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OKLAHOMA STATE DEPARTMENT *of* EDUCATION

MEMORANDUM

TO: The Honorable Members of the State Board of Education

FROM: Joy Hofmeister

DATE: March 24, 2016

SUBJECT: Administrative Rule Promulgation

The State Board of Education will be taking action at the March meeting on the following administrative rule amendments, pursuant to the *Oklahoma Administrative Procedures Act*, 75 O.S. § 250 *et seq.*:

Title 210. State Department of Education
Chapter 10. School Administration and Instructional Services
Subchapter 13. Student Assessment
210:10-13-22. Implementation of a system of school improvement and accountability [AMENDED]

This is the permanent version of an emergency rule currently in effect. The definition of "Full Academic Year (FAY) student" in the rule governing the A-F school accountability system is being updated to reflect that most Oklahoma school districts begin the academic year in August rather than September. Under the current emergency version and the proposed permanent amendment, a student shall be considered a FAY student if they are enrolled within the first 20 instructional days of the school's academic year through and including the date of the exam, without an enrollment lapse of 10 or more days. The previous version of the rule classified a student as FAY based on an October 1 enrollment date, and did not account for districts' varying academic calendars.

Title 210. State Department of Education
Chapter 15. Curriculum and Instruction
Subchapter 37. Workplace Safety Training in Schools [NEW]
210:15-37-1. Workplace Safety Training in Schools [NEW]

Senate Bill 262 (2015) directs the State Department of Education to make available to school districts workplace safety information that has

been developed by the Department of Labor, and to promulgate a rule encouraging districts to incorporate workplace safety training in their curriculum. This rule does not impose an obligation on school districts.

Title 210. State Department of Education

Chapter 35. Standards for Accreditation of Elementary, Middle Level, Secondary, and Career and Technology Schools

Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and Technology Schools

210:35-3-228. Required application criteria to be considered for requests for deregulations, waivers of statutory requirements, and participation in the School District Empowerment Program [AMENDED]

The proposed amendment changes the maximum duration of a waiver or deregulation granted by the State Board of Education from one (1) year to three (3) years. The new timeframe aligns with the duration available for School District Empowerment Program requests, and is intended to reduce the administrative burden on school districts which currently must apply annually for each deregulation requested.

Title 210. State Department of Education

Chapter 40. Grants and Programs-in-Aid

Subchapter 87. Rules for Payments to Charter Schools

210:40-87-5. Charter school application [AMENDED]

210:40-87-7. Charter school contracts [NEW]

210:40-87-8. Appeals for sponsorship to the State Board of Education [NEW]

210:40-87-9. Application for renewal of charter school contracts [NEW]

Updates to the charter school rules are required due to extensive statutory changes. Senate Bill 782 (2015) made several changes to the Oklahoma Charter Schools Act, including adding authorized sponsors and laying out detailed application and contract requirements. The rule update adds guidance on the new provisions, and establishes a procedure for submitting a sponsorship appeal to the State Board of Education if a school district has denied a proposed charter school's application for sponsorship. The update also adds guidelines for renewing an existing charter school contract.

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES
SUBCHAPTER 13. STUDENT ASSESSMENT**

210:10-13-22. Implementation of a system of school improvement and accountability

(a) **Purpose.** Accountability for student learning is the key focus of school improvement. Results from the statewide assessment program shall form the basis of the system of school improvement and accountability. Student achievement data from the State's annual standardized assessments in grades three (3) through eight (8) and end-of-instruction tests administered under Section 1210.508 of Title 70 shall be used to establish both proficiency levels and annual progress for individual students, school sites, school districts, and the State. Results shall further be used as the primary criteria in calculating school performance grades as specified in subsection (f) of this rule and shall be annually reported. Results may further be used by the Legislature in calculating any performance-based funding policy that is provided to public school districts. The statewide assessment program shall be used to measure the annual learning gains of each student toward achievement of the State standards appropriate for the student's grade level and to inform parents of the educational progress of their public school children.

(b) **Overview and implementation.** The A-F school accountability system will be implemented in the year 2012, based on data from the 2011-2012 school year, and shall be reported annually thereafter. The school accountability system will be considered to be fully implemented with the following accountability elements:

(1) Designation of overall school performance grades shall be based on a combination of the following:

(A) Fifty percent (50%) on whole school performance, as measured by allocating one (1) point for each student who scores proficient or advanced on the criterion-referenced tests and end-of-instruction tests administered to students pursuant to the provisions of the Oklahoma School Testing Program at 70 O.S. §§ 1210.508 and 1210.523, summing the points, and dividing the points by the total number of students taking the tests;

(B) Twenty-five percent (25%) on whole school growth, measured by allocating one (1) point for each student tested who maintains a score of "Proficient" or above, improves proficiency levels, or improves substantially within a proficiency level on the State's annual standardized assessments in reading and mathematics in grades three (3) through eight (8) and Algebra I and English II end-of-instruction tests administered to students pursuant to the provisions of the Oklahoma School Testing Program at 70 O.S. § 1210.508, summing the points, and dividing the points by the total number of students taking the tests;

(C) Twenty-five percent (25%) on growth of the lowest twenty-five percent (25%) of students in the school, measured by allocating one (1) point for each student tested in the bottom twenty-five percent (25%) who maintains a score of "Proficient" or above, improves proficiency levels, or improves substantially within a proficiency level on the State's annual standardized assessments in reading and mathematics in grades three (3) through eight (8) and Algebra I and English II end-of-instruction tests administered pursuant to the provisions of the Oklahoma School Testing Program at 70 O.S. § 1210.508, summing the points, and dividing the points by the total number of students taking the tests.

(2) In addition to the three criteria listed in (b)(1) of this Section, bonus points shall be calculated in accordance with the criteria set forth in (g) of this Section and added to the subtotal of component points to create a final report card index of points used to calculate the overall school performance grade of each school site.

(3) Schools shall earn a separate performance grade for each of the three criteria listed in (b)(1) and (f) of this Section. Additionally, schools shall earn an overall performance grade based on a combination of the criteria listed in (b)(1) and (f) and the bonus points earned in accordance with (g) of this Section.

(4) To ensure that student data accurately represent school performance, schools shall be required to assess at least ninety-five percent (95%) of eligible students to earn a school performance grade. Failure to assess at least ninety-five percent (95%) of eligible students will result in a letter grade reduction in the school's overall school performance grade.

Schools assessing less than ninety percent (90%) of eligible students will result in the school earning an overall performance grade of F.

(c) **School Accountability for Student Performance.** All schools shall be accountable for performance. Each school is accountable for the performance of its entire student population. Student achievement data from the State's annual standardized assessment and end-of-instruction tests administered in this State shall be used to measure a school's student performance for the subject areas of reading, mathematics, social studies, science and writing.

(d) **Reporting Student Achievement Data for School Accountability.** Student achievement data shall be reported for all students in a school. Each year, reports of achievement data for all students shall be prepared for each school, each district, and the State. District reports shall be calculated in the same manner as a school site, aggregated at the student level and calculated in accordance with the requirements of 70 O.S. §§ 1210.545(B), (D) and (J).

(1) The scores will be computed from the number of eligible students enrolled in the school. Eligible students shall include all students enrolled for the full academic year ("FAY") in the school and taking the State's annual standardized assessments or end-of-instruction tests. For end-of-instruction exams, only first opportunity students are included in the calculation of eligible students. A full-time student shall be considered a "FAY" student if the student, ~~has been continuously~~ is enrolled from October 1 of school within the first twenty (20) instructional days of the school's instructional year through and including the date of administration of the exam, and has not experienced an enrollment lapse of ten (10) or more consecutive instructional days. The FAY determination shall be based on continuous enrollment and shall not be based on attendance determinations.

(2) All eligible students, regardless of disability or limited English proficiency classification, with valid state standardized assessment scores in reading and math in both the current school year and the previous school year are included in (f)(2) and (f)(3) of this Section regarding the determination of student learning gains. In addition, the inclusion of these students shall be applied to (b)(3) of this Section, regarding the percentage of students assessed. Current and previous school years' reading and math scores for students with disabilities assessed on the State's annual standardized alternate assessment shall be included in the determination of test scores, including achievement addressed in (f)(1) of this Section.

(3) The Superintendent of Public Instruction is authorized to designate a single school performance grade for schools that serve multiple levels: elementary and/or middle and/or high school grade levels. Designations shall be made based on the highest grade level offered by the school.

(A) If the highest grade offered by a school site is the sixth (6th) grade or below, the school shall be graded according to elementary school criteria.

(B) If the highest grade offered by a school site is the (7th) through tenth (10th) grade, the school shall be graded according to the middle school criteria. Schools in this category shall not earn advance coursework credit for ninth and tenth grade students completing high school coursework unless the course qualifies as advanced coursework pursuant to (g)(1)(B) or (g)(2)(A) of this Section.

(C) If the highest grade offered by a school site is the eleventh (11th) or twelfth (12th) grade, the school shall be graded according to high school criteria.

(4) The State Department of Education will verify that each school is appropriately classified by type before the issuance of school grades. School type is defined as the school level designation of a school based on the grade levels served: elementary, middle, high, or a combination across levels.

(5) For purposes of (f) of this Section, the determination of the proficiency level of eligible students exempted from one or more end-of-instruction exams in accordance with the requirements of 70 O.S. 1210.523 and the accompanying rule at 210:10-13-16(b)(7)-(8) shall be based upon the cut scores approved by the State Board of Education. Points shall be awarded and calculated for each "Proficient" or "Advanced" score in accordance with (f) of this Section.

(e) **School Performance Grades.** The measure of school accountability shall be the school performance grade. The Oklahoma State Board of Education is authorized to designate a school performance grade for each school that:

(1) For purposes of calculating student achievement pursuant to (f)(1), has at least ten (10) eligible students with valid student state standardized assessment scores.

(2) For purposes of calculating student growth pursuant to (f)(2), has at least ten (10) eligible students with valid student state standardized assessment scores or end-of-instruction test scores in reading or math in both the current and the previous school years.

(3) For purposes of calculating growth of the lowest twenty-five percent (25%) of students pursuant to (f)(3), has at least ten (10) eligible students with valid student state standardized assessment scores or end-of-instruction test scores in reading or math in the current and previous school years.

(4) A school shall not earn a grade for any component or criteria unless minimum N-size requirements established pursuant to this rule are met. Performance designations shall be made using School Performance Grades A+, A, A-, B+, B, B-, C+, C, C-, D+, D, D- and F. School performance grades shall be based on the assessments and criteria as specified in (f) of this Section and bonus points as specified in (g) of this Section. The Superintendent of Public Instruction is authorized to establish and adjust appropriate achievement level criteria to the extent allowed by law for submission to the State Board of Education for final approval.

(f) **Criteria for Designating School Performance Grades.** Overall school performance grades shall be based on a combination of the bonus points calculated in accordance with (g) and the points calculated in accordance with the three criteria outlined in (b)(1) of this Section: (1) whole school performance; (2) whole school growth; and (3) growth of the lowest twenty-five percent (25%).

(1) **Whole school performance index.** Student achievement scores are represented through a performance index, aggregated for each school, calculated based on all state standardized

assessments and/or end-of-instruction tests collectively, and by each subject area. A point value shall be given to each exam based on proficiency score. Points shall be summed and divided by the number of exams administered to eligible students.

(A) Points shall be assigned based on the following criteria:

- (i) Unsatisfactory = 0
- (ii) Limited Knowledge = 0
- (iii) Proficient = 1.0
- (iv) Advanced = 1.0

(B) A letter grade shall be earned based on the following criteria:

- (i) 90 points or Above = A
- (ii) 80 - 89 points = B
- (iii) 70 - 79 points = C
- (iv) 60 - 69 points = D
- (v) 59 points or Below = F

(2) **Whole school growth index.** Annual learning gains in reading and math are represented through a growth index, aggregated for each school. The score shall be calculated in whole and by subject-matter by assigning one point for each student who improves proficiency levels or improves substantially within a proficiency level from the previous school year to the current school year, divided by the number of students taking the tests.

(A) This calculation represents the number of eligible students who have:

- (i) Improved their state standardized assessment achievement level or state standardized alternative assessment achievement level, as applicable, from the previous school year to the current school year; or
- (ii) Improved their state standardized assessment achievement level or state standardized alternative assessment achievement level and such change in OPI from the previous school year to the current school year met or exceeded the State average of students with positive OPI change; or
- (iii) Maintained their proficient or satisfactory achievement level on the state standardized assessment or state standardized alternate assessment, as applicable, from the previous school year to the current school year.

(B) The growth index shall be calculated based on improved state standardized assessment and end-of-instruction test performance from the previous school year to the current school year. The growth index shall be calculated by subject-matter and by assigning a point value to the change in proficiency score from the previous year to the next. Points based on student gains shall be summed and divided by the number of exams administered, and shall include only eligible students for whom comparative test scores exist. Points shall be assigned based on the following criteria:

- (i) Change from Unsatisfactory to Limited Knowledge = 1.0
- (ii) Change from Unsatisfactory to Proficient or Satisfactory = 1.0
- (iii) Change from Unsatisfactory to Advanced = 1.0
- (iv) Change from Limited Knowledge to Proficient or Satisfactory = 1.0
- (v) Change from Limited Knowledge to Advanced = 1.0
- (vi) Change from Proficient or Satisfactory to Advanced = 1.0
- (vii) Remain Proficient or Advanced from Year 1 to Year 2 = 1.0

(viii) Remained at Unsatisfactory from Year 1 to Year 2 and Meets or Exceeds State Average Positive Change or remained at Limited Knowledge from Year 1 to Year 2 and Meets or Exceeds State Average Positive Change = 1.0

(ix) Remained at Unsatisfactory from Year 1 to Year 2 and Fails to Meet or Exceed State Average Positive Change or remained at Limited Knowledge from Year 1 to Year 2 and Fails to Meet or Exceed State Average Positive Change = 0

(x) Remained at Unsatisfactory from the previous school year to the current school year, or remained at Limited Knowledge from the previous school year to the current school year, but demonstrates substantial improvement within a proficiency level = 1.0

(C) For purposes of this subparagraph, a student's improvement within a proficiency level will be considered "substantial improvement" if the student demonstrates an increase in Oklahoma Performance Index ("OPI") score from the previous school year to the current school year that meets or exceeds the average positive increase amongst all students in the State who increased their OPI score from the previous school year to the current school year.

(D) A letter grade shall be earned based on the following criteria:

(i) 90 points or Above = A

(ii) 80 - 89 points = B

(iii) 70 - 79 points = C

(iv) 60 - 69 points = D

(v) 59 points or Below = F

(3) **Growth of the lowest twenty-five percent of students.** Improvement of the lowest twenty-five percent (25%) of students in reading and math shall be aggregated, as required by 70 O.S. § 1210.545. The score shall be calculated in whole and by subject-matter by assigning one point for each student in the bottom quartile who improves proficiency levels or improves substantially within a proficiency level from the previous school year to the current school year, divided by the number of students taking the test.

(A) The calculation of a positive change in OPI score that meets or exceeds the State's average growth represents the number of eligible students who have:

(i) Improved their state standardized assessment achievement level or state standardized alternative assessment achievement level, as applicable, from the previous school year to the current school year; or

(ii) Retained their state standardized assessment achievement level or state standardized alternative assessment achievement level and such change in OPI from the previous school year to the current school year met or exceeded the State average of students with positive OPI change.

(B) The score shall be based on improved state standardized assessment and end-of-instruction test performance from the previous school year to the current school year. Points based on student gains shall be summed and divided by the number of exams administered, and shall include only eligible students for whom comparative test scores exist. The growth of the lowest twenty-five percent (25%) shall be calculated based on the following criteria:

(i) Change from Unsatisfactory to Limited Knowledge = 1.0

(ii) Change from Unsatisfactory to Proficient or Satisfactory = 1.0

(iii) Change from Unsatisfactory to Advanced = 1.0

- (iv) Change from Limited Knowledge to Proficient or Satisfactory = 1.0
 - (v) Change from Limited Knowledge to Advanced = 1.0
 - (vi) Change from Proficient or Satisfactory to Advanced = 1.0
 - (vii) Remain Proficient or Advanced from Year 1 to Year 2 = 1.0
 - (viii) Remained at Unsatisfactory from Year 1 to Year 2 and Meets or Exceeds State Average Positive Change or remained at Limited Knowledge from Year 1 to Year 2 and Meets or Exceeds State Average Positive Change = 1.0
 - (ix) Remained at Unsatisfactory from Year 1 to Year 2 and Fails to Meet or Exceed State Average Positive Change or remained at Limited Knowledge from Year 1 to Year 2 and Fails to Meet or Exceed State Average Positive Change = 0
 - (x) Demonstrates substantial improvement within a proficiency level = 1.0
- (C) For purposes of this subparagraph, a student's improvement within a proficiency level will be considered "substantial improvement" if the student demonstrates an increase in Oklahoma Performance Index ("OPI") score from the previous school year to the current school year that meets or exceeds the average positive increase amongst all students in the State who increased their OPI score from the previous school year to the current school year.
- (D) A letter grade shall be earned based on the following criteria:
- (i) 90 points or Above = A
 - (ii) 80 - 89 points = B
 - (iii) 70 - 79 points = C
 - (iv) 60 - 69 points = D
 - (v) 59 points or Below = F

(g) **Bonus points.** Each school can earn up to a maximum of ten (10) bonus points to be added to the subtotal of component points and applied toward their final grade. The criteria listed in (1), (2) and (3) of this subsection shall be used to calculate bonus points for high schools, middle schools, and elementary grade schools. Annually, the Oklahoma State Department of Education shall publish technical assistance specifically detailing the weighted formula and the projected availability of valid data used for computing bonus points. Technical assistance shall be published in time for school districts to make meaningful use of the information and data. A school district, charter school, or virtual charter school shall not be eligible to be awarded bonus points on its site report cards for attendance pursuant to (g)(3)(A) and (g)(2)(B) of this Section unless it has established a method for maintaining accurate records of student daily attendance and accurate reporting of student daily attendance that ensures compliance with the provisions of 70 O.S. §§ 5-117.3, 10-103.1, 10-106, 18-111, 18-116.

(1) **High schools.** Schools comprised of high school grades may earn up to a maximum of ten (10) bonus points as follows:

(A) **Four-year adjusted cohort graduation rate.** A high school shall earn five (5) bonus points if its four-year adjusted cohort graduation rate meets or exceeds the criteria for earning an "A" for the high school graduation rate of the school. The criteria for earning an "A" for this component shall be met if a school's four-year adjusted cohort graduation rate meets or exceeds ninety percent (90%). The calculation of the four-year adjusted cohort graduation rate shall only include students counted as on-time graduates as defined by federal regulations.

(B) **Participation or performance in accelerated coursework.** One (1) bonus point shall be awarded to each high school that meets or exceeds the criteria for earning an "A"

in either student participation or student performance in accelerated coursework. The criteria for earning an "A" for this component shall be met if the school achieves either a student participation rate of seventy percent (70%) or higher in accelerated coursework or a student performance rate of ninety percent (90%) or higher in accelerated coursework. Student participation and performance rates shall be calculated as follows:

(i) **Participation in accelerated coursework.** Participation in accelerated coursework, is defined as participation in Advanced Placement (AP) courses, International Baccalaureate (IB) programs, concurrent enrollment, Advanced International Certificate of Education (AICE) courses, and industry certification courses. For this component, participation shall be calculated for the school year by dividing a count of accelerated coursework participants in grades nine (9) through twelve (12) (numerator) by the count of all students enrolled in grades eleven (11) and twelve (12) (denominator). For this component, a student must earn a passing grade in the course in order to be counted as a participant. Schools shall earn credit for every accelerated course in which a student is enrolled. Students enrolled in multiple accelerated courses shall be counted once for each course in which they are enrolled. In calculating a percentage for this component, participation rate shall include all enrollment data regardless of whether the course was taught at the high school, at a career technology center, an accredited college or university, or at a regional site of the Oklahoma School of Science and Mathematics.

(ii) **Performance in accelerated coursework.** Performance in concurrent enrollment, Advanced International Certificate of Education (AICE) courses, Advanced Placement (AP), International Baccalaureate (IB), and industry certification courses. For this component, the numerator of the performance calculation shall include all students in grades nine (9) through twelve (12) who took an accelerated course or subject area examination during the academic year. AICE successful completion is defined as earning a "C" or higher and being awarded credit for specific postsecondary course(s). For concurrent enrollment, successful completion is defined as a passing grade of "C" or higher in a concurrent enrollment course for college credit. For industry certification, successful completion is defined as earning a "C" or better in the course leading to industry certification. Schools can earn additional successful completions for students who achieve industry certifications that result in credit for more than one (1) college course through statewide articulation agreements. For AP and IB performance, credit shall be earned based for each student scoring a three (3) or better on the AP exams, or a four (4) or better on IB exams. For purposes of this component, a school shall earn credit for every course in which a student demonstrates the required level of performance. In calculating a percentage for this component, performance shall include all coursework regardless of whether the course was taught at the high school, at a career technology center, an accredited college or university, or at a regional site of the Oklahoma School of Science and Mathematics.

(C) **ACT and SAT participation or performance.** One (1) bonus point shall be awarded to each high school that meets or exceeds the criteria for earning an "A" in either student participation or performance on ACT or SAT college entrance exams. The criteria for earning an "A" for this component shall be met if a school achieves a rate of seventy-five percent (75%) or higher percentage of either student participation or

performance on college entrance exams. Student participation and performance rates shall be calculated as follows:

(i) **ACT and SAT participation.** High schools may earn one (1) bonus point based on the calculated percent of students taking the ACT and/or SAT. The percent is calculated by dividing the number of twelfth (12th) grade students who have taken the ACT and/or SAT tests, divided by the number of students enrolled in grade twelve (12). Students will be counted once for the ACT and/or once for the SAT, regardless of the number of times or at which grade levels the test(s) are taken. The high school will earn credit for the most recent test score reported at the time the test is administered.

(ii) **ACT and SAT performance.** High schools may earn one (1) bonus point based on the percentage of students scoring an ACT composite score of 20 or greater based on 36-point scale, and/or an SAT score of 1410 or greater based on a 2400-point scale. Students will be counted once for the ACT and/or once for the SAT, regardless of the number of times or at which grade levels the test(s) are taken. The high school will earn credit for the most recent test score reported at the time the test is administered.

(D) **High school graduation rate of eighth (8th) graders.** One (1) bonus point shall be awarded to each high school that meets or exceeds the criteria for earning an "A" for the high school graduation rate of students who scored at limited knowledge or unsatisfactory on the eighth (8th) grade reading and mathematics criterion-referenced test administered pursuant to the Oklahoma State Testing Program (OSTP). The criteria for earning an "A" for this component shall be met if a school achieves a graduation rate of eighty-five percent (85%) or higher for its students who scored at limited knowledge or unsatisfactory on the eighth grade reading and mathematics tests. For this component, schools shall be eligible to earn the bonus point based on the calculation of the graduation rate of this population of eighth (8th) graders, regardless of where the student attended the eighth (8th) grade).

(E) **Overall EOI performance.** Upon the availability of valid student assessment data, one (1) bonus point shall be awarded to a high school if eighty percent (80%) or more of its graduates from the previous school year have scored either a "Satisfactory/Proficient" or "Advanced" on six (6) out of the seven (7) secondary level EOI assessments required by the Oklahoma School Testing Program Act at 70 O.S. § 1210.508(A)(6).

(F) **Year-to-year growth.** Upon the availability of valid student data, one (1) bonus point shall be awarded to each high school which demonstrates improvement from the previous school year in at least three (3) of the five (5) components used to calculate bonus points set forth in (1)(A) through (1)(E) of this subsection. For purposes of this subparagraph, a high school will be deemed to have demonstrated improvement in a category if the school has received bonus points in that category for two consecutive years (i.e., the current report card and the previous year's report card). In the alternative, a high school can demonstrate improvement in a category by meeting the following criteria specified in the category:

(i) **Four-year adjusted cohort graduation rate.** A high school demonstrates improvement by increasing its four-year adjusted cohort graduation rate in (1)(A) of this subsection by at least ten percent (10%) of the difference between the previous year's graduation rate and one hundred percent (100%).

(ii) **Participation or performance in accelerated coursework.** A high school demonstrates improvement by increasing its rate of participation or performance in accelerated coursework in (1)(B) of this subsection by five percent (5%) or more.

(iii) **ACT and SAT participation or performance.** A high school demonstrates improvement by increasing its rate of participation or performance in ACT or SAT in (1)(C) of this subsection by at least ten percent (10%) of the difference between the previous year's rate and one hundred percent (100%).

(iv) **High school graduation rate of eighth (8th) graders.** A high school demonstrates improvement by increasing its high school graduation rate of eighth graders in (1)(D) of this subsection by at least ten percent (10%) of the difference between the previous year's graduation rate and one hundred percent (100%).

(v) **Overall EOI performance.** A high school demonstrates improvement by increasing its overall rate of EOI performance in (1)(E) of this subsection by at least ten percent (10%) of the difference between the previous year's rate and one hundred percent (100%).

(2) **Middle schools.** Schools comprised of middle school grade smay earn up to a maximum of ten (10) bonus points as follows:

(A) **The percentage of students who are taking higher level coursework at a satisfactory or higher level in middle school.** Middle schools shall earn two (2) bonus points for meeting or exceeding the criteria for earning an "A" on the rate of the school's middle school students who take accelerated coursework at a satisfactory or higher level. The criteria for earning an "A" for this component shall be met if the school achieves a participation rate of thirty percent (30%) or higher percentage of middle school students taking traditional high school courses pre-Advanced Placement courses, or honors courses in a traditional classroom or in a virtual environment who score at a satisfactory level or higher on the corresponding state standardized assessment. Schools shall earn credit for every accelerated course in which a student is enrolled. Students enrolled in multiple accelerated courses shall be counted once for each course in which they are enrolled.

(B) **Attendance.** Middle schools will earn six (6) bonus points for for meeting or exceeding the criteria for earning an "A" for middle school student attendance. The criteria for earning an "A" for this component shall be met if the school achieves a student attendance rate of ninety-four percent (94%) or higher. This rate is the Average Daily Attendance (ADA) divided by the Average Daily Membership (ADM). ADA is calculated by dividing the total number of days students were present by the number of days in the school calendar or by dividing the number of hours students were present by the number of hours in the school calendar, whichever applicable. ADM is calculated by dividing the total number of days students were enrolled in school by the number of days in the school calendar or by dividing the number of hours students were enrolled by the number of hours in the school calendar, whichever applicable.

(C) **Dropout rate.** Middle schools shall earn two (2) bonus points for meeting or exceeding the criteria for earning an "A" for the drop-out rate of the school. The criteria for earning an "A" for this component shall be met if the school achieves a rate of zero point nine percent (0.9%) or lower of the annual number of students reported as dropouts to the Oklahoma State Department of Education on the Annual Dropout Report.

(3) **Elementary schools.** Schools comprised of elementary school grades shall earn ten (10) bonus points as follows:

(A) **Attendance.** Elementary schools will earn ten (10) bonus points for meeting or exceeding the criteria for earning an "A" on student attendance. The criteria for earning an "A" shall be met if the school achieves a student attendance rate of ninety-four percent (94%) or greater. This rate is the Average Daily Attendance (ADA) divided by the Average Daily Membership (ADM). ADA is calculated by dividing the total number of days students were present by the number of days in the school calendar or by dividing the number of hours students were present by the number of hours in the school calendar, whichever applicable. ADM is calculated by dividing the total number of days students were enrolled in school by the number of days in the school calendar or by dividing the number of hours students were enrolled by the number of hours in the school calendar, whichever applicable.

(h) **Technical assistance.** Annually, the Oklahoma State Department of Education shall publish technical assistance specifically detailing the weighted formula used for computing bonus points. Technical assistance shall be published in time for school districts to make meaningful use of the information and data.

(i) **School Performance Grading Scale.** The School Performance Grade shall be based on a combination of the factors outlined in sub-section (b)(1) and detailed in (f) and (g) of this Section. Fifty percent (50%) shall be based on student test scores; twenty-five percent (25%) on student learning gains; and twenty-five (25%) on improvement of the lowest twenty-five percent (25%) of students in the school in reading and mathematics. Letter grades will be calculated according to the assigned weight of each criteria and by combining points earned for each component within each criteria. The school performance grade will be assigned according to the following scale:

- (1) Ninety-seven percent (97%) to one-hundred and ten percent (110%) = A+
- (2) Ninety-three percent (93%) to ninety-six percent (96%) = A
- (3) Ninety percent (90%) to ninety-two percent (92%) = A-
- (4) Eighty-seven percent (87%) to eighty-nine percent (89%) = B+
- (5) Eighty-three percent (83%) to eighty-six percent (86%) = B
- (6) Eighty percent (80%) to eighty-two percent (82%) = B-
- (7) Seventy-seven percent (77%) to seventy-nine percent (79%) = C+
- (8) Seventy-three percent (73%) to seventy-six percent (76%) = C
- (9) Seventy percent (70%) to seventy-two percent (72%) = C-
- (10) Sixty-seven percent (67%) to sixty-nine percent (69%) = D+
- (11) Sixty-three percent (63%) to sixty-six percent (66%) = D
- (12) Sixty percent (60%) to sixty-two percent (62%) = D-
- (13) Fifty-nine percent (59%) and below = F

(j) **Accuracy and Representativeness of Performance Data.** The Oklahoma State Department of Education shall review all information submitted by school districts to represent the performance of schools receiving a school performance grade.

- (1) Each school district superintendent shall designate a school accountability contact person to be responsible for verifying accuracy of data.
- (2) The Superintendent of Public Instruction shall withhold the designation of a school's performance grade if he or she determines that the performance data does not accurately represent the progress of the school.

(A) Circumstances under which a school's performance data may be considered to not accurately represent the progress of the school include:

- (i) Less than ninety-five percent (95%) of the school's student population eligible for inclusion in the designation of the school's performance grade was assessed.
- (ii) Circumstances identified before, during, or following the administration of any state assessment where the validity or integrity of the test results are called into question and are subject to review as determined by the State Department of Education.

(k) **Data verification by school sites/districts.** School sites shall be provided an opportunity to review all data used to calculate the school performance grade and the calculation of the school performance grade.

(1) **Initial Data Verification.** Initial data verification of the data used to calculate school performance grades shall occur throughout the school year as data becomes available to the State Department of Education. School district accountability staff shall have the opportunity to perform data verification and confirm that data being used to calculate school performance grades are accurate prior to the review period required by (k)(2) of this rule. The school district shall have at least thirty (30) calendar days to review and request corrections to each new data component, as it becomes available. No requests for changes to data shall be made after the expiration of the respective thirty (30) calendar day review period. For purposes of this paragraph only, a "new data component" means a data component that has not been previously submitted to the State Department of Education in accordance with other state or federal reporting requirements.

(2) **Calculation Verification.** Prior to the final release of school performance grades, a school district shall have at least ten (10) calendar days to certify the calculation of the performance grade. If the school district determines that a different performance grade should be assigned because of the omission of student data, a data miscalculation, or special circumstances that might have affected the grade assigned, school districts may submit a request for a review of the data calculation to the State Department of Education. All evidence supporting the district's claim of a calculation error and documentation of all elements to be reviewed by the Department must be submitted within the time limits specified in this subsection. No request for review of the calculation shall be accepted after the expiration of the ten (10) calendar day review period. Changes to the criteria, data, or process shall not be considered as part of this review.

(3) **Data deemed certified.** To ensure timely issuance of the school report cards in accordance with the requirements of 70 O.S. § 1210.545, any data component verification or calculation verification for which a district fails to timely review and certify as accurate in accordance with the provisions of (1) or (2) of this subsection shall be deemed certified as accurate by the district and districts shall not be permitted to request further corrections to the data.

(l) **Final determination.** The Oklahoma State Board of Education's determination of a school's performance grade shall be final.

(m) **Planned System Enhancements.** As indicated in this subsection, planned enhancements will occur in the System of School Improvement and Accountability. The Superintendent of Public Instruction will periodically recommend additional changes to the system to the State Board of Education for approval as necessary to ensure that continuous improvements are made in the educational programs of the State. Performance data shall be reviewed annually to

determine whether to adjust the school grading scale for the following year's school grades. Adjustments may include, but shall not be limited to grading criteria, classification of school type, point calculations, point requirements, and minimum points necessary to obtain a certain grade. Adjustments may reset the minimum required number of points for each grade.

(n) **Virtual education providers and virtual charter schools.** Any virtual provider that offers full-time online programs for students enrolled in charter schools sponsored by a school district, technology center school district, higher education institution, a federally recognized Indian tribe, or the State Board of Education, in accordance with the provisions of the Oklahoma Charter Schools Act shall be considered a "virtual charter school."

(1) Each virtual charter school and each school district which contracts with a virtual charter school or virtual education provider shall identify its full-time virtual students who do not live in the physical boundaries of the school district with which the sponsor is associated.

(A) Each virtual charter school and each school district shall report the achievement data of its full-time virtual students who are not residents of the district in which the sponsor is located separate from the achievement data of its full time virtual students who are residents of the district of sponsorship.

(B) The performance of non-resident full-time virtual students identified in (1) of this subsection shall be excluded from the determination of the overall school performance letter grade of the sponsoring school district, but shall be included in the overall school performance letter grade of the virtual charter school as resident students.

(2) Any virtual provider that contracts with a school district to provide full-time virtual education for resident students of the school district shall be considered a separate site within the school district for accountability purposes and shall be issued a separate report card that includes performance of full-time virtual students identified in (1) of this subsection as residents of the school district with which the provider contracts.

(o) **Statewide virtual charter schools.** Any virtual provider sponsored as a charter school by the Statewide Virtual Charter School Board shall be considered a "statewide virtual charter school."

(1) Each statewide virtual charter school will be considered a separate school site and "district" of the Statewide Virtual Charter School Board for accountability purposes and will be subject to the system of school improvement and accountability established by 70 O.S. § 1210.545 and the accompanying provisions set forth in this Section.

(2) The performance of all eligible students enrolled in a statewide virtual charter school shall be included in the calculation of the overall school performance letter grade of the virtual charter school. For purposes of this Section, any student enrolled full-time in a statewide virtual charter school who resides within the borders of the state shall be considered a resident student of the statewide virtual charter school.

RULE IMPACT STATEMENT

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES SUBCHAPTER 13. STUDENT ASSESSMENT

- a. **What is the purpose of the proposed rule change?**
This is the permanent version of an emergency rule currently in effect. The definition of "Full Academic Year (FAY) student" in the rule governing the A-F school accountability system is being updated to reflect that most Oklahoma school districts begin the academic year in August rather than September. Under the current emergency version and the proposed permanent amendment, a student shall be considered a FAY student if they are enrolled within the first 20 instructional days of the school's academic year through and including the date of the exam, without an enrollment lapse of 10 or more days. The previous version of the rule classified a student as FAY based on an October 1 enrollment date, and did not account for districts' varying academic calendars.
- b. **What classes of persons will be affected by the proposed rule change and what classes of persons will bear the costs of the proposed rule change?**
The proposed changes will affect Oklahoma school districts and school sites.
- c. **What classes of persons will benefit from the proposed rule change?**
The proposed changes will benefit Oklahoma school districts and school sites.
- d. **What is the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions?**
The agency does not anticipate any economic impact upon affected classes of persons or political subdivisions as a result of implementation of the proposed rule change at this time.
- e. **What is the probable cost to the agency to implement and enforce the proposed rule change?**
The agency does not anticipate any cost to the agency to implement and enforce as a result of the proposed change in the rule at this time. Additional record keeping, if any, will be performed by existing staff.
- f. **What is the economic impact on any political subdivision to implement the proposed rule change?**
The agency does not anticipate any economic impact on any political subdivision to implement the proposed rule change at this time.
- g. **Will implementing the rule change have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act?**
The agency does not anticipate any adverse economic impact on small business as a result of the proposed rule change at this time.
- h. **Are there any other methods which are less costly, nonregulatory, or less intrusive to achieve the purpose of the proposed rule change?**

No.

- i. **Will the rule change impact the public health, safety, and environment, and is the change designed to reduce significant risks to the public health, safety, and environment? If so, explain nature of risk and to what extent the proposed rule change will reduce the risk.**

The agency does not anticipate any impact on public health, safety, or environment as a result of implementation of the proposed rule at this time.

- j. **What detrimental effect will there be on the public health, safety, and environment if the rule change is not implemented?**

The agency does not anticipate any detrimental effect on public health, safety, or environment as a result of failure to implement the proposed rule at this time.

- k. **Date Prepared:** February 5, 2016

Public Comment Summary
State Department of Education Proposed Permanent Rule Changes
Chapter 10. School Administration and Instructional Services
Subchapter 13. Student Assessment

210:10-13-22. Implementation of a system of school improvement and accountability [AMENDED]

Summary of Public Comment	Agency Response
<p>"Why is there a distinction of 20 days at the beginning of school. Would missing 10 days or more between the 5th and 15th day of school have any less impact than missing the 105th to 115th days?</p> <p>This rule should be further amended to list a student as NFAY if at any time before testing, they are not enrolled in the school for 10 or more days when in session. It may need to be further adjusted for schools that are on hours instead of days. Take a school that is on a 4 day week. A student would only have to miss 8 days to miss the equivalent of 10 days in a full year model school."</p>	<ul style="list-style-type: none"> • The comment appears to misunderstand the effect of the Full Academic Year (FAY) definition. The definition in 210:10-13-22(d)(1) means that to be considered a FAY student, a student must meet two criteria: <ul style="list-style-type: none"> ○ Be enrolled by the 20th instructional day of the school year, and ○ Not have an enrollment lapse of 10 or more instructional days. <p>The 10-day enrollment lapse is for any time through the date of the exam, not just the first 20 instructional days of the school year.</p> • The 10 day lapse is based on 70 O.S. § 18-107, which provides that a student must be taken off the roll when absent without excuse for 10 consecutive days. If the relevant statutory provisions are amended in the future to account for a total hours rather than total days school year model, the rule will be adjusted accordingly.



Mary Fallin
Governor

**NOTIFICATION FROM GOVERNOR MARY FALLIN
REGARDING SUBMITTED AGENCY RULES**

On July 23, 2015, the Oklahoma State Board of Education, pursuant to its legal authority to adopt rules found at 70 O.S. § 3-104, adopted rules through emergency rulemaking.

On July 24, 2015, the rules and all necessary documentation required by Section 253 of Title 75 of the Oklahoma Statutes were submitted to the Office of the Governor for approval or disapproval.

On July 30, 2015, I hereby approve the following rules submitted:

210:10-13-2

210:10-13-22

A handwritten signature in black ink that reads "Mary Fallin".

Mary Fallin, Governor of the State of Oklahoma

Attest:

A handwritten signature in black ink that reads "Chris Benje".
Secretary of State

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 15. CURRICULUM AND INSTRUCTION
SUBCHAPTER 37. WORKPLACE SAFETY TRAINING IN SCHOOLS**

210:15-37-1. Workplace safety training in schools

School districts are encouraged to inform teachers of students in grades seven (7) through twelve (12) about the importance of incorporating workplace safety training in their curriculum. The Oklahoma Department of Labor has prepared a free "Youth @ Work Talking Safety" curriculum for this purpose, available through the Oklahoma State Department of Education website.

RULE IMPACT STATEMENT

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 15. CURRICULUM AND INSTRUCTION SUBCHAPTER 37. WORKPLACE SAFETY TRAINING IN SCHOOLS

- a. **What is the purpose of the proposed rule change?**
A new rule encouraging school districts to incorporate workplace safety training for students in 7th through 12th grade is being established pursuant to statute. Senate Bill 262 (2015) directs the Oklahoma State Department of Education (OSDE) to make available to school districts workplace safety information that has been developed by the Department of Labor, and the rule announces that this curriculum is available on the OSDE website. This rule does not impose an obligation on school districts.
- b. **What classes of persons will be affected by the proposed rule change and what classes of persons will bear the costs of the proposed rule change?**
The proposed changes will affect school districts and 7th-12th grade students.
- c. **What classes of persons will benefit from the proposed rule change?**
The proposed changes will benefit school districts and 7th-12th grade students.
- d. **What is the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions?**
The agency does not anticipate any economic impact upon affected classes of persons or political subdivisions as a result of implementation of the proposed rule change at this time.
- e. **What is the probable cost to the agency to implement and enforce the proposed rule change?**
The agency does not anticipate any cost to the agency to implement and enforce as a result of the proposed change in the rule at this time. Additional record keeping, if any, will be performed by existing staff.
- f. **What is the economic impact on any political subdivision to implement the proposed rule change?**
The agency does not anticipate any economic impact on any political subdivision to implement the proposed rule change at this time.
- g. **Will implementing the rule change have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act?**
The agency does not anticipate any adverse economic impact on small business as a result of the proposed rule change at this time.
- h. **Are there any other methods which are less costly, nonregulatory, or less intrusive to achieve the purpose of the proposed rule change?**
No.

- i. **Will the rule change impact the public health, safety, and environment, and is the change designed to reduce significant risks to the public health, safety, and environment? If so, explain nature of risk and to what extent the proposed rule change will reduce the risk.**

The agency does not anticipate any impact on public health, safety, or environment as a result of implementation of the proposed rule at this time.

- j. **What detrimental effect will there be on the public health, safety, and environment if the rule change is not implemented?**

The agency does not anticipate any detrimental effect on public health, safety, or environment as a result of failure to implement the proposed rule at this time.

- k. **Date Prepared:** February 5, 2016

An Act

ENROLLED SENATE
BILL NO. 262

By: Paddack and Pittman of the
Senate

and

Thomsen of the House

An Act relating to schools; directing the State Department of Education, in certain collaboration, to make certain information regarding workplace safety training available to school districts; directing the State Department of Education to encourage school districts to inform certain teachers about the importance of certain incorporation; directing promulgation of rules; and providing for codification.

SUBJECT: Workplace safety training in schools

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11-103.6j of Title 70, unless there is created a duplication in numbering, reads as follows:

A. The State Department of Education, in collaboration with the Oklahoma Department of Labor, shall make available to school districts information regarding workplace safety training for grades seven through twelve. Such information shall include the Oklahoma Department of Labor's "Youth @ Work Talking Safety: A Safety and Health Curriculum for Young Workers".

B. The State Department of Education shall encourage school districts to inform grade-seven through -twelve teachers about the

importance of incorporating workplace safety training in their curriculum.

C. The State Board of Education shall promulgate rules to implement the provisions of this act.

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE
LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS
SUBCHAPTER 3. STANDARDS FOR ELEMENTARY, MIDDLE LEVEL,
SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS
PART 23. STANDARD XII: DEREGULATION, WAIVERS, AND THE SCHOOL
DISTRICT EMPOWERMENT PROGRAM—RULES AND PROCEDURES

210:35-3-228. Required application criteria to be considered for requests for deregulations, waivers of statutory requirements, and participation in the School District Empowerment Program

(a) **Applications.** The State Department of Education shall develop an application for use by school districts in seeking approval from the State Board of Education of requests for:

- (1) Waivers from a statutory requirement;
- (2) Deregulation from a State Department of Education regulation; or
- (3) Participation in the School District Empowerment Program, by obtaining a waiver from all statutory requirements and State Board of Education rules from which charter schools are exempt under the Oklahoma Charter Schools Act.

(b) **Criteria for applications for deregulation, waivers, or participation in the School District Empowerment Program.** The application submitted shall meet all of the following requirements:

- (1) **Alternate strategies.** The application shall clearly state the alternate strategy(ies) which the school district proposes to utilize and the needed resources to meet clearly stated objectives as a result of the proposed deregulation, waiver, or participation in the School District Empowerment Program. The specific objectives to be focused on as a result of deregulated status shall be clearly delineated.
- (2) **Student performance.** The application shall clearly specify and describe the expected student performance levels to be demonstrated and evaluated as a result of the proposed deregulation, waiver, or participation in the School District Empowerment Program.
- (3) **Standard(s) to be deregulated or statutes to be waived.** The application shall clearly identify/state the regulation(s) from which the school district is proposing to be deregulated or the statute(s) for which the school district seeks a waiver.
- (4) **Financial impact.** The application shall clearly delineate the projected financial impact the proposed deregulation, waiver, or participation in the School District Empowerment Program would create.
- (5) **Timeline(s).** The application shall clearly delineate the proposed timeline(s) which, if approved, will apply to the deregulation, waiver, or participation in the School District Empowerment Program. The proposed timeline for implementation shall include:
 - (A) The date(s) the school district proposes to implement the deregulation, waiver, or participation in the School District Empowerment Program; and
 - (B) The date(s) proposed to terminate the deregulation, waiver, or participation in the School District Empowerment Program, which shall be no longer than:
 - (i) Waivers and deregulations: ~~One~~ **Three (3) years** from the date of implementation of a waiver or deregulation;
 - (ii) School District Empowerment Program: Three (3) years from the date of implementation of the district's empowerment plan.

(6) **Local board approval.** The application shall contain the original signature of the school district superintendent and the president of the local board of education certifying that the local board of education has approved the application for deregulation, waiver, or participation in the School District Empowerment Program in accordance with the provisions in the bylaws, policies, and/or procedures of the school board governing transaction of business.

(c) **Applications for School District Empowerment Program.** In addition to the requirements set forth in (b) of this Section, all applications by the school district for participation in the School District Empowerment Program shall submit a comprehensive plan which identifies the goals sought to be achieved through deregulation and the anticipated educational and fiscal benefits, impacts, and outcomes for all schools in the district resulting from participation in the School District Empowerment Program. Applications for participation in the School District Empowerment Program shall be submitted and reviewed in accordance with the procedures set forth in 210:35-3-229.

RULE IMPACT STATEMENT

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS SUBCHAPTER 3. STANDARDS FOR ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS

- a. **What is the purpose of the proposed rule change?**
The proposed amendment to the rule governing statutory waivers and rule deregulations changes the maximum duration of a waiver or deregulation granted by the State Board of Education from one (1) year to three (3) years. The new timeframe aligns with the duration available for School District Empowerment Program requests, and is intended to reduce the administrative burden on school districts which currently must apply annually for each deregulation requested.
- b. **What classes of persons will be affected by the proposed rule change and what classes of persons will bear the costs of the proposed rule change?**
The proposed changes will affect Oklahoma school districts that apply for a waiver or deregulation.
- c. **What classes of persons will benefit from the proposed rule change?**
The proposed changes will benefit Oklahoma school districts that apply for a waiver or deregulation.
- d. **What is the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions?**
The agency does not anticipate any economic impact upon affected classes of persons or political subdivisions as a result of implementation of the proposed rule change at this time.
- e. **What is the probable cost to the agency to implement and enforce the proposed rule change?**
The agency does not anticipate any cost to the agency to implement and enforce as a result of the proposed change in the rule at this time. Additional record keeping, if any, will be performed by existing staff.
- f. **What is the economic impact on any political subdivision to implement the proposed rule change?**
The agency does not anticipate any economic impact on any political subdivision to implement the proposed rule change at this time.
- g. **Will implementing the rule change have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act?**
The agency does not anticipate any adverse economic impact on small business as a result of the proposed rule change at this time.

- h. **Are there any other methods which are less costly, nonregulatory, or less intrusive to achieve the purpose of the proposed rule change?**

No.

- i. **Will the rule change impact the public health, safety, and environment, and is the change designed to reduce significant risks to the public health, safety, and environment? If so, explain nature of risk and to what extent the proposed rule change will reduce the risk.**

The agency does not anticipate any impact on public health, safety, or environment as a result of implementation of the proposed rule at this time.

- j. **What detrimental effect will there be on the public health, safety, and environment if the rule change is not implemented?**

The agency does not anticipate any detrimental effect on public health, safety, or environment as a result of failure to implement the proposed rule at this time.

- k. **Date Prepared:** February 5, 2016

Public Comment Summary
State Department of Education Proposed Permanent Rule Changes
Chapter 35. Standards for Accreditation of Elementary, Middle Level, Secondary, and
Career and Technology Schools
Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and
Technology Schools
Part 23. Standard XII: Deregulation, Waivers, and the School District Empowerment
Program—Rules and Procedures

210:35-3-228. Required application criteria to be considered for requests for
deregulations, waivers of statutory requirements, and participation in the School
District Empowerment Program [AMENDED]

Summary of Public Comment	Agency Response
<p>"I support this change to the rule. It would reduce some of the redundant paperwork that is required of school districts each year."</p>	<ul style="list-style-type: none"> • N/A
<p>Comment "object[s] to the amendment to 210:35-3-228", and states that "[a]llowing a potentially damaging deregulation plan to continue unchecked for three years could do irreparable harm to school safety, student progress, staff working conditions, and the community. The State Department should require an annual reapplication and deny the waiver request of any entity proposing to continue a plan that has proven ineffective over the prior year."</p>	<ul style="list-style-type: none"> • All public schools, including charter schools, must comply with health and safety laws and regulations. Laws and rules concerning health and safety are not eligible for waiver or deregulation. • The agency acknowledges the commenter's concerns that safety and accountability must remain top priorities for school districts, and the proposed timeframe change to the deregulation rule does not compromise those commitments. • The deregulation request process will still require a school district to submit an application to the agency, and a thorough review of each proposed deregulation is completed before being recommended to the State Board of Education. A request for a 2- or 3- year duration for a deregulation/waiver will have to be evaluated as appropriate by the agency's Accreditation office and any other relevant program areas, before being recommended to the Board for approval. If a concern arose during the review process that a request for a 2- or 3- year deregulation may not be appropriate in a given context, an extended-duration deregulation would not be recommended to the Board.

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 40. GRANTS AND PROGRAMS-IN-AID
SUBCHAPTER 87. RULES FOR PAYMENTS TO CHARTER SCHOOLS**

210:40-87-5. Charter school application

(a) **Training.** Prior to submission of any additional applications to a proposed sponsor to establish a charter school, the prospective charter school applicant shall complete training as provided by the State Department of Education. The training shall include but not be limited to the following:

- (1) Process and requirements for establishing a charter school
- (2) Relevant Rules and Statutes pertaining to Charter Schools
- (3) Child Nutrition/Free and Reduced Lunch
- (4) Audits/State Aid/OCAS Reporting
- (5) School Personnel/Transportation
- (6) Curriculum/Gifted and Talented/Student Assessment
- (7) The WAVE Requirements
- (8) Open Meeting/Open Records/Ethics
- (9) Special Education

(b) **Establishment of a new charter school.** A new charter school will be considered established when a charter school application complies with 70 O.S. § 3-134 and is approved by the governing board of a sponsoring entity set forth in 70 O.S. § 3-132, or by the State Board of Education following a successful appeal under the procedure established pursuant to state law.

(c) **Processing the receipt of approved charter school applications.** All charter schools established pursuant to 70 O.S. Supp 2007 § 3-132(3)(4) must file charter documents with the State Department of Education, Office of Accreditation Legal Services Section. The following documents must be filed:

- (1) a copy of the sponsor's board minutes approving the charter school application; and
- (2) a copy of the completed charter school application;
- (3) A copy of the approved contract for the new charter school; and
- (4) A letter addressed to the Office of Accreditation that includes the following:
 - (A) A request for the school to be assigned a county code, district code, and site code;
 - (B) The physical and mailing addresses of the charter school;
 - (C) Contact information for the school administrator or a designee;
 - (D) Grades served; and
 - (E) The month and year the charter school will begin operation.

~~(d) **Determining the number of new charter schools.** Determinations regarding the statutory maximum number of new charter schools established annually shall be made by the Oklahoma State Department of Education based upon the order of receipt of the documents referenced in section c of this rule. Funding for a new charter school shall not be allocated if the establishment of a new charter school exceeds the statutory limit referenced in 70 O.S. § 3-142.~~

(d) Application requirements. An applicant seeking to establish a charter school shall submit a written application to the proposed sponsor. The application must include all statutorily required items listed in 70 O.S. § 3-134(B).

(e) School district sponsors. A school district may sponsor a charter school located within the geographic boundaries of the sponsoring district, subject to the virtual education restrictions of 70 O.S. § 3-145.6. Pursuant to 70 O.S. § 3-132(A)(8), an applicant that has been denied a charter by the local school district in which it seeks to operate shall be eligible to appeal to the

State Board of Education under the provisions of 210:40-87-8.

(f) Other sponsors. A non-school-district sponsor shall give priority to applicants that have demonstrated a record of operating at least one school or similar program that demonstrates academic success and organizational viability and serves student populations similar to those the proposed charter school seeks to serve. In making this assessment, a sponsor must consider the statutory factors listed in 70 O.S. § 3-132(C).

(g) Arbitration available if non-school-district sponsor denies application. If a non-school-district sponsor rejects an application which has been revised and re-submitted pursuant to 70 O.S. § 3-134(E), the applicant may proceed to binding arbitration under the commercial rules of the American Arbitration Association. The costs of arbitration will be borne by the proposed sponsor. Arbitration is not available to applicants for charter schools proposed to be sponsored by school district boards of education, which may appeal to the State Board under the provisions of 210:40-87-8 if the proposed district sponsor rejects an application which has been revised pursuant to 70 O.S. § 3-134(E).

210:40-87-7. Charter school contracts [NEW]

(a) Contract requirement. The sponsor of a charter school must enter into a written contract with the governing body of the charter school. The initial contract for sponsorship shall be for a period of five (5) years. The contract must meet all statutory requirements listed in 70 O.S. § 3-135(A). A charter contract may provide for one or more schools by the same applicant, to the extent approved by the sponsor and consistent with applicable law. An applicant or the governing board of an applicant may hold one or more charter contracts. Each charter school that is part of a charter contract shall be separate and distinct from any other charter school under the same charter contract, and the sponsor shall evaluate each charter school's performance separately.

(b) Written procedure for consideration, approval, and disapproval. Sponsors shall establish a written procedure and criteria for accepting, approving, and disapproving charter school applications in accordance with 70 O.S. § 3-134(E). A copy of this procedure and criteria shall be made available on request to charter school applicants, potential applicants, and members of the public.

(c) Performance provisions. Each charter contract shall contain performance provisions based on a performance framework that sets forth the academic and operational performance indicators, measures, and metrics that will guide the sponsor's evaluations of the charter school. The sponsor shall not request any metric or data from a charter school that it does not produce or publish for all school sites in the district or under its sponsorship, unless the metric or data is unique to the charter school. To avoid duplication of administrative efforts, the sponsor shall require that data submitted under the performance provisions must be submitted by the charter school in the exact format required for submission of data to the Oklahoma State Department of Education (OSDE). Alternately, a sponsor may allow a charter school to provide permission to OSDE to share data required by the performance framework with the sponsor of the school. The performance framework must include measures that indicate, at a minimum:

- (1) Student academic proficiency;
- (2) Student academic growth;
- (3) Achievement gaps in both proficiency and growth among major student subgroups;
- (4) Student attendance;
- (5) Recurrent enrollment from year to year as determined by the methodology used for

public schools in Oklahoma;

(6) In the case of high schools, graduation rates as determined by the methodology used for public schools in Oklahoma;

(7) In the case of high schools, postsecondary readiness;

(8) Financial performance and sustainability; and

(9) Governing board performance and stewardship, including compliance with all applicable laws, regulations, and terms of the charter contract.

(d) Copies of all modified contracts to be sent to State Department of Education. A charter school must provide the OSDE Office of Accreditation with a copy of any modified contract within thirty (30) calendar days of execution. The requirement to send a copy of any modified charter contract to the OSDE Office of Accreditation applies to any change in terms, not only to changes that could potentially affect state funding.

210:40-87-8. Appeals for sponsorship to the State Board of Education [NEW]

(a) Circumstances permitting appeal. When an applicant has been denied a charter by the local school district in which it seeks to operate following submission of a revised application, the applicant may apply to the State Board of Education for sponsorship, subject to the limitations on number of State Board sponsored charter schools under 70 O.S. § 3-132(A)(8).

(b) Submission of an appeal to the State Board. A charter school applicant that has been denied a charter by a school district and wishes to appeal to the State Board for sponsorship must submit a request in writing to the Executive Secretary of the Board within thirty (30) days of the denial. In considering whether the conditions for State Board sponsorship have been met, the Board will not conduct a de novo consideration of the application, but will review the record on appeal. The written request submitted by the applicant must therefore include, at a minimum:

(1) The original charter application, the revised application submitted pursuant to 70 O.S. § 3-134(E), and all supporting documentation submitted by the applicant to the sponsor; and

(2) The written record of the local board of education's decision.

(c) Timeframe for hearing appeal. The State Board of Education shall hear the appeal no later than sixty (60) calendar days from the date received by the Executive Secretary. Appeals may be considered at any regular or special meeting of the Board.

(d) Determination of the number of new charter schools sponsored by the State Board. The county code assigned to the school district by the Oklahoma State Department of Education (OSDE) Office of Accreditation shall be the basis for determining whether the district is located in a county with a population of fewer than five hundred thousand (500,000). The State Board is authorized to sponsor no more than five (5) charter schools per year in counties with a population of fewer than five hundred thousand (500,000), with no more than one (1) new charter school sponsored in a single school district per year. Requests for appeal that meet the requirements in subsection (b) shall be scheduled for hearing in the order in which they are received by the Executive Secretary of the State Board. There is no annual limitation on the number of charter schools the State Board is authorized to sponsor in counties with a population greater than five hundred thousand (500,000).

(e) Conditions required for State Board sponsorship. In order to authorize a charter school that has been denied a charter by the local district, the State Board must find evidence of the following:

(1) A thorough and high-quality charter school application from the applicant, based on the authorizing standards in 70 O.S. § 3-134(B);

- (2) A clear demonstration of community support for the charter school; and
- (3) The grounds and basis of objection by the school district for denying the operation of the charter are not supported by the greater weight of evidence and the strength of the application.

210:40-87-9. Applications for renewal of charter school contracts [NEW]

(a) General requirements. All applications for renewal of a charter contract must meet the requirements of 70 O.S. § 3-137. Every charter contract renewed after August 20, 2015, must incorporate the requirements of 70 O.S. § 3-135 as amended by Senate Bill 782 (2015), even if the original contract was entered prior to August 20, 2015. Prior to the beginning of the next-to-last year of operation of a charter school under its existing contract, the sponsor shall issue a charter school performance report and renewal application guidance to the school and the charter school board. Prior to the beginning of the last year of operation under its existing contract, the charter school may apply for renewal of the contract with the sponsor.

(b) Duration of renewed charter contract. A charter contract may be renewed for successive five (5) year terms of duration. The sponsor may also vary the renewal term to a period other than five (5) years based on the performance, demonstrated capacities, and particular circumstances of each charter school. If the sponsor determines that a duration other than five (5) years is appropriate for a renewal contract, the renewal contract shall state the reason(s) for the varied term.

(c) Renewal with conditions. A sponsor may grant renewal with specific conditions for necessary improvements to a charter school. If a sponsor grants a renewal under which specific conditions must be met, the conditions shall be explicitly stated in the renewal contract.

(d) Performance report requirements. A charter school shall have forty-five (45) calendar days to respond to the performance report and submit any corrections or clarifications to the sponsor. The charter school performance report issued by the sponsor prior to the next-to-last year of operation shall provide to the charter school:

- (1) A summary of the performance record of the charter school to date, based on the data required by the Oklahoma Charter Schools Act and the charter contract, and taking into consideration the percentage of at-risk students enrolled in the school; and
- (2) Notice of any weaknesses or concerns perceived by the sponsor that may jeopardize the charter school's position in seeking renewal if not timely rectified.

(e) Renewal application guidance requirements. The renewal application guidance issued by the sponsor to the charter school prior to the next-to-last year of operation shall include or explicitly refer to the criteria that will guide the renewal decisions of the sponsor, which shall be based on the performance framework set forth in the charter contract and consistent with the Oklahoma Charter Schools Act. The renewal application guidance shall, at a minimum, provide an opportunity for the charter school to:

- (1) Present additional evidence, beyond the data contained in the performance report, supporting its case for charter renewal;
- (2) Describe improvements undertaken or planned for the school; and
- (3) Detail the plan for the next charter term for the school.

(f) Guidelines for renewal decisions. A sponsor which does not intend to renew a charter contract must give written notice of its intent to deny a request for renewal at least eight (8) months prior to the expiration of the contract. In making renewal decisions, a sponsor shall:

- (1) Ground decisions on evidence of the school's performance over the term of the charter

- contract, evaluated in accordance with the performance framework set forth in the contract, and taking into consideration the school's percentage of at-risk students;
- (2) Grant renewal to schools that have achieved the standards and performance expectations set forth in the contract, are organizationally and fiscally viable, and have been faithful to the terms of the contract and all applicable laws and administrative rules;
- (3) Ensure that data used in making renewal decisions are available to the school and the public; and
- (4) Provide a public report summarizing the evidence used as the basis for the decision.
- (g) **Binding arbitration upon request of charter school denied renewal.** If a sponsor other than a school district has denied a charter school's request for renewal, the school may request that the governing board of the sponsor proceed to binding arbitration as provided for in 70 O.S. § 3-134(G). If a school district sponsor has denied a charter school's request for renewal, the school may appeal to the State Board of Education under the procedure set forth in 210:40-87-8.

RULE IMPACT STATEMENT

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 40. GRANTS AND PROGRAMS-IN-AID SUBCHAPTER 87. RULES FOR PAYMENTS TO CHARTER SCHOOLS

- a. **What is the purpose of the proposed rule change?**
Updates to the charter school rules are required due to extensive statutory changes. Senate Bill 782 (2015) made several changes to the Oklahoma Charter Schools Act, including adding authorized sponsors and laying out detailed application and contract requirements. The rule update adds guidance on the new provisions, and establishes a procedure for submitting a sponsorship appeal to the State Board of Education if a school district has denied a proposed charter school's application for sponsorship. The update also adds guidelines for renewing an existing charter school contract.
- b. **What classes of persons will be affected by the proposed rule change and what classes of persons will bear the costs of the proposed rule change?**
The proposed changes will affect charter schools, applicants for charter school sponsorship, and authorized sponsors including school districts.
- c. **What classes of persons will benefit from the proposed rule change?**
The proposed changes will benefit charter schools, applicants for charter school sponsorship, and authorized sponsors including school districts.
- d. **What is the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions?**
The agency does not anticipate any economic impact upon affected classes of persons or political subdivisions as a result of implementation of the proposed rule change at this time.
- e. **What is the probable cost to the agency to implement and enforce the proposed rule change?**
The agency does not anticipate any cost to the agency to implement and enforce as a result of the proposed change in the rule at this time. Additional record keeping, if any, will be performed by existing staff.
- f. **What is the economic impact on any political subdivision to implement the proposed rule change?**
The agency does not anticipate any economic impact on any political subdivision to implement the proposed rule change at this time.
- g. **Will implementing the rule change have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act?**
The agency does not anticipate any adverse economic impact on small business as a result of the proposed rule change at this time.
- h. **Are there any other methods which are less costly, nonregulatory, or less intrusive to achieve the purpose of the proposed rule change?**
No.
- i. **Will the rule change impact the public health, safety, and environment, and is the change designed to reduce significant risks to the public health, safety, and**

environment? If so, explain nature of risk and to what extent the proposed rule change will reduce the risk.

The agency does not anticipate any impact on public health, safety, or environment as a result of implementation of the proposed rule at this time.

j. **What detrimental effect will there be on the public health, safety, and environment if the rule change is not implemented?**

The agency does not anticipate any detrimental effect on public health, safety, or environment as a result of failure to implement the proposed rule at this time.

k. **Date Prepared:** December 7, 2015

Public Comment Summary
State Department of Education Proposed Permanent Rule Changes
Chapter 40. Grants and Programs-in-Aid
Subchapter 87. Rules for Payments to Charter Schools

- 210:40-87-5. Charter school application [AMENDED]**
210:40-87-7. Charter school contracts [NEW]
210:40-87-8. Appeals for sponsorship to the State Board of Education [NEW]
210:40-87-9. Applications for renewal of charter school contracts [NEW]

Summary of Public Comment	Agency Response
<p>Comment notes that "the current law would allow schools that do not currently receive state aid, commonly referred to as schools 'off the formula', to could choose to convert an existing school to a charter school and receive state aid while also keeping the ad valorem and/or other revenue that currently offsets their state aid allocation. This may be an unavoidable consequence of the legislation...but we recommend that the rules clarify whether this practice is acceptable under current law."</p>	<ul style="list-style-type: none"> • The agency is not proposing rules specific to conversion charter schools at this time. There are unresolved issues regarding the legislature's intent for conversion charter schools, as well as basic questions of logistics, and these issues may be addressed more clearly by legislative amendments. • OSDE anticipates rulemaking in the specific area of conversion charter schools once guidelines for this type of school are clarified in statute.
<p>Commenter believes "the rules should more clearly outline the process for appeals should a charter school applicant choose to appeal a decision to the State Board of Education." Comment refers to a Florida court case in which a school board argued the charter appeals process was not clearly defined.</p>	<ul style="list-style-type: none"> • While the agency is open to expanding the appeals framework in 210:40-87-8 in the future if the need emerges, the process currently proposed is intended to meet the requirements of the Charter Schools Act while ensuring no additional barriers are placed in front of a charter school applicant who wishes to appeal denial of sponsorship by a school district.
<p>"Much of what is being proposed in the rules to be adopted by the State Board of Education already exists in Oklahoma statute at the locations referenced throughout the proposed rules. There is no need to regurgitate statute by placing current Oklahoma law into an accreditation standard for Oklahoma's public schools. Oklahoma's public schools are already required to comply with statute."</p>	<ul style="list-style-type: none"> • One of the purposes of administrative rules is to provide clarification and guidance regarding the application of statutes. While it is true that public schools are already subject to statutory requirements, the agency expends a great deal of time responding to questions from districts and other stakeholders about statutory meaning and application. It is to everyone's benefit when some of these clarifications can be made in rule. • The charter rules update includes relevant

	<p>statutory requirements in the topical content sections for the convenience of users consulting the administrative rules for guidance.</p>
<p>Comment requests modification of language in the final clause of 210:40-87-5(b) to eliminate specific reference to 70 O.S. § 132(A)(8) in favor of a general reference to state law, since the cited reference does not address appeals.</p>	<ul style="list-style-type: none"> • The agency has incorporated the suggested change.
<p>Comment suggests the addition of "a timeline for appeals" to 210:40-87-8(b), and recommends an appeal request should be submitted "within 30 days of the denial."</p>	<ul style="list-style-type: none"> • The agency has incorporated the suggested change.
<p>Comment suggests the addition of a timeline "into 210:40-87-9 with regard to when applications for renewal of charter schools must be submitted", with the language "<u>No sooner than twelve months and no later than nine months</u> prior to the beginning of the last year of operation under its existing contract, the charter school may apply for renewal of the contract with the sponsor."</p>	<ul style="list-style-type: none"> • Because the renewal request submitted to a sponsor is under the authority of the charter sponsor rather than the State Board, the agency is not currently recommending the imposition of a specific time limit for renewal requests. The Charter Schools Act does not impose a time limitation other than "prior to the beginning of the [final] year of operation" on these renewal requests (70 O.S. § 3-137(C)(1)), and at this time the agency has not received information from charter schools or sponsors indicating a need or desire for limiting the renewal window to 3 months.

An Act

ENROLLED SENATE
BILL NO. 782

By: Jolley, Loveless and
Griffin of the Senate

and

Denney and Jordan of the
House

An Act relating to charter schools; amending 70 O.S. 2011, Sections 3-132, as last amended by Section 1, Chapter 212, O.S.L. 2013, 3-134, 3-135, 3-137, 3-140, as last amended by Section 2, Chapter 212, O.S.L. 2013 and 3-142, as amended by Section 3, Chapter 212, O.S.L. 2013 (70 O.S. Supp. 2014, Sections 3-132, 3-140 and 3-142), which relate to the Oklahoma Charter Schools Act; modifying list of authorized sponsors of charter schools; deleting certain conditions on certain sponsors; allowing the State Board of Education to sponsor charter schools under certain conditions; mandating that priority be given to certain charter schools serving certain students; mandating that priority be given to charter school applicants that meet certain conditions; listing factors for approving a new site or school; modifying definition; adding definition; adding information to be included in the charter school application; limiting location of certain charter schools; allowing for an appeal of a rejected application to the State Board of Education; deleting mediation and arbitration criteria; providing for certain type of binding arbitration for certain applicants; stating powers and duties of a sponsor; directing sponsors to establish procedures for accepting, approving and disapproving applications; requiring sponsors to develop and maintain chartering policies and practices that are consistent with certain principles and standards; limiting liability of sponsors; adding

provisions required in the charter contract;
prohibiting a charter school from serving students without a contract; allowing sponsors to establish preopening requirements and conditions; specifying basis for performance provisions of a contract; allowing submission of data in certain format; listing performance framework categories; limiting requests for metric or data; allowing applicants and sponsors to have multiple contracts or one contract for multiple schools; allowing for renewal for successive terms; requiring sponsors to issue performance reports and application renewal guidance before a certain time; specifying contents of performance reports; listing steps to be allowed under the application renewal guidance; requiring the application renewal guidance to include certain criteria; requiring charter renewal decisions to include certain criteria and actions; deleting certain mediation option; directing the State Board of Education to identify certain charter schools by school grades; allowing closure of a charter school identified at bottom of ranking; providing process for ranking under certain conditions; providing for review of sponsor's decision by the State Board of Education and implementation of certain options; prohibiting charters by other sponsors for certain closed charter schools; exempting certain charter schools from closure requirements; listing considerations for closure; providing for suspension of certain charter school authorization; providing protocol for closing a charter school; directing sponsors to develop revocation and nonrenewal processes; requiring sponsors to state reasons for revocation or nonrenewal in a resolution; requiring review of certain charter school proposal by the Board; updating statutory language; prohibiting the sponsor of a charter school from restricting the number of students enrolled in a charter school; requiring the governing body of the charter school to determine capacity; specifying considerations; modifying type of funds that may be reserved; prohibiting charter schools from levying taxes or

issuing bonds; allowing a charter school to enter into private contracts for certain purposes; and establishing responsibility for debt.

SUBJECT: Charter schools

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 70 O.S. 2011, Section 3-132, as last amended by Section 1, Chapter 212, O.S.L. 2013 (70 O.S. Supp. 2014, Section 3-132), is amended to read as follows:

Section 3-132. A. The Oklahoma Charter Schools Act shall apply only to charter schools formed and operated under the provisions of the act. Charter schools shall be sponsored only as follows:

1. By a any school district with an average daily membership of five thousand (5,000) or more and which all or part of the school district is located in a county having more than five hundred thousand (500,000) population according to the latest Federal Decennial Census in the State of Oklahoma, provided such charter school shall only be located within the geographical boundaries of the sponsoring district and subject to the restrictions of Section 3-145.6 of this title;

2. ~~By a school district which has a school site that has been identified as in need of improvement by the State Board of Education pursuant to the Elementary and Secondary Education Act of 1965, as amended or reauthorized;~~

~~3. By a technology center school district if the charter school is located in a school district served by the technology center school district and the school district has an average daily membership of five thousand (5,000) or more and in which all or part of the school district is located in a county having more than five hundred thousand (500,000) population according to the latest Federal Decennial Census;~~

~~4.~~ 3. By a technology center school district if the charter school is located in a school district served by the technology center school district and the school district has a school site that has been identified as in need of improvement by the State Board of Education pursuant to the Elementary and Secondary Education Act of 1965, as amended or reauthorized;

~~5.~~ 4. By a an accredited comprehensive or regional institution that is a member of The Oklahoma State System of Higher Education or a community college if the charter school is located in a school district ~~that has an average daily membership of five thousand (5,000) or more and~~ in which all or part of the school district is located in a county having more than five hundred thousand (500,000) population according to the latest Federal Decennial Census.—~~In addition, the institution shall have a teacher education program accredited by the Oklahoma Commission for Teacher Preparation and have a branch campus or constituent agency physically located within the school district in which the charter school is located;~~

~~6.~~ 5. By a comprehensive or regional institution that is a member of The Oklahoma State System of Higher Education if the charter school is located in a school district that has a school site that has been identified as in need of improvement by the State Board of Education pursuant to the Elementary and Secondary Education Act of 1965, as amended or reauthorized. In addition, the institution shall have a teacher education program accredited by the Oklahoma Commission for Teacher Preparation and have a branch campus or constituent agency physically located within the school district in which the charter school is located in the State of Oklahoma;

~~7.~~ 6. By a federally recognized Indian tribe, operating a high school under the authority of the Bureau of Indian Affairs as of November 1, 2010, if the charter school is for the purpose of demonstrating native language immersion instruction, and is located within its former reservation or treaty area boundaries. For purposes of this paragraph, native language immersion instruction shall require that educational instruction and other activities conducted at the school site are primarily conducted in the native language; ~~or~~

~~8.~~ 7. By the State Board of Education when the applicant of the charter school is the Office of Juvenile Affairs or the applicant

has a contract with the Office of Juvenile Affairs to provide a fixed rate level E, D, or D+ group home service and the charter school is for the purpose of providing education services to youth in the custody or supervision of the state. Not more than two charter schools shall be sponsored by the Board as provided for in this paragraph during the period of time beginning July 1, 2010, through July 1, 2016; or

8. By the State Board of Education when the applicant has first been denied a charter by the local school district in which it seeks to operate. In counties with fewer than five hundred thousand (500,000) population, according to the latest Federal Decennial Census, the State Board of Education shall not sponsor more than five charter schools per year each year for the first five (5) years after the effective date of this act, with not more than one charter school sponsored in a single school district per year. In order to authorize a charter school under this section, the State Board of Education shall find evidence of all of the following:

- a. a thorough and high-quality charter school application from the applicant based on the authorizing standards in subsection B of Section 3-134 of this title,
- b. a clear demonstration of community support for the charter school, and
- c. the grounds and basis of objection by the school district for denying the operation of the charter are not supported by the greater weight of evidence and the strength of the application.

B. An eligible non-school-district sponsor shall give priority to opening charter schools that serve at-risk student populations or students from low-performing traditional public schools.

C. An eligible non-school-district sponsor shall give priority to applicants that have demonstrated a record of operating at least one school or similar program that demonstrates academic success and organizational viability and serves student populations similar to those the proposed charter school seeks to serve. In assessing the potential for quality replication of a charter school, a sponsor

shall consider the following factors before approving a new site or school:

1. Evidence of a strong and reliable record of academic success based primarily on student performance data, as well as other viable indicators, including financial and operational success;

2. A sound, detailed, and well-supported growth plan;

3. Evidence of the ability to transfer successful practices to a potentially different context that includes reproducing critical cultural, organizational and instructional characteristics;

4. Any management organization involved in a potential replication is fully vetted, and the academic, financial and operational records of the schools it operates are found to be satisfactory;

5. Evidence the program seeking to be replicated has the capacity to do so successfully without diminishing or putting at risk its current operations; and

6. A financial structure that ensures that funds attributable to each charter school within a network and required by law to be utilized by a school remain with and are used to benefit that school.

D. For purposes of the Oklahoma Charter Schools Act, "charter school" means a public school established by contract with a board of education of a school district, a conversion charter school, an area vocational-technical school district, a higher education institution, a federally recognized Indian tribe, or the State Board of Education pursuant to the Oklahoma Charter Schools Act to provide learning that will improve student achievement and as defined in the Elementary and Secondary Education Act of 1965, 20 U.S.C. 8065.

~~C.~~ E. For the purposes of the Oklahoma Charter Schools Act, "conversion charter school" means a charter school created by converting all or any part of a traditional public school into a charter school which may be operated by the school district board of education or by an independent operating board elected by and accountable to the school district board of education.

F. A charter school may consist of a new school site, new school sites or all or any portion of an existing school site. An entire school district may not become a charter school site.

SECTION 2. AMENDATORY 70 O.S. 2011, Section 3-134, is amended to read as follows:

Section 3-134. A. For written applications filed after January 1, 2008, prior to submission of the application to a proposed sponsor seeking to establish a charter school, the applicant shall be required to complete training which shall not exceed ten (10) hours provided by the State Department of Education on the process and requirements for establishing a charter school. The Department shall develop and implement the training by January 1, 2008. The Department may provide the training in any format and manner that the Department determines to be efficient and effective including, but not limited to, web-based training.

B. Except as otherwise provided for in Section 3-137 of this title, an applicant seeking to establish a charter school shall submit a written application to the proposed sponsor as prescribed in subsection E of this section. The application shall include:

1. A mission statement for the charter school;
2. A description including, but not limited to, background information of the organizational structure and the governing body of the charter school;
3. A financial plan for the first ~~three (3)~~ five (5) years of operation of the charter school and a description of the treasurer or other officers or persons who shall have primary responsibility for the finances of the charter school. Such person shall have demonstrated experience in school finance or the equivalent thereof;
4. A description of the hiring policy of the charter school;
5. The name of the applicant or applicants and requested sponsor;

6. A description of the facility and location of the charter school;
7. A description of the grades being served;
8. An outline of criteria designed to measure the effectiveness of the charter school;
9. A demonstration of support for the charter school from residents of the school district which may include but is not limited to a survey of the school district residents or a petition signed by residents of the school district; ~~and~~
10. Documentation that the applicants completed charter school training as set forth in subsection A of this section;
11. A description of the minimum and maximum enrollment planned per year for each term of the charter contract;
12. The proposed calendar for the charter school and sample daily schedule;
13. Unless otherwise authorized by law or regulation, a description of the academic program aligned with state standards;
14. A description of the instructional design of the charter school, including the type of learning environment, class size and structure, curriculum overview and teaching methods;
15. The plan for using internal and external assessments to measure and report student progress on the performance framework developed by the applicant in accordance with subsection C of Section 3-135 of this title;
16. The plans for identifying and successfully serving students with disabilities, students who are English language learners and students who are academically behind;
17. A description of cocurricular or extracurricular programs and how they will be funded and delivered;

18. Plans and time lines for student recruitment and enrollment, including lottery procedures;

19. The student discipline policies for the charter school, including those for special education students;

20. An organizational chart that clearly presents the organizational structure of the charter school, including lines of authority and reporting between the governing board, staff, any related bodies such as advisory bodies or parent and teacher councils and any external organizations that will play a role in managing the school;

21. A clear description of the roles and responsibilities for the governing board, the leadership and management team for the charter school and any other entities shown in the organizational chart;

22. The leadership and teacher employment policies for the charter school;

23. Proposed governing bylaws;

24. Explanations of any partnerships or contractual partnerships central to the operations or mission of the charter school;

25. The plans for providing transportation, food service and all other significant operational or ancillary services;

26. Opportunities and expectations for parental involvement;

27. A detailed school start-up plan that identifies tasks, time lines and responsible individuals;

28. A description of the financial plan and policies for the charter school, including financial controls and audit requirements;

29. A description of the insurance coverage the charter school will obtain;

30. Start-up and five-year budgets with clearly stated assumptions;

31. Start-up and first-year cash-flow projections with clearly stated assumptions;

32. Evidence of anticipated fundraising contributions, if claimed in the application;

33. A sound facilities plan, including backup or contingency plans if appropriate;

34. A requirement that the charter school governing board meet at a minimum quarterly in the state and that for those charter schools outside of counties with a population of five hundred thousand (500,000) or more, that a majority of members are residents within the geographic boundary of the sponsoring entity; and

35. A requirement that the charter school follow the requirements of the Oklahoma Open Meeting Act and Oklahoma Open Records Act.

C. A board of education of a public school district, public body, public or private college or university, private person, or private organization may contract with a sponsor to establish a charter school. A private school shall not be eligible to contract for a charter school under the provisions of the Oklahoma Charter Schools Act.

D. The sponsor of a charter school is the board of education of a school district, the board of education of a technology center school district, a higher education institution, the State Board of Education, or a federally recognized Indian tribe which meets the criteria established in Section 3-132 of this title. Any board of education of a school district in the state may sponsor one or more charter schools. The physical location of a charter school sponsored by a board of education of a school district or a technology center school district shall be within the boundaries of the sponsoring school district. The physical location of a charter school sponsored by the State Board of Education when the applicant of the charter school is the Office of Juvenile Affairs shall be where an Office of Juvenile Affairs facility for youth is located.

The physical location of a charter school otherwise sponsored by the State Board of Education pursuant to paragraph 8 of subsection A of Section 3-132 of this title shall be in the school district in which the application originated.

E. An applicant for a charter school may submit an application to a proposed sponsor which shall either accept or reject sponsorship of the charter school within ninety (90) days of receipt of the application. If the proposed sponsor rejects the application, it shall notify the applicant in writing of the reasons for the rejection. The applicant may submit a revised application for reconsideration to the proposed sponsor within thirty (30) days after receiving notification of the rejection. The proposed sponsor shall accept or reject the revised application within thirty (30) days of its receipt. Should the sponsor reject the application on reconsideration, the applicant may appeal the decision to the State Board of Education with the revised application for review pursuant to paragraph 8 of subsection A of Section 3-132 of this title. The State Board of Education shall hear the appeal no later than sixty (60) days from the date received by the Board.

F. A board of education of a school district, board of education of a technology center school district, higher education institution, or federally recognized Indian tribe sponsor of a charter school shall notify the State Board of Education when it accepts sponsorship of a charter school. The notification shall include a copy of the charter of the charter school.

~~G. If a proposed sponsor rejects the revised application for a charter school, the applicant may proceed to mediation or binding arbitration or both mediation and binding arbitration as provided in the Dispute Resolution Act and the rules promulgated pursuant thereto. The applicant shall contact the early settlement program for the county in which the charter school would be located. If the parties proceed to binding arbitration, a panel of three arbitrators shall be appointed by the director of the early settlement program handling the dispute. The proposed sponsor shall pay the cost for any mediation or arbitration requested pursuant to this section~~
Applicants for charter schools proposed to be sponsored by an entity other than a school district pursuant to paragraph 1 of subsection A of Section 3-132 of this title may, upon rejection of the revised application, proceed to binding arbitration under the commercial

rules of the American Arbitration Association with costs of the arbitration to be borne by the proposed sponsor. Applicants for charter schools proposed to be sponsored by school districts pursuant to paragraph 1 of subsection A of Section 3-132 of this title may not proceed to binding arbitration but may be sponsored by the State Board of Education as provided in paragraph 8 of subsection A of Section 3-132 of this title.

H. If a board of education of a technology center school district, a higher education institution, the State Board of Education, or a federally recognized Indian tribe accepts sponsorship of a charter school, the administrative, fiscal and oversight responsibilities of the technology center school district, the higher education institution, or the federally recognized Indian tribe shall be listed in the contract. No responsibilities shall be delegated to a school district unless the local school district agrees to assume the responsibilities.

I. A sponsor of a public charter school shall have the following powers and duties:

1. Provide oversight of the operations of charter schools in the state through annual performance reviews of charter schools and reauthorization of charter schools for which it is a sponsor;

2. Solicit and evaluate charter applications;

3. Approve quality charter applications that meet identified educational needs and promote a diversity of educational choices;

4. Decline to approve weak or inadequate charter applications;

5. Negotiate and execute sound charter contracts with each approved public charter school;

6. Monitor, in accordance with charter contract terms, the performance and legal compliance of charter schools; and

7. Determine whether each charter contract merits renewal, nonrenewal or revocation.

J. Sponsors shall establish a procedure for accepting, approving and disapproving charter school applications in accordance with subsection E of this section.

K. Sponsors shall be required to develop and maintain chartering policies and practices consistent with recognized principles and standards for quality charter authorizing as established by the State Department of Education in all major areas of authorizing responsibility, including organizational capacity and infrastructure, soliciting and evaluating charter applications, performance contracting, ongoing charter school oversight and evaluation and charter renewal decision-making.

L. Sponsors acting in their official capacity shall be immune from civil and criminal liability with respect to all activities related to a charter school with which they contract.

SECTION 3. AMENDATORY 70 O.S. 2011, Section 3-135, is amended to read as follows:

Section 3-135. A. The sponsor of a charter school shall enter into a written contract with the governing body of the charter school. The contract shall incorporate the provisions of the charter of the charter school and contain, but shall not be limited to, the following provisions:

1. A description of the program to be offered by the school which complies with the purposes outlined in Section ~~11 of this act~~ 3-136 of this title;

2. Admission policies and procedures;

3. Management and administration of the charter school, including that a majority of the charter governing board members are residents of the State of Oklahoma and meet no less than quarterly in a public meeting within the boundaries of the school district in which the charter school is located or within the State of Oklahoma in the instance of multiple charter school locations by the same sponsor;

4. Requirements and procedures for program and financial audits;

5. A description of how the charter school will comply with the charter requirements set forth in the Oklahoma Charter Schools Act;

6. Assumption of liability by the charter school; and

7. The term of the contract;

8. A description of the high standards of expectation and rigor for charter school plans and assurance that charter school plans adopted meet at least those standards;

9. Policies that require that the charter school be as equally free and open to all students as traditional public schools;

10. Procedures that require students enrolled in the charter school to be selected by lottery to ensure fairness if more students apply than a school has the capacity to accommodate;

11. Policies that require the charter school to be subject to the same academic standards and expectations as existing public schools; and

12. A description of the requirements and procedures for the charter school to receive funding in accordance with statutory requirements and guidelines for existing public schools.

B. A charter school shall not enter into an employment contract with any teacher or other personnel until the charter school has a contract with a sponsoring school district. The employment contract shall set forth the personnel policies of the charter school, including, but not limited to, policies related to certification, professional development evaluation, suspension, dismissal and nonreemployment, sick leave, personal business leave, emergency leave, and family and medical leave. The contract shall also specifically set forth the salary, hours, fringe benefits, and work conditions. The contract may provide for employer-employee bargaining, but the charter school shall not be required to comply with the provisions of Sections 509.1 through 509.10 of ~~Title 70 of the Oklahoma Statutes~~ this title. The contract shall conform to all applicable provisions set forth in Section ~~11 of this act~~ 3-136 of this title.

Upon contracting with any teacher or other personnel, the governing body of the charter school shall, in writing, disclose employment rights of the employees in the event the charter school closes or the charter is not renewed.

No charter school may begin serving students without a charter contract executed in accordance with the provisions of the Oklahoma Charter Schools Act and approved in an open meeting of the sponsor. The sponsor may establish reasonable preopening requirements or conditions to monitor the start-up progress of newly approved charter schools and ensure that each school is prepared to open smoothly on the date agreed and to ensure that each school meets all building, health, safety, insurance and other legal requirements for the opening of a school.

C. The performance provisions within the charter contract shall be based on a performance framework that clearly sets forth the academic and operational performance indicators, measures and metrics that will guide the evaluations of the charter school by the sponsor. The sponsor shall require a charter school to submit the data required in this section in the identical format that is required by the State Department of Education of all public schools in order to avoid duplicative administrative efforts or allow a charter school to provide permission to the Department to share all required data with the sponsor of the charter school. The performance framework shall include indicators, measures and metrics for, at a minimum:

1. Student academic proficiency;
2. Student academic growth;
3. Achievement gaps in both proficiency and growth between major student subgroups;
4. Student attendance;
5. Recurrent enrollment from year to year as determined by the methodology used for public schools in Oklahoma;

6. In the case of high schools, graduation rates as determined by the methodology used for public schools in Oklahoma;

7. In the case of high schools, postsecondary readiness;

8. Financial performance and sustainability; and

9. Governing board performance and stewardship, including compliance with all applicable laws, regulations and terms of the charter contract.

D. The sponsor shall not request any metric or data from a charter school that it does not produce or publish for all school sites in the district or under its sponsorship, unless the metric or data is unique to a charter school.

E. A charter contract may provide for one or more schools by an applicant to the extent approved by the sponsor and consistent with applicable law. An applicant or the governing board of an applicant may hold one or more charter contracts. Each charter school that is part of a charter contract shall be separate and distinct from any other charter school under the same charter contract.

SECTION 4. AMENDATORY 70 O.S. 2011, Section 3-137, is amended to read as follows:

Section 3-137. A. An approved contract for a charter school shall be effective for ~~not longer than~~ five (5) years from the first day of operation. A charter contract may be renewed for successive five-year terms of duration, although the sponsor may vary the term based on the performance, demonstrated capacities and particular circumstances of each charter school. A sponsor may grant renewal with specific conditions for necessary improvements to a charter school.

B. Prior to the beginning of the fourth year of operation of a charter school, the sponsor shall issue a charter school performance report and charter renewal application guidance to the school and the charter school board. The performance report shall summarize the performance record to date of the charter school, based on the data required by the Oklahoma Charter Schools Act and the charter contract and taking into consideration the percentage of at-risk

students enrolled in the school, and shall provide notice of any weaknesses or concerns perceived by the sponsor concerning the charter school that may jeopardize its position in seeking renewal if not timely rectified. The charter school shall have forty-five (45) days to respond to the performance report and submit any corrections or clarifications for the report.

C. 1. Prior to the beginning of the fifth year of operation, the charter school may apply for renewal of the contract with the sponsor. The renewal application guidance shall, at a minimum, provide an opportunity for the charter school to:

- a. present additional evidence, beyond the data contained in the performance report, supporting its case for charter renewal,
- b. describe improvements undertaken or planned for the school, and
- c. detail the plan for the next charter term for the school.

2. The renewal application guidance shall include or refer explicitly to the criteria that will guide the renewal decisions of the sponsor, which shall be based on the performance framework set forth in the charter contract and consistent with the Oklahoma Charter Schools Act.

D. The sponsor may deny the request for renewal if it determines the charter school has failed to complete the obligations of the contract or comply with the provisions of the Oklahoma Charter Schools Act. A sponsor shall give written notice of its intent to deny the request for renewal at least eight (8) months prior to expiration of the contract. In making charter renewal decisions, a sponsor shall:

1. Ground decisions on evidence of the performance of the school over the term of the charter contract in accordance with the performance framework set forth in the charter contract and shall take into consideration the percentage of at-risk students enrolled in the school;

2. Grant renewal to schools that have achieved the standards, targets and performance expectations as stated in the charter contract and are organizationally and fiscally viable and have been faithful to the terms of the contract and applicable law;

3. Ensure that data used in making renewal decisions are available to the school and the public; and

4. Provide a public report summarizing the evidence used as the basis for each decision.

B. E. If a sponsor denies a request for renewal, the governing board of the sponsor may, if requested by the charter school, proceed to ~~mediation or binding arbitration or both~~ as provided for in subsection G of Section 3-134 of this title.

C. F. A sponsor may terminate a contract during the term of the contract for failure to meet the requirements for student performance contained in the contract, failure to meet the standards of fiscal management, violations of the law, or other good cause. The sponsor shall give at least ninety (90) days' written notice to the governing board prior to terminating the contract. The governing board may request, in writing, an informal hearing before the sponsor within fourteen (14) days of receiving notice. The sponsor shall conduct an informal hearing before taking action. If a sponsor decides to terminate a contract, the governing board may, if requested by the charter school, proceed to ~~mediation or binding arbitration or both~~ as provided for in subsection G of Section 3-134 of this title.

D. G. 1. Beginning in the 2016-2017 school year, the State Board of Education shall identify charter schools in the state that are ranked in the bottom five percent (5%) of all public schools as determined pursuant to Section 1210.545 of this title.

2. At the time of its charter renewal, based on an average of the current year and the two (2) prior operating years, a sponsor may close a charter school site identified as being among the bottom five percent (5%) of public schools in the state. The average of the current year and two (2) prior operating years shall be calculated by using the percentage ranking for each year divided by three, as determined by this subsection.

3. If there is a change to the calculation described in Section 1210.545 of this title that results in a charter school site that was not ranked in the bottom five percent (5%) being ranked in the bottom five percent (5%), then the sponsor shall use the higher of the two rankings to calculate the ranking of the charter school site.

4. In the event that a sponsor fails to close a charter school site consistent with this subsection, the sponsor shall appear before the State Board of Education to provide support for its decision. The State Board of Education may, by majority vote, uphold or overturn the decision of the sponsor. If the decision of the sponsor is overturned by the State Board of Education, the Board may implement one of the following actions:

- a. transfer the sponsorship of the charter school identified in this paragraph to another sponsor,
- b. order the closure of the charter school identified in this paragraph at the end of the current school year, or
- c. order the reduction of any administrative fee collected by the sponsor that is applicable to the charter school identified in this paragraph. The reduction shall become effective at the beginning of the month following the month the hearing of the sponsor is held by the State Board of Education.

5. A charter school that is closed by the State Board of Education pursuant to paragraph 4 of this subsection shall not be granted a charter by any other sponsor.

6. The requirements of this subsection shall not apply to a charter school that has been designed by the State Department of Education as implementing an alternative education program throughout the charter school.

7. In making a school site closure decision, the State Board of Education shall consider the following:

- a. enrollment of students with special challenges such as drug or alcohol addiction, prior withdrawal from school, prior incarceration or other special circumstances,
- b. high mobility of the student population resulting from the specific purpose of the charter school,
- c. annual improvement in the performance of students enrolled in the charter school compared with the performance of students enrolled in the charter school in the immediately preceding school year, and
- d. whether a majority of students attending the charter school under consideration for closure would likely revert to attending public schools with lower academic achievement, as demonstrated pursuant to Section 1210.545 of this title.

8. If the State Board of Education has closed or transferred authorization of at least twenty-five percent (25%) of the charter schools chartered by one sponsor pursuant to paragraph 4 of this subsection, the authority of the sponsor to authorize new charter schools may be suspended by the Board until the Board approves the sponsor to authorize new charter schools. A determination under this paragraph to suspend the authority of a sponsor to authorize new charter schools shall identify the deficiencies that, if corrected, will result in the approval of the sponsor to authorize new charter schools.

H. If a sponsor terminates a contract or the charter school is closed, the closure shall be conducted in accordance with the following protocol:

1. Within two (2) calendar weeks of a final closure determination, the sponsor shall meet with the governing board and leadership of the charter school to establish a transition team composed of school staff, applicant staff and others designated by the applicant that will attend to the closure, including the transfer of students, student records and school funds;

2. The sponsor and transition team shall communicate regularly and effectively with families of students enrolled in the charter school, as well as with school staff and other stakeholders, to keep them apprised of key information regarding the closure of the school and their options and risks;

3. The sponsor and transition team shall ensure that current instruction of students enrolled in the charter school continues per the charter agreement for the remainder of the school year;

4. The sponsor and transition team shall ensure that all necessary and prudent notifications are issued to agencies, employees, insurers, contractors, creditors, debtors and management organizations; and

5. The governing board of the charter school shall continue to meet as necessary to take actions needed to wind down school operations, manage school finances, allocate resources and facilitate all aspects of closure.

I. A sponsor shall develop revocation and nonrenewal processes that are consistent with the Oklahoma Charter Schools Act and that:

1. Provide the charter school with a timely notification of the prospect of revocation or nonrenewal and of the reasons for possible closure;

2. Allow the charter school a reasonable amount of time in which to prepare a response;

3. Provide the charter school with an opportunity to submit documents and give testimony in a public hearing challenging the rationale for closure and in support of the continuation of the school at an orderly proceeding held for that purpose and prior to taking any final nonrenewal or revocation decision related to the school;

4. Allow the charter school access to representation by counsel to call witnesses on its behalf;

5. Permit the recording of the proceedings; and

6. After a reasonable period for deliberation, require a final determination be made and conveyed in writing to the charter school.

J. If a sponsor revokes or does not renew a charter, the sponsor shall clearly state in a resolution the reasons for the revocation or nonrenewal.

K. 1. Before a sponsor may issue a charter to a charter school governing body that has had its charter terminated or has been informed that its charter will not be renewed by the current sponsor, the sponsor shall request to have the proposal reviewed by the State Board of Education at a hearing. The State Board of Education shall conduct a hearing in which the sponsor shall present information indicating that the proposal of the organizer is substantively different in the areas of deficiency identified by the current sponsor from the current proposal as set forth within the charter with its current sponsor.

2. After the State Board of Education conducts a hearing pursuant to this subsection, the Board shall either approve or deny the proposal.

3. If the proposal is denied, no sponsor may issue a charter to the charter school governing body.

L. If a contract is not renewed, the governing board of the charter school may submit an application to a proposed new sponsor as provided for in Section 3-134 of this title.

E. M. If a contract is not renewed or is terminated according to this section, a student who attended the charter school may enroll in the resident school district of the student or may apply for a transfer in accordance with Section 8-103 of this title.

SECTION 5. AMENDATORY 70 O.S. 2011, Section 3-140, as last amended by Section 2, Chapter 212, O.S.L. 2013 (70 O.S. Supp. 2014, Section 3-140), is amended to read as follows:

Section 3-140. A. Except for a charter school sponsored by the State Board of Education, a charter school shall enroll those students whose legal residence is within the boundaries of the school district in which the charter school is located and who

submit a timely application, or those students who transfer to the district in which the charter school is located in accordance with Section 8-103 or 8-104 of this title, unless the number of applications exceeds the capacity of a program, class, grade level, or building. Students who reside in a school district where a charter school is located shall not be required to obtain a transfer in order to attend a charter school in the school district of residence. If capacity is insufficient to enroll all eligible students, the charter school shall select students through a lottery selection process. Except for a charter school sponsored by the State Board of Education, a charter school shall give enrollment preference to eligible students who reside within the boundaries of the school district in which the charter school is located. Except for a charter school sponsored by the State Board of Education, a charter school created after ~~the effective date of this act~~ November 1, 2010, shall give enrollment preference to eligible students who reside within the boundaries of the school district in which the charter school is located and who attend a school site that has been identified as in need of improvement by the State Board of Education pursuant to the Elementary and Secondary Education Act of 1965, as amended or reauthorized. A charter school may limit admission to students within a given age group or grade level. A charter school sponsored by the State Board of Education when the applicant of the charter school is the Office of Juvenile Affairs shall limit admission to youth that are in the custody or supervision of the Office of Juvenile Affairs.

B. Except for a charter school sponsored by the State Board of Education, a charter school shall admit students who reside in the attendance area of a school or in a school district that is under a court order of desegregation or that is a party to an agreement with the United States Department of Education Office for Civil Rights directed towards mediating alleged or proven racial discrimination unless notice is received from the resident school district that admission of the student would violate the court order or agreement.

C. A charter school may designate a specific geographic area within the school district in which the charter school is located as an academic enterprise zone and may limit admissions to students who reside within that area. An academic enterprise zone shall be a geographic area in which sixty percent (60%) or more of the children

who reside in the area qualify for the free or reduced school lunch program.

D. Except as provided in subsections B and C of this section, a charter school shall not limit admission based on ethnicity, national origin, gender, income level, disabling condition, proficiency in the English language, measures of achievement, aptitude, or athletic ability.

E. A sponsor of a charter school shall not restrict the number of students a charter school may enroll. The capacity of the charter school shall be determined annually by the governing board of the charter school based on the ability of the charter school to facilitate the academic success of the students, to achieve the other objectives specified in the charter contract and to ensure that the student enrollment does not exceed the capacity of its facility or site.

SECTION 6. AMENDATORY 70 O.S. 2011, Section 3-142, as amended by Section 3, Chapter 212, O.S.L. 2013 (70 O.S. Supp. 2014, Section 3-142), is amended to read as follows:

Section 3-142. A. For purposes of funding, a charter school sponsored by a board of education of a school district shall be considered a site within the school district in which the charter school is located. The student membership of the charter school shall be considered separate from the student membership of the district in which the charter school is located for the purpose of calculating weighted average daily membership pursuant to Section 18-201.1 of this title and State Aid pursuant to Section 18-200.1 of this title. For charter schools sponsored by a board of education of a school district, the sum of the separate calculations for the charter school and the school district shall be used to determine the total State Aid allocation for the district in which the charter school is located. A charter school shall receive from the sponsoring school district, the State Aid allocation and any other state-appropriated revenue generated by its students for the applicable year, less up to five percent (5%) of the State Aid allocation, which may be retained by the school district as a fee for administrative services rendered. For charter schools sponsored by the board of education of a technology center school district, a higher education institution, the State Board of Education, or a

federally recognized Indian tribe and for statewide virtual charter schools sponsored by the Statewide Virtual Charter School Board, the State Aid allocation for the charter school shall be distributed by the State Board of Education and not more than five percent (5%) of the State Aid allocation may be charged by the sponsor as a fee for administrative services rendered. The State Board of Education shall determine the policy and procedure for making payments to a charter school. The fee for administrative services as authorized in this subsection shall only be assessed on the State Aid allocation amount and shall not be assessed on any other appropriated amounts.

B. 1. The weighted average daily membership for the first year of operation of a charter school shall be determined initially by multiplying the actual enrollment of students as of August 1 by 1.333. The charter school shall receive revenue equal to that which would be generated by the estimated weighted average daily membership calculated pursuant to this paragraph. At midyear, the allocation for the charter school shall be adjusted using the first quarter weighted average daily membership for the charter school calculated pursuant to subsection A of this section.

2. For the purpose of calculating weighted average daily membership pursuant to Section 18-201.1 of this title and State Aid pursuant to Section 18-200.1 of this title, the weighted average daily membership for the first year of operation and each year thereafter of a full-time virtual charter school shall be determined by multiplying the actual enrollment of students as of August 1 by 1.333. The full-time virtual charter school shall receive revenue equal to that which would be generated by the estimated weighted average daily membership calculated pursuant to this paragraph. At midyear, the allocation for the full-time virtual charter school shall be adjusted using the first quarter weighted average daily membership for the virtual charter school calculated pursuant to subsection A of this section.

C. A charter school shall be eligible to receive any other aid, grants or revenues allowed to other schools. A charter school sponsored by the board of education of a technology center school district, a higher education institution, the State Board of Education, or a federally recognized Indian tribe shall be considered a local education agency for purposes of funding. A

charter school sponsored by a board of education of a school district shall be considered a local education agency for purposes of federal funding.

D. A charter school, in addition to the money received from the state, may receive money from any other source. Any unexpended nonstate funds, ~~excluding local revenue,~~ may be reserved and used for future purposes. The governing body of a charter school shall not levy taxes or issue bonds. If otherwise allowed by law, the governing body of a charter school may enter into private contracts for the purposes of borrowing money from lenders. If the governing body of the charter school borrows money, the charter school shall be solely responsible for repaying the debt, and the state or the sponsor shall not in any way be responsible or obligated to repay the debt.

E. Any charter school which chooses to lease property shall be eligible to receive current government lease rates.