overseeing the performance and effectiveness of all school districts that it has approved as charter authorizers under RCW 28A.710.090. This section provides, among other provisions, for:</p> <ul style="list-style-type: none"> • Special reviews by the SBE, in the case of persistently unsatisfactory performance of a district authorizer's portfolio of charter schools, a pattern of well-founded complaints about the authorizer or its schools, or other objective circumstances; • Notification to the authorizer of identified deficiencies, with reasonable opportunity for the authorizer to remedy the deficiencies; • Revocation of the authorizer's chartering authority, after following due process procedures outlined in the section; • Requirements for the timely and orderly transfer of each charter held by the authorizer to another authorizer, in the case that an authorizer's chartering authority is revoked. <p>The SBE is required to establish timelines and a process for taking action under this section in response to performance deficiencies.</p> <p>In your packet you will find a memo on SBE duties for oversight and a copy of RCW 28A.710.120 (Oversight of authorizers – Notification of identified problems – Process for revocation of authorizer's authority – Timelines for actions).</p>	

CHARTER SCHOOL RULES OVERSIGHT OF AUTHORIZERS

Policy Consideration

The State Board will consider the extent and manner of oversight it will exercise over the performance of school district authorizers of charter schools under RCW 28A.710.120. Policy considerations for rule-making include, but aren't 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? Should site visits to authorizers and their schools be provided for in rule?
2. What should be the process for receiving, evaluating and investigating complaints about an authorizer or its charter schools?
3. What would constitute "persistently unsatisfactory performance of an authorizer's portfolio of charter schools"? What are other circumstances that might trigger a special review by the SBE under this statute?
4. What form should a special review take? Who should conduct it? How should its findings be documented, reported and communicated?
5. What specific steps need to be taken to achieve the "timely and orderly" transfer of a charter contract to another authorizer, if necessary? How would the mutual consent of the affected charter school and proposed new authorizer be obtained and documented?

Summary

The State Board of Education has two essential duties for the charter school law approved by the voters in November 2012. The first is to review and approve or deny applications by school districts to be authorizers of charter schools. The second is to oversee the performance of school districts it has approved to be authorizers.

Through rules adopted in February, the Board initiated a process for approval of applications by school districts seeking to be authorizers, culminating in the decision to be made at the present meeting on the first application. Over the next few months it will initiate rule-making on oversight of district authorizers.

RCW 28A.710.120 establishes the responsibility of the SBE for authorizer oversight. This section is much more open-ended, 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, when it finds it 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.
- (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 a process 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;
- The "reasonable amount of time" before the SBE, if the authorizer persists in violating a material provision of a charter contract or its authorizing contract, or fails to remedy other identified problems, notifies it that it intends to revoke its chartering authority.

Processes that may need to be established in rule include:

- Receipt and investigation of complaints about an authorizer or its charter schools;
- Special reviews by the SBE, in response to persistently unsatisfactory performance of an authorizer's portfolio of charter schools, a pattern of well-founded complaints about the authorizer or its schools, or other objective circumstances.
- Notification of the authorizer of identified problems and, if warranted, intent to revoke chartering authority.
- Transfer of a charter contract to another authorizer, in the event of revocation of the authorizers' charting authority.

Background

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 rather than rule, 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.)

Staff, with consulting support from the National Association of Charter School Authorizers, will examine the laws and procedures of other states to identify successful practices for authorizer oversight consistent with Washington law.

Action

None.