

NEW SECTION

WAC 180-19-220. 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 180-19-230. 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 during a contract term, or consecutive contract terms, 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 during a contract term, or consecutive contract terms, to meet the financial performance targets within the charter contract, or;

(c) Repeated failure during a contract term, or consecutive contract terms, 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 duties, 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 the oversight of 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, or evidence that a charter school is not operating in a manner that fulfills the requirements of its charter contract or has a substantial risk of becoming operationally unable to fulfill those requirements.

(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 180-19-240. 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 180-19-230 before providing an authorizer with notice of identified problems.

WAC 180-19-250 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 that the authorizer has implemented, or will implement within sixty (60) days of submitting the written response, a sufficient remedy for the violation or deficiencies that are the stated grounds for the intent to revoke chartering authority. The board shall within thirty (30) days of receipt provide written notice to the authorizer whether it finds the proposed remedy sufficient to correct the violation or deficiencies.

(3) Notice of Revocation. If the authorizer fails to provide a timely written response or if the response is found insufficient 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 180-19-260. Authorizer oversight. Transfer of charter contract.

(1) In the event that a notice of revocation is provided to the authorizer under WAC 180-19-250, any charter contract held by that authorizer shall be transferred, for the remaining portion of the charter term, to the Washington charter school commission upon 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, in compliance with any applicable provisions of the Family Educational Rights and Privacy Act (FERPA) and state law, 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 written agreement executed under (2) of this section.

(6) If mutual agreement is not obtained on the transfer of the charter contract under RCW 28A.710.120(6) and this section, the charter school shall be closed under the provisions of RCW 28A.710.210. The district shall develop and implement a termination protocol to ensure timely notification to parents, orderly transition of students and student records to new schools, as necessary, and proper disposition of public school funds, property, and assets. The protocol must include, at a minimum, a plan for addressing the following: (a) adequate and timely communication with parents, school staff and the community

regarding the closing of the charter school and the options for student transfer to another public school; (b) retention of student, personnel, governance and financial records in compliance with all applicable laws and policies; (c) The transfer of all student records in accordance with privacy rules set forth in the Family Educational Rights and Privacy Act (FERPA) and any applicable state laws and school district policies; (d) resolution of all financial obligations associated with the closure of the charter school; (e) return of the public funds in the possession of the charter school as provided for in RCW 28A.710.201(2), or as required by any other state law; and (f) a plan for the disposition of all other assets, in compliance with applicable state and federal laws or district policies governing the assets. The protocol must specify tasks, timelines, and responsible parties, including delineating the respective duties of the charter school and the authorizer. The board may review the protocol and request revisions for implementation.

**Proposed Amendment to WAC 180-19-220 through WAC 180-19-260
Rules to RCW 28A.710.120 (Oversight of Authorizers)
Summary**

Page 3. 180-19-230(2)(a)(b) and (c). Inserts language to provide that the “repeated failures” are during a contract term or consecutive charter terms.

Effect: Clarifies the meaning of “repeated” by specifying that the failures that may trigger a special review by the board are over a specific period of time, and not some indefinite time. Responds to member concern and public comment.

Page 3. 180-19-230(b). Inserts “or” at the end of this subsection.

Effect: Clarifies that any of “repeated failure” (a), (b) or (c) may trigger a special review, and that it doesn’t require all three. Responds to public comment.

Page 4. 180-19-230(3)(a). Inserts “the oversight of”.

Effect: Clarifies that the complaint is directed against the authorizer, over whom the SBE has oversight under this RCW, consistent with the immediately preceding definition of “A pattern of well-founded complaints.”

Page 7. 180-19-250(2)(b). Strikes “promptly” and “inserts “within sixty (60) days of submitting the written response”.

Effect: Specifies that the response of the authorizer to the notification by the SBE of intent to revoke chartering authority must show that the authorizer has implemented or will implement a sufficient remedy for the violation or deficiencies within a specific period of time. Responds to public comment that “promptly” was vague, and that the responsibility of the authorizer under this WAC should be made clearer.

Page 7. 180-19-250(2)(b). Inserts “The board shall within thirty (3) days of receipt provide written notice to the authorizer whether it finds the proposed remedy sufficient to correct the violation or deficiencies.”

Effect: Adds a step in which the Board makes a finding whether the remedy proposed in the authorizer’s written response is sufficient to correct the violation or deficiencies, without which you cannot proceed to (3) Notice of revocation.

Page 7. 180-19-250(3). Strikes “deemed inadequate” and inserts “found insufficient”.

Effect: Makes consistent with language used in (2)(b).

Page 9. 180-19-260(4). Inserts provision that any transfer of student data under this subsection must comply with federal and state law on privacy of student records.

Effect: Calls out a requirement the district is subject to under current law.

Page 9. 180-19-260(5). Strikes “memorandum of understanding” and inserts “written agreement.”

Effect: Makes consistent with language in subsection (2). Corrects staff error.

Page 9. 180-19-260(6). Inserts new subsection (6) providing that if mutual agreement is not obtained between the charter school and the Washington Charter School Commission on the transfer of the charter contract to the Commission, the school shall be closed under the provisions of RCW 28A.710.210. Requires the district to develop and implement a termination protocol including within it, at a minimum, certain components to ensure timely notification to parents, orderly transition of student records to new schools, and proper disposition of public school funds, property and assets. Specifies that the protocol must specify tasks, timelines and responsible parties, including delineating the respective duties of the charter school and the district. Provides that the SBE may review the termination protocol and request changes.

Effect: Prescribes requirements and procedures applying in the event that a charter school and the Commission do not, after revocation of an authorizer’s chartering authority, agree on the transfer of the charter contract. Links to RCW 28A.710.210, (Charter school termination protocol), and names required components of a charter termination protocol.

Makes grammatical corrections and inserts proper references to WACs.