

Policy 2270

Instruction

Public Charter Schools

PHILOSOPHY

Public charter schools provide opportunities for teachers, parents, students, and community members to establish and maintain public schools that operate independently from the existing district structure but within the existing public school system in Idaho. Public charter schools also provide a method to accomplish any of the following:

- 1. Improved student learning;*
- 2. Increased learning opportunities for all students, with special emphasis on expanded learning experiences for students;*
- 3. The use of different and innovative teaching methods;*
- 4. Utilize virtual distance learning and on-line learning;*
- 5. New professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site;*
- 6. Expanded choices regarding the types of educational opportunities that are available within the public school system.*
- 7. Meeting measurable student educational standards.*

DEFINITIONS

Attendance Area: The geographical area designated in the petition from which the proposed new public charter school or converted public charter school will accept students. The charter petition shall describe the attendance area which shall be composed of a compact and contiguous area. For purposes of the petition, if services are available to students throughout the state, the state of Idaho is considered a compact and contiguous area. *The attendance area will not include any geographical area outside the state of Idaho.*

Authorized Chartering Entity: The local board of trustees of a school district in this state, the public charter school commission, an Idaho public college, university or community college; or a private, nonprofit Idaho-based, nonsectarian college or university that is accredited by the same organization that accredits Idaho public colleges and universities.

Career Technical Regional Public Charter School: A public charter secondary school authorized to provide programs in career technical education which meet the standards and qualifications established by the division of career technical education. A career technical regional public charter school may be approved

by this district or other authorized chartering entity and, by the terms of its charter, shall operate in association with at least two (2) school districts. Participating school districts need not be contiguous.

Charter: The grant of authority approved by the authorized chartering entity to the board of directors of the public charter school. *An approved petition becomes the charter of a public charter school and has the force and effect of a legal agreement between the nonprofit corporation and this district granting authority to the board of directors of the public charter school.*

Charter Holder: The public charter school's board of directors to which a charter is granted.

Converted Public Charter School: An existing school building in this district that is approved to become a public charter school.

Educational Services Provider: A nonprofit or for-profit entity that contracts with a public charter school to provide educational services and resources including administrative support and educational design, implementation or management.

Founder: A person, including employees or staff of a public charter school, who makes a material contribution toward the establishment of a public charter school in accordance with criteria determined by the board of directors of the public charter school, and who is designated as such at the time the board of directors acknowledges and accepts such contribution. The criteria for determining when a person is a founder shall not discriminate against any person on any basis prohibited by the federal or state constitutions, or any federal, state, or local law. The designation of a person as a founder, and the admission preferences available to the children of a founder, shall not constitute pecuniary benefits.

New Public Charter School: A public charter school at a location other than an existing school within the district.

Nonprofit Corporation: The operating entity of a public charter school, comprised of a board of directors, incorporated under the Idaho Nonprofit Corporation Act.

Performance Certificate: A fixed-term, renewable certificate between a public charter school and an authorized chartering entity that outlines the roles, powers, responsibilities and performance expectations for each party to the certificate.

Petition: The document submitted to the board of trustees of this district to request the creation of a public charter school. *Once the petition is approved, it is the charter of the school and has the force and effect of a legal agreement between the nonprofit corporation and this district.*

Public charter school: A charter school that is authorized to deliver public education in Idaho.

Student educational standards: The extent to which all students of the public charter school demonstrate they have attained the skills and knowledge specified as goals in the public charter school's educational program.

Traditional public school: Any school existing or to be built that is operated and controlled by a school district in this state.

Virtual school: A school that delivers a full-time, sequential program of synchronous and/or asynchronous instruction primarily through use of technology via the Internet in a distributed environment. Schools classified as virtual must have an online component to their school with lessons and tools for student and data management.

AUTHORIZATION AND LIMITATIONS

The creation of public charter schools is authorized subject to the limitations set forth in state law and district policy. Public charter schools are part of the state's program of public instruction. New public charter schools, which may begin educational instruction in any one (1) school year, are subject to the following:

- a. This school district may not be converted to a charter district or any configuration that includes all schools as public charter schools;
- b. For charter schools proposed in this district, a charter must be received by the district no later than September 1 to be eligible to begin instruction the first complete school year following receipt of the petition, unless the board agrees to a later date; and
- c. To begin operations, a newly chartered public school must be authorized by no later than January 1 of the previous school year.

A public charter school may be formed either by creating a new public charter school or by replicating an existing high-performing public charter school, which charter may be approved by any authorized chartering entity, or by converting an existing traditional public school to a public charter school, which charter may only be approved by the board of trustees of this school district.

The board of trustees will not approve any charter:

- a. Which provides for the conversion of any existing private or parochial school to a public charter school.
- b. To a for-profit entity or any school that is operated by a for-profit entity, provided, however, nothing herein shall prevent the board of directors of a public charter school from legally contracting with for-profit entities for the provision of products or services that aid in the operation of the school.
- c. That is for a public charter school where the public charter school's physical location is outside the boundaries of this school district.

Public charter schools authorized by the board of trustees of this district may also be designated by the board of trustees as a local education agency (LEA), with the concurrence of the public charter school board of directors. Otherwise, the public charter school shall be included in this district's LEA.

Upon approval of a petition, the board of trustees may establish reasonable pre-opening requirements or conditions to monitor start-up progress of newly approved public charter schools and ensure that they are 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 school opening. *The pre-opening requirements may include some or all of the items listed on the Charter School Opening Checklist on the SDE's website (www.sde.idaho.gov/school-choice/charter/files/start-charter/general/Charter-School-Opening-Checklist.pdf).*

This district shall be responsible to assure that all public charter schools it approves operate at all times in compliance with the terms of the approved charter, performance certificate and the general education laws of Idaho, and operates in accordance with the state educational standards of thoroughness as defined in Idaho Code §33-1612, as well as other applicable requirements of Idaho Code and rules promulgated by the State Board of Education.

FUNDING FOR PUBLIC CHARTER SCHOOLS

Public charter schools will receive funding based on Average Daily Attendance (ADA), salary-based apportionment, and other state and federal funding as calculated by the State Department of Education and as provided in Idaho Code §33-5208.

Funding for a professional-technical regional public charter school shall be the same as provided in Idaho Code §33-5208, except that:

- a. The salary-based apportionment for a professional-technical regional public charter school shall be the statewide average index for public charter schools. Such salary-based apportionment may be used for payment of contracted services or for direct hire of staff;
- b. The board of directors may contract for the services of certificated and noncertificated personnel, to procure the use of facilities and equipment, and to purchase materials and equipment, which in the judgment of the board of directors is necessary or desirable for the conduct of the business of the professional-technical regional public charter school; and
- c. Transportation support shall be paid to the professional-technical regional public charter school in accordance with the provisions of chapter 15, title 33, Idaho Code.

A professional-technical regional public charter school is required to provide assurances in state attendance reports that it has verified attendance reports, which generate ADA with its participating school districts, to make certain that the districts and the charter school do not duplicate enrollment or ADA claims.

A public charter school may qualify as an alternative school, provided all statutory and regulatory provisions are met. In addition, an approved public charter school may accept funds from private persons or organizations, and may make application for federal grant moneys.

The board of directors of a public charter school operating as a nonprofit corporation may borrow money to finance the purchase or lease of school building facilities, equipment, or furniture, and may use such facilities, equipment, and furniture as collateral for the loan, subject to the agreement between the board and the lender.

A public charter school is prohibited from charging tuition, levying taxes, or issuing bonds.

NONPROFIT CORPORATION

A public charter school must be organized and managed under the Idaho Nonprofit Corporation Act (Idaho Code §§30-30-101 *et seq.*). The board of trustees will not grant a charter to a for-profit entity nor allow a charter to be operated by a for-profit entity, but a public charter school may contract with a for-profit entity for the provision of goods or services that aid in the operation of the school.

LEGAL RESPONSIBILITIES OF PUBLIC CHARTER SCHOOLS

The board of directors will be deemed public agents authorized by this district, the Public Charter School Commission or the State Board of Education to control the public charter school, but shall function independently of the board of trustees, except as provided in the charter. For purposes of participation in the Idaho Public Employee Retirement System (PERSI), a public charter school is deemed a governmental entity.

Public charter schools approved by this district must be nonsectarian in their programs, affiliations, admission policies, employment practices, and all other operations. Public charter schools are prohibited from discriminating against any student on any basis prohibited by federal or state constitutions, or any federal, state, or local law. Public charter schools are required to comply with the federal Individuals with Disabilities Education Act (IDEA)

The public charter school and the board of directors thereof are subject to the provisions of:

1. Idaho Code §§18-1351 through 18-1362, bribery and corrupt influence, except as provided in Idaho Code §33-5204A(2), Idaho Code;
2. Idaho Code §§74-501 *et seq.*, prohibitions against contracts with officers;
3. Idaho Code §§74-401 *et seq.*, ethics in government;
4. Idaho Code §§74-201 *et seq.*, open public meetings;
5. Idaho Code §§74-101 *et seq.*, public records act; and
6. Idaho Code §§6-901 *et seq.*, Idaho Tort Claims Act.

A charter holder may not operate enterprises other than the public charter schools for which it has been authorized.

Each public charter school is required to annually submit the audit of its fiscal operations to the authorized chartering entity as required by Idaho Code §33-5206(7). In addition, each public charter school is required to comply with the financial reporting requirements of Idaho Code §§33-701.5 - .10 in the same manner as those requirements are imposed upon school districts.

Each public charter school is required to comply with laws governing safety, including, but not limited to: Idaho Code §§33-122 (sanitation) and 33-130 (criminal history checks for employees, applicants and volunteers), and chapter 2, title 33, Idaho Code (attendance at schools), and rules promulgated thereunder.

All public charter schools are under the general supervision of the State Board of Education. Each public charter school is otherwise exempt from State Board of Education rules governing school districts in Idaho, with the exception of rules relating to:

- a. Waiver of teacher certification as necessitated by the provisions of Idaho Code §§33-5206(3) and (4);
- b. Accreditation of the school as necessitated by the provisions of Idaho Code §33-5206(12);
- c. Qualifications of a student for attendance at an alternative school as necessitated by the provisions of Idaho Code §33-5208(3);
- d. Rules promulgated pursuant to Idaho Code §33-1612 (relating to a thorough system of public schools); and
- e. All rules that specifically pertain to public charter schools promulgated by the State Board of Education.

Sales to or purchases by a public charter school are exempt from payment of sales and use taxes.

Public charter schools are required to comply with Idaho Code §33-119 as it applies to secondary school accreditation. Public charter school students are required to be tested with the same standardized tests as other Idaho public school students.

CONFLICTS OF INTEREST OF CHARTER SCHOOL BOARD OF DIRECTORS

Directors of a public charter school are prohibited by law from having a pecuniary interest, directly or indirectly, in any contract or other transaction pertaining to the maintenance or conduct of the district and charter and from accepting any reward or compensation for services rendered as a director except as may be otherwise provided by law. The board of directors may accept and award contracts involving the public charter school to businesses in which the director or a person related to him by blood or marriage within the second degree has a direct or indirect interest, provided that the procedures set forth in Idaho Code §§18-1361 or 18-1361A are followed. The receiving, soliciting or acceptance of moneys of a public charter school for deposit in any bank or trust company, or the lending of moneys by a bank or trust company to any public charter school is not considered to be a contract pertaining to the maintenance or conduct of a public charter school and authorized chartering entity within the meaning of this paragraph.

Similarly, the payment by any public charter school board of directors of compensation to any bank or trust company for services rendered in the transaction of any banking business with such public charter school board of directors will not be considered the payment of any reward or compensation to any officer or director of any such bank or trust company within the meaning of this paragraph.

The board of directors of any public charter school are also prohibited by law from entering into or executing any contract with the spouse of any member of such board, the terms of which said contract require, or will require, the payment or delivery of any public charter school funds, moneys or property to such spouse, except as provided in the following paragraph or in Idaho Code §§18-1361 or 18-1361A.

CONTRACTS WITH EDUCATIONAL SERVICE PROVIDERS

Public charter schools may contract with educational services providers subject to the following:

- a. Educational services providers, whether nonprofit or for-profit, must be third-party entities separate from the public charter schools with which they contract. Educational services providers shall not be considered governmental entities.
- b. No more than one-third (1/3) of the public charter school's board membership may be comprised of nonprofit educational services provider representatives. Nonprofit educational services provider representatives may not be employees of the public charter school or the educational services provider and may not hold office as president or treasurer on the public charter school's board. For-profit educational services providers may not have representatives on the public charter school's board of directors.
- c. Public charter school board of director members are required to annually disclose any existing and potential conflicts of interest, pecuniary or otherwise, with affiliated educational services providers.
- d. Charter holders must retain responsibility for academic, fiscal and organizational operations and outcomes of the school and may not relinquish this responsibility to any other entity.
- e. Contracts must ensure that school boards retain the right to terminate the contract for failure to meet defined performance standards.
- f. Contracts must ensure that assets purchased by educational services providers on behalf of the school, using public funds, shall remain assets of the school. The provisions of this paragraph shall not prevent educational services providers from acquiring assets using revenue acquired through management fees.
- g. Charter holders are required to consult with legal counsel independent of the party with whom they are contracting for purposes of reviewing the school's management contract and facility lease or purchase agreements to ensure compliance with applicable state and federal law, including requirements that state entities not enter into contracts that obligate them beyond the terms of any appropriation of funds by the state legislature.

- h. Charter holders must ensure that their facility contracts are separate from any and all management contracts.
- i. Prior to approval of the charter petition indicating the school board's intention to contract with an educational services provider, the board of trustees will conduct a thorough evaluation of the academic, financial and organizational outcomes of other schools that have contracted with the educational services provider and evidence of the educational services provider's capacity to successfully grow the public charter school while maintaining quality management and instruction in existing schools.

LIABILITY AND INSURANCE

A public charter school may sue or be sued, purchase, receive, hold and convey real and personal property for school purposes, and borrow money for such purposes, to the same extent and on the same conditions as a public school district; further, a public charter school's employees, directors, and officers have the same immunities as employees, directors, and officers of public school districts, including those provided by the Idaho Tort Claims Act (Idaho Code §§6-901 *et seq.*).

This district will not be responsible or be liable for any acts, omissions, debts, or other obligations of a public charter school, except as may be provided in a charter approved by this district. This district will likewise not be responsible or liable for the acts, omissions, debts or other obligations of a public charter school located in this district that has been approved by an authorized chartering entity other than the board of trustees of this district.

A public charter school must secure insurance for liability and property loss.

ADMISSION REQUIREMENTS

A new or replication public charter school must adopt and maintain a policy regarding admission practices, including provision for over-enrollment, whereby the initial admission procedures will provide that students are selected by a random or lottery method, except as otherwise provided in this paragraph. Admission to a public charter school will not be determined according to the place of residence of the student, or of the student's parent or guardian within the district, except that a new, replication or conversion public charter school must adopt and maintain a policy giving admission preference to students who reside within the contiguous and compact primary attendance area of that public charter school. The adopted policy will include processes and assurances that maintain demographics consistent with the Local Education Agency's (LEA's) demographics, for any subgroup consisting of at least 5% or more of the LEA's total student enrollment. The charter policy must meet or exceed represented subgroups. The board of trustees will not require any student enrolled in this district to attend a public charter school.

INITIAL ADMISSION PROCEDURES

If initial capacity is insufficient to enroll all students who submit a timely application, the admission procedures may include preferences, as follows:

- a. to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school;
- b. to siblings of students already selected by the lotter or other random method;
- c. to students seeking to transfer from another Idaho public charter school at which they have been enrolled for at least one (1) year, provided that this preference is subject to an existing written agreement for such preference between the subject charter schools;
- d. to students residing within the primary attendance area of the public charter school; and
- e. by an equitable selection process such as a lottery or other random method.

If stated in the petition, a new or replication public charter school may include the children of full-time employees of the public charter school within the first priority group subject to the ten (10) percent limitation. Absent such specific stated inclusion, such students shall be included in the highest priority group for which they would otherwise be eligible.

SUBSEQUENT ADMISSION PROCEDURES

If capacity is insufficient to enroll all students who submit a timely application for subsequent school terms, admission procedures may provide that preference must be given in the following order:

- a. to students returning to the charter school in the second or any subsequent year of the school's operation;
- b. to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school;
- c. to siblings of students already enrolled in the charter school; and
- d. to students seeking to transfer from another Idaho public charter school at which they have been enrolled for at least one (1) year, provided that this admission preference will be subject to an existing written agreement for such preference between the subject charter schools;
- e. to students residing within the primary attendance area of the public charter school; and
- f. by an equitable selection process such as a lottery or other random method.

The public charter school's admission procedures may not provide for carryover from year to year of the list maintained to fill vacancies. A new lottery must be conducted each year to fill vacancies that become available. If so stated in the petition, a public charter school may include the following children within that the second priority group subject to the limitations therein:

- a. the children of full-time employees of the public charter school; and

- b. children who previously attended the public charter school within the previous three (3) school years, but who withdrew as a result of the relocation of a parent or guardian due to an academic sabbatical, employer or military transfer or reassignment.

Without such express statement, such children shall be included in the highest priority group for which they would otherwise be eligible.

For purposes of dual enrollment as allowed by Idaho Code §33-203, a student who is dually enrolled in a public charter school shall not count toward the public charter school's maximum enrollment restrictions. At no time may the dual enrollment provisions be used to circumvent a public charter school's lottery requirements.

EMPLOYMENT REQUIREMENTS

The following provisions apply to any charter school approved by the board of trustees:

1. No employee of this district will be involuntarily assigned to work in a charter school.
2. All certificated teachers in a charter school approved by this district will be considered public school teachers, *but will not be considered employees of this district*. The staff of a public charter school shall be considered a separate bargaining unit for the purposes of collective bargaining.
3. All charter school teachers and administrators will be employed on a written contract conditioned upon such professional personnel holding a valid certificate at the time of entering upon the duties there under.
4. Educational experience of certificated teachers will accrue for service in a charter school. The experience in a charter school will be counted by this district if the certificated teacher returns to a traditional public school in this district.

TRANSFER OF CHARTER

A charter and performance certificate for a public charter school may be transferred to, and placed under the chartering authority of, any authorized chartering entity if the current authorizer, the receiving authorizer, and the board of directors of the public charter school all agree to such transfer, including any revision to the charter and performance certificate that may be required in connection with such transfer. However, a charter and performance certificate may not be transferred to a school district board of trustees in which the public charter school is not physically located. A request to transfer a charter may be initiated by the board of directors of a public charter school or by the authorized chartering entity with chartering authority over the charter of such public charter school.

A public charter school, authorized by any authorized chartering entity other than the board of trustees of this district, which has a primary attendance area located within more than one (1) school district, may transfer the physical location of its public charter school within its primary attendance area to locate the facilities within the boundaries of another school district within the primary attendance area if the authorized chartering entity, the board of trustees of each of the relevant school districts and the board of directors of the public charter school all approve of such transfer of facilities location, and if the

authorized chartering entity approves any revisions to the charter that may be required in connection with such transfer.

If all parties fail to reach agreement in regard to the request to transfer a charter and performance certificate, as required herein, then the matter may be appealed directly to the State Board of Education. The State Board of Education shall substantially follow the procedure as provided in Idaho Code §33-5207(5)(b). A transferred charter school will not be considered a new public charter school.

Policy History:

Adopted: March 2017

Legal Reference:

Idaho Code Sections

6-901 *et seq.* (Idaho Tort Claims Act)
18-1351 through 1362 (Bribery and Corrupt Influences Act)
30-3-1, *et seq.* (Idaho Nonprofit Corporation Act)
33-119 (secondary school accreditation)
33-122 (sanitation and safety)
33-130 (criminal background checks)
33-201 *et seq.* (attendance at schools)
33-701.5 through 705-10 (financial reporting)
33-1612 (thoroughness standards)
33-5201, *et seq.* (Idaho Charter School Law)
59-1302(15) (PERSI)
63-3622(o) (revenue and taxation of school districts/charter schools)
67-5201, *et seq.* (Idaho Administrative Procedures Act)
74-101 *et seq.* (Idaho Public Records Act)
74-201 *et seq.* (Idaho Open Meetings Law)
74-401 *et seq.* (Ethics in Government)
74-501 *et seq.* (Prohibitions Against Contracts with Officers)

IDAPA 08.02.03 (Rules Governing Thoroughness)

IDAPA 08.02.04 (Rules Governing Public Charter Schools)

Idaho Special Education Manual, 2016