

In the Supreme Court of the United States



ST. ISIDORE OF SEVILLE  
CATHOLIC VIRTUAL SCHOOL

*Petitioner,*

v.

GENTNER DRUMMOND, ATTORNEY GENERAL FOR THE  
STATE OF OKLAHOMA, *EX. REL.* STATE OF OKLAHOMA,

*Respondent.*

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**On Petition for a Writ of Certiorari to  
the Oklahoma Supreme Court**

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**BRIEF IN OPPOSITION**

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## QUESTIONS PRESENTED

The Oklahoma Constitution requires the State to “establish[] and maint[ain] . . . a system of public schools, which shall be open to all the children of the state and free from sectarian control . . . .” OKLA. CONST. art. I, § 5. The Oklahoma Constitution also demands that “[n]o public money . . . shall ever be appropriated . . . or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, or system of religion . . . or sectarian institution . . . .” OKLA. CONST. art. II, § 5. Consistent with these constitutional mandates, the Oklahoma Legislature established a type of “public school[] established by contract” called a “charter school.” OKLA. STAT. tit. 70, § 3-132.2(C)(1).

The Oklahoma Charter School Board (the “Board”) established a public charter school that “fully incorporate[s] Catholic teachings into every aspect of the school, including its curriculum and co-curricular activities.” Pet.App.24a. Thus, the questions presented are:

1. Where the Oklahoma Supreme Court found that the contract establishing Petitioner St. Isidore of Seville Virtual Charter School violates two provisions of the Oklahoma Constitution, is the decision below supported by adequate and independent state law grounds?

2. Is the State of Oklahoma prohibited by the First Amendment from establishing a public charter school to promote the “evangelizing mission of the church” by “fully incorporat[ing] Catholic teachings into every aspect of the school, including its curriculum and co-curricular activities,” when the School is sub-

ject to the State's ongoing supervision of all significant functions, including a requirement that the School obtain prior authorization for any material changes to the State-approved Catholic curriculum?

## **PARTIES TO THE PROCEEDINGS**

Petitioner is St. Isidore of Seville Catholic Virtual School.

Oklahoma Statewide Virtual Charter School Board, Robert Franklin, William Pearson, Nellie Tayloe Sanders, Brian Bobek, and Scott Strawn were respondents before the Oklahoma Supreme Court, but they were succeeded by petitioners in a separately filed petition in this case, the Oklahoma Statewide Charter School Board and Brian T. Shellem, Angie Thomas, Kathleen White, Damon Gardenhire, Becky Gooch, Jared Buswell, Ben Lepak, Ryan Walters, and Dr. Kitty Campbell, all in their official capacities as members of the Oklahoma Statewide Charter School Board.

Respondent is Gentner Drummond, in his official capacity as Attorney General for the State of Oklahoma.

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## INTRODUCTION

The Oklahoma Constitution requires the State to “establish[ ] and maint[ain] . . . a system of public schools, which shall be open to all the children of the state and free from sectarian control . . . .” OKLA. CONST. art. I, § 5; *see also* art. XIII, § 1. In furtherance of this constitutional duty, the Oklahoma Legislature enacted the Oklahoma Charter Schools Act (the “Act”). The Act authorizes the creation of public charter schools to, among other things, “improve student learning” and “establish new forms of accountability” for public schools. OKLA. STAT. tit. 70, § 3-131. The public charter schools are overseen by three governmental bodies: (1) a public board of education, (2) the State Charter School Board (“Board”)<sup>1</sup>, and (3) the State Board of Education. OKLA. STAT. tit.70, §§ 1-105, 3-132, 3-132.2, 3-134, 3-136.

At the outset, it is important to understand the players because Petitioner conflates the private non-profit corporation, St. Isidore of Seville Virtual Charter School, Inc. (the “Church Corporation”), which applied to the Board to establish a state-created public charter school, with the resulting entity the state-created public charter school itself, Intervenor St. Isidore of Seville Virtual Charter School (the “SISVC School”). Pet.App.217a.

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<sup>1</sup> While the case below was litigated against the Oklahoma Statewide Virtual Charter School Board, the Oklahoma Charter School Board assumed all obligations of the Oklahoma Statewide Virtual Charter Board effective on July 1, 2024. *See* OKLA. STAT. tit. 70, § 3-132.1(I). *See* Res.App.103a.

The Oklahoma Supreme Court appropriately issued a writ of mandamus ordering the Board to rescind a contract which created the nation's first Catholic public charter school. The gravamen of the decision below relates to an application and sponsorship contract that permits the Church Corporation "to establish" a public school created to "fully incorporate Catholic teachings into every aspect of the school, including its curriculum and co-curricular activities." Pet.App.4a. Indeed, SISVC School intends to deliver "its original characteristics and its structure as a genuine instrument of the church" and to serve the "evangelizing mission of the church." Pet.App.7a. In violation of the Oklahoma Constitution and United States Constitution, the State, through the Board, approved the application, executed the sponsorship contract, and unlawfully established the nation's first religious public school.

As such, the petition for certiorari should be denied for several reasons. First, the Oklahoma Supreme Court found "the St. Isidore Contract to violate two provisions of the Oklahoma Constitution, which affords bona fide, separate, adequate, and independent grounds upon which today's opinion is rested." Pet.App.22a. Any claim that the state law decision is intertwined with the First Amendment claims is flawed. In the proceedings below, SISVC School and the Board did not affirmatively seek a declaration that the Oklahoma Constitution violates the U.S. Constitution. Thus, these arguments were not presented to the Oklahoma Supreme Court and should not be considered by this Court in the first instance.

Second, there is no split among the circuits. Only two courts of appeals<sup>2</sup> have addressed whether a charter school is a state actor, and they both applied the same fact-specific inquiry that considers the specific function the school sought to undertake and the applicable laws of the subject state. Here, the contract contemplated that SISVC School would act in a sectarian manner with respect to all functions. SISVC School failed to allege below that it was impossible for it to act as a state actor for all functions. As a result, even though the circuit courts of appeals are in alignment on the applicable legal standard, none of the cited circuit courts of appeals cases is implicated here.

Third, this is a poor vehicle to address the question presented. This is the first time a state has created a public charter school that fully incorporates religious teachings into “every aspect of the school.” Moreover, SISVC School’s status as a public school turns on the unique provisions of Oklahoma state law, and a decision in this case would offer little guidance about whether “charter schools” in other states are public or private. More precisely, each state has its own unique constitutional and statutory regime for regulating charter schools. And each contract sponsoring a charter school will have its own customized terms. For instance, the sponsorship contract at issue here uniquely requires prior authorization from the Board before SISVC School can make material changes to the State-approved Catholic curriculum. Pet.App.115a. Therefore, it would be difficult for the

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<sup>2</sup> *Caviness v. Horizon Cmty. Learning Ctr., Inc.*, 590 F.3d 806 (9th Cir. 2010); and *Peltier v. Charter Day Sch., Inc.*, 37 F.4th 104 (4th Cir. 2022).

Court to fashion a rule that would guide other courts in addressing this issue.

Fourth, the decision below is correct. SISVC School meets all the “numerous and important” norms that make it a public rather than private school. *Carson ex rel. O. C. v. Makin*, 596 U.S. 767, 769 (2022). Because Oklahoma’s charter schools are public schools, Oklahoma “may provide a strictly secular education in its [charter schools].” *Id.* at 785. Therefore, the decision below does not warrant review.



## STATEMENT OF THE CASE

### A. State Law Background

Children in Oklahoma have the right to receive a free public education. The Oklahoma Legislature is constitutionally required to “establish and maintain a system of free public schools wherein all the children of the State may be educated.” OKLA. CONST. art. XIII, § 1. The Legislature fulfilled its obligation, in part, with the passage of the Act,<sup>3</sup> which sets forth the procedure for the creation and funding of public charter schools.

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<sup>3</sup> In its 2023 Regular Session, the Oklahoma Legislature made several changes to the Act—including increasing the State’s regulatory responsibility over virtual charter schools and their boards. This became effective during and after the pendency of the underlying litigation. *See* Charter schools, 2023 Okla. Sess. Laws 323. Citation to the Act herein reflects the current state of the law, unless specifically expressed otherwise.

In the Act, the Legislature exercised its sovereign prerogative and defined “charter school” to mean “a public school established by contract with . . . the Statewide Charter School Board.” *Id.* at § 3-132.2(C) (1)(b). The Legislature also defined public schools to include “all free schools supported by public taxation.” OKLA. STAT. tit. 70, § 1-106. Charter schools are public schools and are, in turn, recognized by state and federal law as government entities. OKLA. STAT. tit. 70, § 3-132.2(C)(1)(b); *see also* OKLA. STAT. tit. 70, § 6-149.3(2); 20 U.S.C. § 7801; 34 C.F.R. § 303.23.

A survey of the Act below displays that public charter schools and public virtual charter schools operate within and are an integral part of Oklahoma’s system of public schools. The Board’s control of a public virtual charter school exists from establishment through closure.

### **1. Sponsorship by the Statewide Charter School Board**

The Board is the “sole authority to sponsor statewide virtual charter schools” in Oklahoma. OKLA. STAT. tit. 70, § 3-132.1(A).<sup>4</sup>

To sponsor a charter school, an applicant, such as the Church Corporation, must first submit a written application to the Board, requesting the Board to “establish a virtual charter school.” *Id.* at §

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<sup>4</sup> The Board is comprised of the Oklahoma Superintendent of Public Instruction (or his or her designee), the State Auditor (or his or her designee), and state officers appointed by the Governor, President Pro Tempore of the Senate, and Speaker of the House of Representatives. *Id.* at § 3-132.1(A)(1–5). The members of the Board may only be removed for cause. *Id.* at § 3-132.1(C).



3-134(B)(1–35). Relevant to this matter, a “private organization may contract with [the Board] to *establish* a charter school or virtual charter school.” *Id.* at § 3-134(C) (emphasis added). But the Act provides that “[a] private school [secular or nonsecular] shall not be eligible to contract for a charter school or virtual charter school under the provisions of the [Act].” *Id.*

Oklahoma provides that a “new charter school will be considered established” when the State approves an application that complies with all requirements in the Act. OKLA. ADMIN. CODE § 210:40-87-5. Further, charter schools cannot start enrolling students or employ staff until a contract that complies with the Act is executed. OKLA. STAT. tit. 70, § 3-136(C). This control measure exists because the State may “establish reasonable preopening requirements or conditions to monitor . . . and to ensure that each school meets all building, health, safety, insurance, and other legal requirements . . .” *Id.* The charter school then operates only after it submits to the State several documents, including an executed contract and a request to assign—as it does with all other public schools—a county code, school district code, and site code. OKLA. ADMIN. CODE § 210:40-87-5.

## **2. Board Oversight of Public Charter Schools**

After the Board establishes a public virtual charter school, the Board must “[p]rovide *supervision*, services, and *oversight* of the operations of statewide virtual charter schools.” *Id.* at § 3-132.2(A)(1) (emphases added).

The Board’s oversight of charter schools is broad and comprehensive as reflected in state and federal regulations, the sponsorship contract, and the Board’s nearly 250-page authorization and oversight process manual updated as of July 2023. Res.App.6a-336a. Measures of oversight include the following practices: Data and evidence collection; Site visits; Audits, including by the State Auditor and Inspector; Attendance at governing board meetings; Performance Framework reports; and External school performance review(s). Res.App.30a; OKLA. STAT. tit. 70, § 3-134(I), 3-136(A) (5).

If the public virtual charter school does not meet expectations, the Board can require the school to develop a corrective action plan with the Board’s oversight. *Id.* at § 3-137(B). Ultimately, if the school’s deficiencies are not adequately addressed, the Board has the power to revoke the public school charter. *Id.* Furthermore, in addition to poor student performance, charter non-compliance, poor fiscal management, violations of law, or other good cause can result in the State revoking the charter and closing the public school. *Id.* at § 3-137(F).

### **3. Admissions, Transfer, and Student Conduct**

Numerous state laws mandate charter schools comply with the same laws and regulations as traditional public schools. Like all Oklahoma public schools, virtual charter schools must “be equally free and open to all students.” *Id.* at § 3-136(A)(9). A public virtual charter school may not “limit admission based on ethnicity, national origin, gender, income level, disabling condition, proficiency in the English lan-

guage, measures of achievement, aptitude, or athletic ability.” *Id.* at § 3-140(D). Public school students who wish to enroll in a public virtual charter school are considered transfer students under the Act. *Id.* at § 3-140(I). Moreover, public virtual charter schools must “comply with all . . . laws relating to the education of children with disabilities in the same manner as a school district.” OKLA. STAT. tit. 70, § 3-136(A) (6). Additionally, they must follow the same rules as public schools relating to student suspension, student testing, bus transportation, the pledge of allegiance, and financial reporting and auditing. *Id.* at §§ 3-136(A)(4), (A)(5), (A)(11), (A)(18), 3-141(A); *see also* OKLA. STAT. tit. 70, § 24-106; *West Virginia State Board of Ed. v. Barnette*, 319 U.S. 624, 642 (1943). Further, the State Department of Education includes charter schools among the public schools required to honor a parental objection “to public schools imposing unwanted instruction on questions of sex, morality, or religion.” OKLA. ADMIN. CODE §§ 210:10-2-1; 210-10-2-2.

#### 4. Funding

Consistent with its obligation to provide public school students with a free public education, Oklahoma robustly supports charter schools once operational. Charter schools receive State Aid allocations like other traditional public schools. *Id.* at § 3-142(A). This includes the State appropriations under the Oklahoma Constitution and the State’s funding formula. They are likewise eligible for State appropriated and locally charged ad valorem taxes distributed through the legislatively established “Redbud Fund.” OKLA. CONST. art. XIII, §1a; OKLA. STAT. tit. 70, § 3-142; OKLA. STAT. tit. 70, § 3-104(A)(21), (B). All of this

guarantees another hallmark of public education: charter school students do not pay tuition or fees. OKLA. STAT. tit. 70, § 3-136. And, as a public entity, the State’s sponsorship contract with the Church Corporation required the Charter School to comply with the Oklahoma Constitution’s “pay as you go” requirement, which prohibits a public entity, like the SISVC School, from incurring debt beyond the current year’s state appropriation. OKLA. CONST. Art. X, § 26.

### **5. Increased Regulation of Virtual Charter School Governing Boards**

The Legislature’s recent changes to the Act, *see supra* n. 3, go farther in bringing charter school governing boards in line with traditional school district boards of education. Consistent with their status as public officers who control public funds and exercise state authority, charter school governing boards unsurprisingly are now subject to laws covering public officer ethics, conflicts of interest, and continuing education requirements. OKLA. STAT. tit. 70, § 3-136 (A)(7).

### **B. Factual Background of This Dispute**

The Church Corporation is a private entity incorporated in Oklahoma on January 27, 2023, Pet.App.217a. It applied to establish a public virtual charter school under the Act. *Id.* at 196, 201. This corporation itself is not a public charter school; it is the applicant seeking “[t]o create, establish, and operate the School as a Catholic School.” *Id.* at 201; OKLA. STAT. tit. 70, § 3-134(B) (“applicant seeking to establish a virtual charter school”). The Church Corporation stated its intent was for SISVC School to be

a “genuine instrument of the Church,” Pet.App.201a, 218a. and “participate[] in the evangelizing mission of” the Catholic Church. *Id.* Ultimately, the Church Corporation sought “[t]o operate a school in harmony with faith and morals, including sexual morality, as taught and understood by the Magisterium of the Catholic Church based upon Holy Scripture and Sacred Tradition.” *Id.* at 204–05. The entity’s intent was to fully incorporate and embrace “the teaching of the Catholic Church’s Magisterium “into every aspect of the school, including but not limited to its curriculum and co-curricular activities.” Pet.App.4a, 24a.

On June 5, 2023, the Oklahoma Statewide Virtual Charter School Board narrowly voted in favor of establishing SISVC School. *Id.* at 166–71. According to the State Board of Education, “[a] new charter school will be considered established when a charter school application complies with [OKLA. STAT. tit. 70, § 3-134] and is approved by the governing board of a sponsoring entity....” OKLA. ADMIN. CODE § 210:40-87-5(b). Accordingly, the Board established SISVC School on June 5, 2023.<sup>5</sup> Thereafter, the Board entered a contract for sponsorship with SISVC School. Pet.App.110a.

In the sponsorship contract itself, the SISVC School provides the Board veto power over material

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<sup>5</sup> The incorporation of the Church Corporation on January 27, 2023, and the Board’s establishment of SISVCS School on June 5, 2023, further illustrates the factual and legal reality that the two entities are separate and distinct. One, the Church Corporation, is a private corporation that applied for a charter, and the other, SISVC School, is a public school created by the Board to operate within the Oklahoma public school system.

changes to its curriculum. Specifically, the contract states that “[a]ny material change to the program of instruction, curriculum and other services specified in the Application or this Contract requires Sponsor approval prior to the change.” Pet.App.115a. The SISVC School also subjected itself to compliance with state graduation requirements for grades nine through twelve. *Id.*, see OKLA. STAT. tit. 70, § 3-136(A)(3). Relating to its status, the contract prohibits SISVC School from operating as anything other than a public school, providing that:

“[u]nder no circumstances shall the Charter School and/or its program of instruction offered in accordance with this Contract be used to provide or otherwise supplement instruction of home-schooled students or students enrolled in private schools, or used as a method of generating revenue for students who are being home-schooled or are enrolled in private schools.” Pet.App.129a.

The public charter school is also contractually bound to provide the State with all records relating to expenditures, an annual audit just as any other public school must provide, physical inspections of facilities, and broadly to “any and all records as requested by the Sponsor, the State Auditor and Inspector, [or] the State Department of Education . . . .” Pet.App.126a, 130a-131a, 143a. The contractual entwinement is vast and controlling.

### **C. Procedural History**

Following the Board’s predecessor’s establishment of the SISVC School, the Oklahoma Attorney General was “duty bound to file [an] original action

[with the Oklahoma Supreme Court] to protect religious liberty and prevent the type of state-funded religion that Oklahoma’s constitutional framers and the founders of our country sought to prevent.” Pet.App.173a. Specifically, the Attorney General petitioned the court to issue a writ of mandamus directing the Board’s predecessor and its members to rescind the contract for sponsorship and a declaratory judgment that the contract violated the Oklahoma Constitution. Pet.App.2a. SISVC School subsequently intervened in the lawsuit. Pet.App.2a.

Having “superintending control over all . . . [Oklahoma] Agencies, Commissions and Boards created by law,” OKLA. CONST. art. VII, § 4, the court “invoke[d] its *publici juris* doctrine to assume original jurisdiction” in the underlying matter because the State “presented the Court with an issue of public interest that warrant[ed] an immediate judicial determination.” Pet.App.3a. The court granted the relief sought by the State because “the St. Isidore Contract violates the Oklahoma Constitution, [and] the Act.” *Id.* Specifically, the Oklahoma Supreme held that “[t]he expenditure of state funds for St. Isidore’s operations constitutes the use of state funds for the benefit and support of the Catholic church,” which “violates the plain terms of Article 2, Section 5 of the Oklahoma Constitution.” Pet.App.9a. The court found that “[e]nforcing the St. Isidore Contract would create a slippery slope and what the framers’ warned against—the destruction of Oklahomans’ freedom to practice religion without fear of governmental intervention.” Pet.App.10a-11a.

Likewise, the court found that the “Board had to alter various terms of the model contract to draft the

St. Isidore Contract, allowing it to operate as a religious charter school.” Pet.App.11a. These changes “violate[] the plain language of [the Act]” and Article I, Section 5 of the Oklahoma Constitution. *Id.*

Despite holding that violations of the Oklahoma Constitution constituted “bona fide, separate, adequate, and independent grounds upon which [the] opinion is rested,” the Oklahoma Supreme Court additionally held that the “Contract also violates the federal Establishment Clause.” Pet.App.22a. The court found that “[t]he Free Exercise Trilogy cases do not apply to the governmental action in this case” because SISVC School is a public rather than private school under the distinguishing factors outlined in *Carson*, 596 U.S. at 769 (2022). Pet.App.25a-26a.

Finally, the court held that the Free Exercise Clause was not implicated because what SISVC School requested “is beyond the fair treatment of a private religious institution in receiving a generally available benefit.” Pet.App.26a.

Following the court’s order in *Drummond*, the Board eventually complied with the writ of mandamus and rescinded the contract. *See* Res.App.364a-365a.





## REASONS FOR DENYING CERTIORARI

### I. The Decision Below Is Supported by Adequate and Independent State Law Grounds.

Relying on *Michigan v. Long*, 463 U.S. 1032, 1041 (1983), the Oklahoma Supreme Court found “the St. Isidore Contract to violate two provisions of the Oklahoma Constitution, which affords bona fide, separate, adequate, and independent grounds upon which [the] opinion is rested.” Pet.App.22a SISVC School makes no attempt to grapple with this finding here.

The Oklahoma Constitution demands that “[n]o public money . . . shall ever be appropriated . . . or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, or system of religion . . . or sectarian institution.” OKLA. CONST. art. II, § 5.<sup>6</sup> The Oklahoma Constitution also requires that “[p]rovisions shall be made for the establishment and maintenance of a system of public schools, which shall be open to all the children of the state and free from sectarian control . . . .” OKLA. CONST.

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<sup>6</sup> This is not a so-called “Blaine Amendment.” See Pet.App.9a (quoting *Prescott v. Okla. Capitol Pres. Comm’n*, 2015 OK 54, ¶ 24, 373 P.3d 1032, 1052 (Gurich, J., concurring in denial of reh’g) (“Characterizing [Article 2, Section 5] of the Oklahoma Constitution as a Blaine Amendment completely ignores the intent of the founders of the Oklahoma Constitution who purposely sought to ensure future generations of Oklahomans would be free to practice religious freedom without fear of governmental intervention.”))

art. I, § 5. The Oklahoma Legislature, in turn, defined a charter school as “a public school established by contract.” OKLA. STAT. tit. 70, § 3-132.2(C) (1). Accordingly, the Oklahoma Supreme Court correctly concluded that, as a matter of Oklahoma law, a charter school is a public school and thus must be “free from sectarian control” and cannot be funded by “public money.” Pet.App.15a. The Court then correctly found that the SISVC School would, were it a charter school, violate the Oklahoma Constitution. Pet.App.27a.

Any attempt by SISVC School to claim that its First Amendment arguments are intertwined with the state law decision is flawed. Neither SISVC School nor the Board ever affirmatively sought to have the Oklahoma Supreme Court declare that Article I, Section 5 or Article II, Section 5 of the Oklahoma Constitution violate the U.S. Constitution. To be sure, SISVC School stated below that the “Court should avoid a collision with the First Amendment“ and “[t]he Free Exercise Clause [b]ars Oklahoma [f]rom [e]xcluding St. Isidore.” Pet.App.345a, 369a. But these statements were in a response brief, and neither SISVC School nor the Board filed their own request for assumption of original jurisdiction and declaratory relief. The Oklahoma Supreme Court has made clear that “a statement in respondent’s response and supporting brief . . . is not a formal request for assumption of original jurisdiction and declaratory relief.” *Indep. Sch. Dist. No. 12 of Okla. Cnty. v. State Bd. of Educ.*, 2024 OK 39, ¶ 21. As a result, while the Oklahoma Supreme Court interacted with the First Amendment in its order, it did not definitively rule

on whether the Oklahoma Constitution violates the First Amendment.

This case is distinguishable from *Espinoza v. Montana Department of Revenue*, 591 U.S. 464 (2020), because the present dispute is essentially an issue of preservation as opposed to intertwinement. Here, the Oklahoma Supreme Court concluded that the Oklahoma Constitution bars the subject contract because, as a matter of *state* law, charter schools are *public* schools. SISVC failed to affirmatively seek a declaration that the subject provisions of the Oklahoma Constitution violate the U.S. Constitution. Pet.App.22a. Thus, there is nothing precluding the Oklahoma Supreme Court’s decision to enforce the Oklahoma Constitution.

Accordingly, the decision below is supported by adequate and independent state law grounds.

## **II. There Is No Split in the U.S. Courts of Appeals.**

The Oklahoma Supreme Court found that the subject contract permitted SISVC School “to establish and operate the school as a Catholic school.” Pet.App.24a. Consistent with this, the Oklahoma Supreme Court held that the contract enabled SISVC School to “fully incorporate Catholic teachings into every aspect of the school, including its curriculum and co-curricular activities.” *Id.* Consequently, because the contract permitted SISVC School to act in a sectarian manner with respect to all functions, the question presented to the Oklahoma Supreme Court was essentially whether SISVC School could ever be considered a state actor for any purpose. At least as it relates to “the school’s core education function,”

the Oklahoma Supreme Court correctly found that SISVC School would be a state actor. Pet.App.21a.

That decision is factually and legally distinguishable from the cases relied on by SISVC School. Regardless, the Oklahoma Supreme Court’s analysis aligns with every circuit’s decision on whether charter schools are treated as state actors.<sup>7</sup> Any difference in outcomes is not based on disagreements over the applicable law. Instead, they are based on (i) different facts, (ii) vastly different histories of state-provided functions, (iii) arrangements that are more distant from the state, or (iv) all of the above.

This Court has held it is “necessarily [a] fact-bound inquiry” to determine whether an entity has acted as a state actor. *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 939 (1982). This is reflected in the only two courts of appeals cases relied on by SISVC School that involved charter schools. The Ninth Circuit in *Caviness v. Horizon Community Learning Center, Inc.*, 590 F.3d 806 (9th Cir. 2010), held that an Arizona charter school did not act as a state actor for the purposes of its post-employment treatment of a former employee. The Court recognized that “a private entity may be designated a state actor for some purposes but still function as a private actor in other respects.” *Id.* at 814. With regards to the treatment of employees, Arizona law exempted charter schools “from all statutes and rules relating to schools, governing boards

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<sup>7</sup> The position also aligns with a position taken by the amici South Carolina Attorney General in 2022. There, the South Carolina Attorney General issued a formal opinion finding South Carolina’s “charter schools are state actors whose operations are supported with public funds.” 2022 WL 20471447, at \*3 (S.C.A.G. June 30, 2022).

and school districts[,]” including statutes governing dismissal of teachers. *Id.* at 810. Thus, the Ninth Circuit’s finding on this specific issue—the charter school’s official’s alleged false statements to the former employee’s prospective employer—was based on Arizona’s decision to exempt charter schools from state regulation on employment practices.

In a later case concerning Idaho charter schools, the Ninth Circuit recognized *Caviness’s* limited reach when it noted that “Idaho charter schools are [] subject to state control that weighs in favor of a finding that they are governmental entities.” *Nampa Classical Acad. v. Goesling*, 447 Fed.Appx. 776, 777–78 (9th Cir. 2011) (unpublished); *see also id.* at 778 n.1. But Arizona law contrasts with Oklahoma law which subjects charter schools to “significant ongoing oversight and evaluation” and to the same academic standards as other public schools. Pet.App.15a-16a.

The Fourth Circuit in *Peltier v. Charter Day School, Inc.*, 37 F.4th 104, 121 (4th Cir. 2022), cert. denied, 143 S. Ct. 2657 (2023), agreed that *Caviness* and the cases it relied on did not “establish[] bright-line rules applicable to every case” in deciding whether a charter school is a state actor. The Fourth Circuit correctly found that *Caviness* simply “evaluat[ed] the specific conduct challenged by the plaintiffs in the context of the governing state law.” *Id.* The Fourth Circuit adopted the same approach by applying a “totality-of-the-circumstances inquiry [which] is guided not only by the factual circumstances of a plaintiff’s claim, but also by the laws of the state regulating the school in question.” *Id.*

The different outcomes between *Caviness* and *Peltier* lie in the nature of the actions that were chal-

lenged. *Peltier* focused on the implementation of a dress code by a charter school, a core educational policy regulated by North Carolina. *Id.* at 120. On the other hand, *Caviness* dealt with employment decisions, which were not sufficiently regulated by Arizona to constitute state action. 590 F.3d at 811. Therefore, the different outcomes are based on the specific functions challenged and how those specific functions were regulated by their respective states.

St. Isidore, next, relies on two circuit decisions involving purely private schools, to suggest a circuit split. Pet. at 23–24 (discussing *Logiodice v. Trs. of Me. Cent. Inst.*, 296 F.3d 22 (1st Cir. 2002) and *Robert S. v. Stetson Sch., Inc.*, 256 F.3d 159 (3d Cir. 2001)). *Logiodice* involved Maine’s practice of contracting with private schools to provide education in rural communities. 296 F.3d at 24. The plaintiff challenged a private school’s disciplinary action. *Id.* at 25. The First Circuit held that there was no entwinement between state and private school largely because the school’s trustees possessed the exclusive right to “promulgate, administer and enforce all rules and regulations pertaining to” behavior and discipline. *Id.* at 28.

*Robert S* concerned a private school “that specialize[d] in the treatment and education of juvenile sex offenders.” 256 F.3d at 162. The plaintiff relied exclusively on the theory that the private school performed a function that was traditionally the exclusive province of the state. *Id.* at 165. The Third Circuit rejected the plaintiff’s argument—holding that the “undisputed evidence” showed that only private schools offered the same services. *Id.* at 166.

Neither *Logiodice* nor *Robert S* involved the establishment of a state-sponsored public school. And unlike *Caviness* or *Peltier*, the decision below did not address whether SISVC School is a state actor for a specific function in a lawsuit arising under 42 U.S.C. § 1983. Instead, the decision analyzed whether the State's establishment of a public school to promote and incorporate one religion to the exclusion of all others was unlawful. The contract at issue in this case broadly permitted SISVC School to act in a sectarian manner for all functions. Pet.App.24a. As a result, there was no need for the Oklahoma Supreme Court to conduct a "fact-bound inquiry" as to whether SISVC School acted as a state actor for a specific function to determine that SISVC's evangelizing mission was fairly attributable to the State.

Nevertheless, the Oklahoma Supreme Court conducted the same fact-based inquiry as the cases cited by Petitioner to determine that the State had sufficient control over the SISVC School to be considered a state actor. The Oklahoma Supreme Court analyzed the features of Oklahoma law and concluded that there was sufficient governmental control over SISVC School's actions to make them attributable to the State. Pet.App.17a-21a. Specifically, the Board "serve[s] as sponsors for the charter schools" and "will provide oversight of the operation for [SISVC School], monitor its performance and legal compliance, and decide whether to renew or revoke St. Isidore's charter." *Id.* at ¶ 29. Further, SISVC School "receive[s] many of the same legal protections and benefits as their government sponsor. The State's entwinement expands to the internal operations and affairs of the charter schools." *Id.*

Therefore, there is no circuit split. The Oklahoma Supreme Court applied the same legal standard as the cited circuit courts of appeals cases to determine whether a charter school is a state actor. Using this same legal standard, the Oklahoma Supreme Court correctly found that SISVC was a state actor for at least some purposes based on Oklahoma's unique statutory scheme and facts of the sponsorship contract.

### **III. This Case Is a Poor Vehicle for Deciding the State Action Question.**

This is the first time a state has attempted to authorize a public charter school that fully incorporates religious teachings into “every aspect of the school.” Pet.App.24a. The Court would benefit from permitting this issue to percolate through the lower courts.

Moreover, whether SISVC School is a public or private school turns on the unique provisions of Oklahoma state law, and a decision in this case would offer little guidance regarding whether “charter schools” in other states are public or private. Namely, each state has their own unique constitutional and statutory regime for regulating charter schools.<sup>8</sup> And

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<sup>8</sup> For example, Kansas requires local public school boards of education and the state board of education to approve a charter school application; however, there is no statewide authorizing body named as such. See KAN. STAT. ANN. § 72-4208. Wisconsin authorizes, *inter alia*, local school boards, the city of Milwaukee, certain universities, and one county (if the school is located in that county) to approve charter schools. WIS. STAT. § 118.40 Requirements to intervene and close schools also vary by state. See, e.g., MO. REV. STAT. § 160.405 (intervention required for failing to maintain a 70% graduation rate); FLA. STAT. § 1002.33 (sponsor may terminate for failing to participate in the state's education accountability system); N.H. REV. STAT. ANN. § 194-



there are facts unique to the present dispute. For instance, the subject contract requires that material changes to the approved curriculum be approved by the State. Pet.App.115a. Therefore, it would be difficult for the Court to fashion a rule that would guide other courts in addressing this issue.

Additionally, the underlying case is an original jurisdiction proceeding seeking a writ of mandamus on a contract that permitted SISVC School to “fully incorporate Catholic teachings into every aspect of the school.” Pet.App.24a. As a result, the typical “fact-bound inquiry” on whether state action occurred was not undertaken in this matter. *Lugar*, 457 U.S. at 939. While the Oklahoma Supreme Court suggested that “the school’s core education function” constituted state action, there were no findings as to any other potential functions to be undertaken by SISVC School. Pet.App.21a. Therefore, even if the Court were to agree that some core education functions did not constitute state action, this would not be the end of the inquiry.

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B:16 (State board may immediately revoke a charter in circumstances posing extraordinary risk of harm to students). Differences also occur regarding requirements for employees of a charter school. See ARIZ. REV. STAT. ANN. § 15-183 (State Board of Education may not adopt rules that exceed the requirements for persons qualified to teach in charter schools prescribed in federal law); CONN. GEN. STAT. § 10-66dd (at least 50% of teachers must hold a state teacher certification); N.C. GEN. STAT. § 115C-218.90 (same). Finally, states are unique in their exemptions for charter schools. See ARK. CODE ANN. § 6-23-103 (exemptions must be listed in each charter, except there are no exemptions for assessment and accountability waivers); FLA. STAT. § 1002.33 (charter schools must comply with traditional public-school salary schedule requirements); GA. CODE ANN. § 20-2-2065 (teacher evaluations required just like in traditional public schools).

The State would still press the Oklahoma Supreme Court on remand to conduct a fact-bound inquiry to determine whether any other function sought to be undertaken by SISVC School, such as school discipline, constitutes state action.

Moreover, on remand, the State would also press whether the terms of the contract independently violated Oklahoma statutory law. The Board's Rules precluded it from altering the model contract if the terms fail to comply "with applicable state, federal, local, and/or tribal law." OKLA. ADMIN. CODE § 777:10-3-3(g). But as observed by the Oklahoma Supreme Court, the executed contract was altered to "state[] that [SISVC School] has the right to freely exercise its religious beliefs and practices consistent with its religious protections." Pet.App.6a.

The effect of these changes to the model contract eliminated the contractual guardrails preventing SISVC School from acting in a sectarian fashion in its programs. As the contract is currently written, SISVC School can act in a sectarian fashion however it wishes if it subjectively believes it is consistent with its "religious protections." Therefore, in addition to determining whether any other function sought to be undertaken by SISVC School could constitute state action, the State would still press the Oklahoma Supreme Court on remand to determine whether the Board could have reasonably concluded that the contract "complied with applicable state, federal, local, and/or tribal law." OKLA. ADMIN. CODE § 777:10-3-3 (g).

Therefore, this case is a poor vehicle for deciding the state action question.

#### IV. The Decision Below Is Correct.

The Oklahoma Supreme Court correctly held that “[u]nder Oklahoma law, a charter school is a public school. As such, a charter school must be nonsectarian,” and “[Oklahoma’s] establishment of a religious charter school violates Oklahoma statutes, the Oklahoma Constitution, and the Establishment clause.” Pet.App.27a.

##### **A. The Oklahoma Supreme Court correctly determined that Oklahoma Charter Schools are public schools, which the State may lawfully require to provide a strictly secular education.**

Under *Carson*, “[Oklahoma] may provide a strictly secular education in its public schools.” *Carson v. Makin*, 596 U.S. at 769. In fact, this Court recently stated that it would “not ordinarily pause to consider whether . . . public schools” are state actors. *Lindke v. Freed*, 601 U.S. 187, 188 (2024). The Oklahoma Supreme Court faithfully applied this Court’s recent precedents and held that Oklahoma charter schools are public schools, which the Oklahoma Legislature lawfully requires to provide strictly secular education. The Oklahoma Supreme Court correctly concluded that the charter agreement between the State and the Church Corporation violated the lawful requirement that Oklahoma’s public charter schools provide a strictly secular education.

Oklahoma’s charter schools are public schools.<sup>9</sup> *Carson* identified the “numerous and important” dif-

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<sup>9</sup> The amici Oklahoma Governor agreed when he wrote to the Secretary of U.S. Department of Education on April 18, 2022,

ferences between public and private schools. Oklahoma’s charter schools bear all of the hallmarks of a public school identified by this Court and more.

While not dispositive, Oklahoma charter schools are statutorily designated as public schools. OKLA. STAT. tit 70 § 3-132.2(C)(1)(a). On this issue, the Church Corporation is careful to avoid arguing that SISVC School would be a private school. SISVC School even refuses to call itself a “private school” in its brief. SISVC School is careful to avoid such a label because it knows private schools, religious and secular alike, are ineligible to operate charter schools under Oklahoma law. OKLA. STAT. tit. 70, § 3-134(C). As a result, the Court should not be confused by SISVC School’s attempts to conflate the would-be public charter school, SISVC School, with the private non-profit entity created by the Archdiocese of Oklahoma City and Diocese of Tulsa, the Church Corporation, by simply referring to both entities as “St. Isidore.”

The reality is that SISVC School was not an Oklahoma charter school until it was sponsored by the Board via the approved application and sponsorship contract with the Church Corporation. OKLA. STAT. tit. 70, § 3-132 (private entities may *apply* and *contract*

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that “[c]harter schools are public schools, and many of the 3.5 million American students enrolled in charter schools are educated through the public education system in our states.” He was joined in the letter by, among others, the Governors of the amici states Alabama, Arkansas, Nebraska, and Texas. Letter joined by J. Kevin Stitt, Governor of Oklahoma, to Dr. Miguel Cardona, Secretary of the United States Department of Education. (April 18, 2022) (available at [https://content.govdelivery.com/attachments/OHIOGOVERNOR/2022/04/18/file\\_attachments/2134659/Joint%20Governors%20Comment%20on%20Charter%20School%20Rule%204.18.2022.pdf](https://content.govdelivery.com/attachments/OHIOGOVERNOR/2022/04/18/file_attachments/2134659/Joint%20Governors%20Comment%20on%20Charter%20School%20Rule%204.18.2022.pdf)).

with an eligible sponsor, but once *established* by contract, the charter school is a public school). Therefore, any attempt by SISVC School to suggest that it is the equivalent of a private school should be dismissed.

Despite the reality that a designation as a private school is fatal to its ability to obtain a public charter school sponsorship contract, SISVC School cites *Carson* for the proposition that “‘the substance of free exercise protections’ does not turn ‘on the presence or absence of magic words,’” and Oklahoma’s statutory designation of charter schools as public schools cannot control the outcome of this case. Pet. Br. at 28. Yet, for good reason, SISVC School declines to even attempt to analyze whether Oklahoma’s charter schools are public schools under the factors outlined by this Court in *Carson*. Under each of the factors considered by this Court in *Carson*, Oklahoma’s charter schools are plainly public schools.

First, “[t]o start with the most obvious, private schools are different by definition because they do not have to accept all students. Public schools generally do.” *Carson*, 596 U.S. at 783. In Oklahoma, charter schools, like all other public schools, must be open to all students.<sup>10</sup>

“Second, the free public education that [Oklahoma] insists it is providing” through the charter school system is truly free. *Id.* Public charter schools, like all other public schools in Oklahoma, are tuition-free. OKLA. STAT. tit. 70 § 3-136(9). While Oklahoma recently enacted a tax credit to help offset up to \$7,500 of

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<sup>10</sup> In fact, Oklahoma law prohibits the formation of single-sex charter schools, a factor considered relevant by this Court in *Carson*. OKLA. STAT. tit. 70, § 3-140.

private school tuition costs, OKLA. STAT. tit. 70, § 28-101, which is entirely separate from the Act and public charter schools, there is no statutory limit to the amount private schools can charge for tuition.

Third, while charter schools may vary in their methods of presentation and emphasis, each charter school's curriculum must be approved by the State before it is taught. OKLA. STAT. tit. 70 § 3-136(B)(13). Moreover, under the subject contract, any material change to the approved curriculum must be authorized by the State prior to implementation. *See* Pet.App.115. The State's pervasive and ongoing control of charter schools' curriculum has no analogue in Oklahoma private schools.

Fourth, charter schools in Oklahoma are "subject to the same academic standards and expectations as existing public schools." OKLA. STAT. tit. 70, § 3-135 (A)(11). Charter schools must also, "as is required of a school district," conduct standardized testing as required by the Oklahoma School Testing Program Act and provide pertinent data to the Office of Accountability within the State Department of Education. *Id.* at §§ 3-136(A)(4); 1210.505. Charter schools must also report a myriad of student and school performance information to the State. *Id.* at § 3-136 (A) (18). These reports provide transparency in the public expenditure of funds and serve as the basis for State-issued school accountability report cards, which state and federal law mandate for public schools. *Id.* at § 3-136 (A)(4), (6); §§ 5-135, 5-135.2, and 5-135.4; §§1210.544—1210.545; 20 U.S.C. § 6311. There are no analogous statutory mandates for private schools.

Fifth, while Oklahoma's charter schools are not restricted to hiring state-certified teachers, neither

are traditional public schools. Since 2022, Oklahoma permits traditional public school districts to employ non-certified individuals who are determined by the local board of education to be persons with “distinguished qualifications in their field.” OKLA. STAT. tit. 70, § 122.3(G). Numerous other factors not considered by this Court in *Carson* confirm that Oklahoma charter schools are public schools, which Oklahoma may lawfully require to “provide a strictly secular education.” *Carson*, 596 U.S. at 785.

Like all other Oklahoma public schools, charter schools must obtain—and maintain as a condition of continued existence—accreditation directly from the State Board of Education.<sup>11</sup> Illustrating the control and supervision of public charter schools, the State Board of Education accreditation standards sets forth more requirements for public charter schools than for traditional public schools. Res.App.386a-387a.

Charter schools are also (a) considered a “school district” and protected under the Oklahoma Government Tort Claims Act,<sup>12</sup> (b) subject to State “reporting requirements, financial audits, audit procedures, and

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<sup>11</sup> OKLA. STAT. tit. 70, § 3-132.2(B).

<sup>12</sup> OKLA. STAT. tit. 70, § 3-136(A)(12). The Government Tort Claims Act, OKLA. STAT. tit. 51, § 151, *et seq.*, applies to the State, its political subdivisions, and employees of the State and its political subdivision who are acting within the scope of their employment. *Id.* This act “adopt[s] the doctrine of sovereign immunity” for torts for those parties, *id.* at § 152.1(A), and sets forth the scope of liability, extent of liability, and exemptions from liability among other things. *Id.* at §§ 153--155. The Oklahoma Legislature’s extension of The Government Tort Claims Act to public virtual charter schools displays its intent to treat such schools as the state or political subdivisions thereof.

audit requirements,”<sup>13</sup> (c) required to comply with the Oklahoma Open Meeting Act and the Oklahoma Open Records Act,<sup>14</sup> (d) eligible for State employee retirement and insurance programs,<sup>15</sup> (e) required to designate multiple occupancy restrooms as “for the exclusive use” of the male or female sex,<sup>16</sup> (f) subject to inspection by the State Auditor,<sup>17</sup> (g) required to comply with legislatively approved due process measures for student discipline matters,<sup>18</sup> and (h) subject to all “laws relating to educating students with disabilities in the same manner as a [traditional] school district.”<sup>19</sup> Additionally, charter schools must also meet the health, safety, civil rights and insurance requirements that are required of traditional public schools. OKLA. STAT. tit. 70, § 3-136(A)(1). In addition to other laws and regulations, the State Department of Education interprets this to include more than seventy laws and regulations, including laws and regulations covering the national fingerprint-based criminal history check, surety bonds for public officers, smoking in public places, and Oklahoma Employees Insurance and Benefits Act. Oklahoma’s Legislature even recently decided to bring charter school governing boards in line with school district

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<sup>13</sup> *Id.* at (A)(5).

<sup>14</sup> *Id.* at (A)(15).

<sup>15</sup> *Id.* at (A)(13),(14).

<sup>16</sup> OKLA. STAT. tit. 70, § 1-125

<sup>17</sup> *Id.* at (A)(5)

<sup>18</sup> *Id.* at (A)(11)

<sup>19</sup> *Id.* (A)(7)



boards of education, including with respect to public officer ethics, conflicts of interest, and continuing education requirements. OKLA. STAT. tit. 70, § 136(A) (7).

Beyond the extensive control over charter schools granted to the Board by the Legislature, the charter itself gives the Board control of all significant aspects of the charter school. The charter confirms that the school is subject to State regulations regarding (a) conflicts of interest among the members of the charter school's governing board (Pet.App.121a), (b) the school's relationship with Educational Management Organizations (Pet.App.122a), (c) the school's ability to take on debt (Pet.App.125a), (d) constitutional spending limitations (Pet.App.128a), (e) reporting of financial transactions through the Oklahoma Cost Accounting Systems (Pet.App.129a) and annual audits (Pet.App. 131a), (f) access to records (Pet.App.132a), (g) requirements that teachers pass background checks and have valid teaching certificates or the equivalent (Pet.App.142a), (h) insurance requirements and coverage under the Oklahoma Governmental Tort Claims Act (Pet.App.144a), and (i) notification requirements in the event of adverse action taken against the school (Pet.App.148a).

Moreover, had the contract not been rescinded, the fact that the contract gives the Board full veto power over material changes to the charter school's Catholic curriculum would present multiple obvious and unavoidable constitutional issues. *See* Pet.App.115a. At the outset, the State's official approval of one particular "Catholic curriculum" presents an obvious Establishment Clause issue in that the State has elevated the doctrinal beliefs of one rite of Catholicism

over all others. This fundamental issue would be amplified when the charter school attempts to incorporate the ever-changing landscape of Catholic doctrine through updates to the school's curriculum.

For example, the Pope's issuance of an Encyclical Letter or a Third Vatican Council could create material expansions or revisions of Catholic doctrine. Under the charter, SISVC School would be prohibited from instructing students on such teachings unless and until the State approves of the Church's new teachings.

Even if there were some dispute as to whether instructing students on a new Encyclical Letter or updating religious instruction following a Third Vatican Council constitute a material deviation from the State-approved Catholic curriculum, the First Amendment issues persist. This Court has been clear that courts must "heed the First Amendment, which 'commands civil courts to decide legal disputes without resolving underlying controversies over religious doctrine.'" *Our Lady of Guadalupe School v. Morrissey-Berru*, 591 U.S. 732, 763 (2020) (Thomas, J., concurring) (quoting *Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U.S. 440, 449 (1969)). If the Board were to believe that SISVC School made a material change to the approved Catholic curriculum without prior authorization from the State, the Board could pursue a breach of contract claim. This would leave Oklahoma's courts to decide what Catholic doctrine is, whether there has been a material change in Catholic doctrine, and whether SISVC School has made a material change without State authorization based on novel teachings from the Catholic Church's Magisterium. It is hard

to imagine a more clear-cut First Amendment violation.

Simply stated, there can be no question that the Oklahoma Supreme Court correctly concluded that Oklahoma's charter schools are public schools and that Oklahoma's laws requiring charter schools to provide a strictly secular education are constitutionally valid.

**B. The Oklahoma Supreme Court Correctly Concluded That Oklahoma's Establishment of a Catholic Public Charter School Is Unlawful.**

SISVC School, careful to avoid arguing that it would have been a private school, attempts to recast the Oklahoma Supreme Court's decision as excluding the Church Corporation from participating in Oklahoma's public charter school program because of the Church Corporation's religious identity. But the Oklahoma Supreme Court was clear that its conclusion rested "on the State's contracted-for religious teachings and activities through a new public charter school, not the State's exclusion of a religious entity." ¶ 45.

Oklahoma's laws governing charter schools at issue here are readily distinguishable from the unconstitutional restrictions on aid to private religious schools which this Court recently struck down in *Espinoza* and *Carson*.

Those cases concerned state subsidization of tuition at existing private religious schools, not state establishment of new public religious schools. See *Espinoza*, 591 U.S. at 467; *Carson*, 596 U.S. at 783. As set forth in detail above, the schools at issue in

*Carson* and *Espinoza* are fundamentally different from SISVC School in that SISVC School is not—and does not claim to be—a private school; it is a public charter school established by the State.

Further, this is not a case where the State has chosen to “disqualify some private schools” from generally available tuition assistance “solely because they are religious.” *Espinoza*, 591 U.S. at 487; *Carson*, 596 U.S. at 780. In both *Carson* and *Espinoza*, private schools were eligible to participate in the tuition assistance program, so long as the private schools were not religious. *Id.* Here, private schools, religious and secular alike, are categorically excluded from the charter program. OKLA. STAT. tit. 70, § 3-134(C).

Moreover, SISVC School’s inability to operate as a public charter school is not a penalty. There is nothing in the law precluding SISVC School from operating as a private school as opposed to public charter school. The Oklahoma Constitution and Establishment Clause simply preclude the SISVC School from operating a Catholic public charter school.

This case is also distinguishable from *Carson* and *Espinoza* in that Church Corporation has not been excluded from operating a public charter school because of its religious nature. To be clear, despite its self-acknowledged religious nature, the Church Corporation is not prohibited from operating a secular public charter school under the Oklahoma Supreme Court’s decision. Nor is the Church Corporation prohibited from operating a Catholic private school that would be eligible for Oklahoma’s recently enacted tax credit. Rather, what the Oklahoma Supreme Court correctly prohibited was the State’s attempt to establish a Catholic public charter school. It is the religious

nature of the entity established by the State, through its charter establishing SISVC School, that invalidates the charter, not the religious nature of the Church Corporation itself.

Finally, while SISVC School heavily relies on this Court's decision in *Rendell-Baker*, it is similarly readily distinguishable. That case involved certain personnel decisions at a specialized private school for troubled children that was only nominally overseen by state agencies. *Rendell-Baker v. Kohn*, 457 U.S. 830, 832-834 (1982). Further, as a private school, the school in that case did not provide free and universal education, nor was it entangled with the state to the degree that Oklahoma charter schools are. *Id.* Therefore, *Rendell-Baker* is not helpful to SISVC School.

Accordingly, the decision below is correct.



**CONCLUSION**

For the foregoing reasons, the Court should deny the petition for certiorari.

Respectfully submitted,

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December 9, 2024

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**STATEWIDE VIRTUAL CHARTER SCHOOL  
BOARD SPECIAL MEETING  
APPROVED MINUTES  
(JUNE 5, 2023)**

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**STATEWIDE VIRTUAL CHARTER SCHOOL  
BOARD OKLAHOMA HISTORY CENTER**

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The Statewide Virtual Charter School Board met in special session at 12:05 p.m. on Monday, June 5, 2023, in the Oklahoma History Center at 800 Nazih Zuhdi Dr., Oklahoma City, Oklahoma. The final agenda was posted at 4:30 p.m. on Wednesday, May 31, 2023.

Members of the Statewide Virtual Charter School Board Present:

Brian Bobek  
Robert Franklin  
William Pearson  
Nellie Tayloe Sanders  
Scott Strawn

Others in Attendance:

Rebecca Wilkinson, Executive Director  
Skyler Lusnia, Secretary to the Board  
Lisa Daniels, Horizon Director  
Arden Nerius, Assistant Attorney General  
Niki Batt, Deputy Attorney General  
Erika Wright, Oklahoma Rural Schools Coalition  
Andrea Kunkel, CCOSA  
Paul Monies, Oklahoma Watch  
Misty Bradley, OKPLAC  
Clark Frailey, Pastors for Oklahoma Kids



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Bennett Brinkman, NonDoc Media  
Amanda Stephens, Bixby Public Schools  
John Meiser, St. Isidore  
A.J. Ferate, Spencer Fane, LLP  
William Ezzell, KFOR  
Sean Cummings, Citizen  
James Bleecker, Arch OKC  
Tyler Outlaw, Oklahoma Education Association  
Brett Farley, St. Isidore  
Rebekah Farley, St. Isidore  
Sarah Franklin, Citizen  
Katie Zimdors, Arch OKC  
Laura Willis, Parent  
Lucia Frohling, Parent  
Jennifer Bevensee, Parent  
Michael Scaperlanda, Archdiocese of OKC  
Andrea Eger, Tulsa World  
Adam Gorms, KFOR  
Lara Schuler, Archdiocese of Oklahoma City  
Rick Maranon, Fox 23 Tulsa  
Allyson Starh, Fox 23 Tulsa  
Dale Forbis, Radio Oklahoma Network  
Jeanene Barnett, CCOSA  
Savannah Stumph, Parent  
Nuria Martinez-Keel, The Oklahoman  
Stephanie Lippert, Parent  
Other general public

### **1. CALL TO ORDER AND ROLL CALL**

Dr. Franklin called the Statewide Virtual Charter School Board special meeting to order at 12:05 p.m. Roll was called and ascertained there was a quorum.

**2. STATEMENT OF COMPLIANCE WITH THE OKLAHOMA OPEN MEETING ACT**

Mr. Lusnia read the Statement of Compliance with the Oklahoma Open Meeting Act.

**3. PLEDGE OF ALLEGIANCE, SALUTE TO THE OKLAHOMA STATE FLAG, AND MOMENT OF SILENCE**

Dr. Franklin led board members and all present in the Pledge of Allegiance to the American flag, a salute to the Oklahoma flag, and a moment of silence.

**4. PUBLIC COMMENT**

The SVCSB heard comments from the following individuals regarding agenda item Administration 6.b.:

Doug Mann, Oklahoma PLAC  
Erika Wright, Oklahoma Rural Schools Coalition  
Andrea Kunkel, CCOSA  
Misty Bradley, OKPLAC  
Clark Frailey, Pastors for Oklahoma Kids  
Michael Scaperlanda, OU College of Law  
A.J. Ferate, Spencer Fane, LLP  
Sean Cummings, Self

**5. CHAIRMAN COMMENTS — Chairman Robert Franklin**

Dr. Franklin welcomed Brian Bobek to the Statewide Virtual Charter School Board. He read the Oath of Office board members have signed. Dr. Franklin referenced SB 516 and referenced the SVCSB statutory duties to review the revised St. Isidore of Seville Catholic Virtual School applica-

tion to ensure compliance with Statute. Dr. Franklin reminded board members of their oaths and asked Mr. Bobek to abstain in consideration of the application. Dr. Franklin expressed deep respect for the Archdiocese and implored them to begin the virtual school regardless of the vote.

## **6. Administration**

**a. PROPOSED EXECUTIVE SESSION** pursuant to Title 25 O.S. § 307(B)(4), and consistent with 2005 OK AG 29, ¶ 13, for the purpose of confidential communications between the Board and counsel from the Oklahoma Office of the Attorney General concerning threatened, anticipated, or potential legal challenges related the Board's approval of, disapproval of, decision to take no action on, or other action(s) on the application of St. Isidore of Seville Catholic Virtual Charter School, where counsel has determined that disclosure of information related to the claim(s) or action(s) will seriously impair the ability of the Board to process or conduct litigation in this matter

The Board did not enter Executive Session.

### **b. Presentation, discussion, and possible action regarding the acceptance or rejection of the St. Isidore of Seville Catholic Virtual School Application for Initial Authorization**

Ms. Schuler, Senior Director Department of Catholic Education for the Archdiocese of Oklahoma City, presented the St. Isidore of Seville Catholic Virtual School Revised Application and answered questions.

## Res.App.5a

Ms. Batt provided the Board with information from Oklahoma Statute, and the SVCSB Charter Contract template and answered questions.

Dr. Strawn moved to approve the application. Ms. Sanders seconded the motion. The motion carried with the following votes:

Brian Bobek	Yes
Robert Franklin	No
William Pearson	No
Nellie Tayloe Sanders	Yes
Scott Strawn	Yes

Prior to adjournment, Dr. Franklin read a statement to the Board and those in attendance.

### 7. ADJOURNMENT

There being no further business, Dr. Strawn moved to adjourn the meeting at 2:54 p.m. Mr. Pearson seconded the motion. The motion carried with the following votes:

Brian Bobek	Yes
Robert Franklin	Yes
William Pearson	Yes
Nellie Tayloe Sanders	Yes
Scott Strawn	Yes

/s/ Robert Franklin  
Chairman of the Board

/s/ Lynn Stickney  
Secretary of the board

**OKLAHOMA STATEWIDE VIRTUAL CHARTER  
SCHOOL BOARD VIRTUAL CHARTER SCHOOL  
AUTHORIZATION AND OVERSIGHT  
PROCESS MANUAL**

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M.C. Connors Building  
2501 N. Lincoln Blvd., Suite 301  
Oklahoma City, OK 73105 July 2023

**AUTHORIZATION AND OVERSIGHT PROCESS**

Oklahoma statute provides direction for the Statewide Virtual Charter School Board in that it was created to have sole authority “...to authorize and sponsor statewide virtual charter schools in this state...” (70 O.S.§ 3145.1)

The duties of the Statewide Virtual Charter School Board are specific:

1. Provide oversight of the operations of statewide virtual charter schools in this state; and
2. Establish a procedure for accepting, approving and disapproving statewide virtual charter school applications and a process for renewal or revocation of approved charter school contract, which minimally meet the procedures set forth in the Oklahoma Charter School Act (70 O.S.§ 3-145.3).

In addition, the Oklahoma Charter School Act delegates the following powers and duties of a sponsor of a charter school:

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;

## Res.App.7a

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.

To fulfill these responsibilities, the Statewide Virtual Charter School Board has established an authorizing and oversight process that allows the Board to sponsor schools that meet expected standards for organizational capacity, financial management, and academic performance. This process includes timelines and criteria for both initial and renewal of authorization of Oklahoma virtual charter schools, as well as oversight processes. Expectations to hold schools accountable to the standards are embedded in the following documents and serve as the guidelines to ensure virtual charter schools serve Oklahoma students.

Guidance for the authorization and evaluation process has been developed in four sections that provide direction for initial authorization, oversight and evaluation, renewal of authorization and school closure.

**SECTION 1. INITIAL AUTHORIZATION  
VIRTUAL CHARTER SCHOOL**

In alignment with the Oklahoma Charter Schools Act, the Statewide Virtual Charter School Board will consider authorization of a new school when evidence of the following criteria is established:

1. Evidence of a strong and reliable record of academic success based primarily on student performance data;
2. A financial structure that ensures that funds attributable to the charter school are used to benefit that school; and
3. A sound governing board committed to the education and well-being of students.

To begin the application process for initial authorization by the Statewide Virtual Charter School Board, the applicant must first reflect on the vision and mission of the proposed school. It is not the goal of the Board to simply create schools, but instead to sponsor virtual charter schools with clear purpose. Vision and mission is the cornerstone of a charter school seeking to fill an educational need within the Oklahoma community. The development of key school and program design elements and performance indicators create the roadmap toward fulfillment of the vision and mission.

The following pages provide guidance in the planning, writing, and review of the application for initial authorization. Each component of the application should be distinct in its own right, but with all components related and in alignment and support of the proposed school's vision and mission.

**INITIAL AUTHORIZATION PROCESS TIMELINE**

- Complete State Department of Education Charter School Training required by 70 O.S.§ 3-134(A).
- Application for Initial Authorization is due to the Statewide Virtual Charter School Board in January, eighteen (18) months prior to first year of proposed operation.
- Application will be received and stamped by the Statewide Virtual Charter School Board. Ten (10) print copies, as well as an electronic version of the application, are required.
- Due diligence in application review will begin upon receipt of application.
- Application will be distributed to the members of the Statewide Virtual Charter School Board for review.
- Application will be submitted to a panel organized by the Executive Director for review of application and creation of recommendation(s) for consideration by the Statewide Virtual Charter School Board.
- Applicant will conduct a public presentation of application for initial authorization at the next regular
- Statewide Virtual Charter School Board meeting.
- The Statewide Virtual Charter School Board will consider the application at a subsequent board meeting.
- Acceptance or rejection of sponsorship is required within ninety (90) calendar days of receipt of the application.
- Prior to the board meetings, the Statewide Virtual Charter School Board will submit notice(s) of the



## Res.App.10a

date, time and location to the address of record in application.

- A written notification of acceptance or rejection of sponsorship by the Statewide Virtual Charter
- School Board will be mailed promptly.
- If application is accepted, execution of a contract for sponsorship will begin. A charter contract similar to the template provided in Appendix G may be executed.
- If application for sponsorship is rejected, the written notification of rejection will outline reasons for the decision.
- Applicant may submit a revised application for reconsideration by the Statewide Virtual Charter
- School Board within thirty (30) calendar days of receipt of notification of rejection.
- The Statewide Virtual Charter School Board shall accept or reject revised application within thirty (30) days of receipt.
- Decision to deny sponsorship may be appealed in compliance with Oklahoma statute.
- Initial Authorization Process Timeline
- In accordance with 210:40-87-5, a charter school will be considered established when a charter school files charter documents with the State Department of Education and receives school codes. The following documents must be filed:
  1. A copy of the sponsor's approved board minutes approving the charter school application;
  2. A copy of the completed charter school application;

## Res.App.11a

- a. A copy of the approved contract for the new charter school; and
- b. 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 address 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.

### **Introduction**

Section One of the Manual provides direction for submission of an application for initial authorization to the Statewide Virtual Charter School Board. In addition to this Manual, applicants should refer to the Oklahoma Charter School Act and related Administrative Rules (777:10-3-3) for guidance in the application process. All applications for initial authorization as a virtual charter school submitted to the Statewide Virtual Charter School Board for consideration must adhere to the requirements of state and federal statutes and regulations, as well as to the direction of this document.

**Sponsorship application requirements.** In addition to meeting the requirements of 70 O.S. § 3-134, new applications to the Statewide Virtual Charter School Board for sponsorship of a statewide

## Res.App.12a

virtual charter school must include the following information in the sponsorship proposal:

(1) For initial consideration for sponsorship, every applicant shall submit a set of policies and procedures governing administration and operation of the proposed statewide virtual charter school. The policies and procedures governing administration and operation of the proposed statewide virtual charter school shall be incorporated into the terms of the contract of the virtual charter school, and shall include, but are not limited to, all of the following subject areas:

(A) Each of the following provisions required by 70 O.S. § 3-135:

- (i) A description of the charter school program offered by the school which complies with the purposes outlined in 70 O.S. § 3-136;
- (ii) Student admission and enrollment policies and procedures;
- (iii) Management and administration of the charter school;
- (iv) Requirements and procedures for program and financial audits;
- (v) All of the requirements set forth in 70 O.S. § 3-136, including, but not limited to, compliance with all regulations of the State Department of Education pertaining to health, safety, civil rights, and insurance and financial reporting and auditing requirements;

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- (vi) Assumption of liability by the charter school;  
and
- (vii) Employment rights and personnel policies of the school required to be included in employee contracts pursuant to 70 O.S. § 3-135(B);
- (B) Duties and responsibilities of the charter school governing body;
- (C) Student grade placement, promotion, retention, and graduation requirements;
- (D) Use and maintenance of charter school property and facilities, including:
  - (i) Virtual provider technology protocols that ensure conformity to the Rehabilitation Act of 1973 Sections 504 and 508 provisions for electronic and information technology, W3C's Web Content Accessibility guidelines, and Oklahoma's Information Technology Accessibility Standards to include minimum and recommended specifications for hardware, software, operating system, and Internet service, course delivery, and technical support;
  - (ii) Facility safety and emergency and crisis management;
  - (iii) School calendar, sample daily schedule as applicable to online learning at proposed school, school instructional hours, school holidays, dismissals and closures, attendance requirements;

## Res.App.14a

(E) Contracts with prospective contractors, including, but not limited to, any educational management organization, in which all products and services as well as all management fees are specifically listed and explained; and

(F) Any other topics deemed necessary by the Statewide Virtual Charter School Board to assess the applicant's capability to administer and operate the charter school in compliance with all applicable provisions of federal and state laws and regulations to which charter schools are required to comply.

(2) Each applicant shall:

(A) Articulate the vision and purpose of the school.

(B) Articulate the mission of the school, specifying how the school will embrace and accomplish its vision and purpose.

(C) Describe the key design elements and performance indicators of the school program that align with and support the school's mission and will be implemented to ensure student success.

(D) Describe how the school will ensure education access and equity for all eligible students.

(E) Describe how the governing body and governing documents ensure that a functioning organization with competent governance will be sustained, including:

- (i) lines of authority;
- (ii) leadership roles and responsibilities;
- (iii) proposed governing by-laws;

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- (iv) meeting schedules for governing body;
- (vi) a list of advisory bodies;
- (vii) external organizations applicable to school management;
- (vii) make-up of governing body, including proof of Oklahoma residency for a majority of Board members.
- (viii) start-up plan including a detailed listing and reporting frequency of academic, operational, and financial measures;
- (ix) recruitment, hiring and personnel policies, professional and staff development and training, technology capacity, system accessibility, student records and data management, student recruitment policies and procedures, admission and enrollment policies and procedures (including minimum and maximum enrollment for each contract year and proposed school calendar and sample daily schedule), promotion and graduation policies and procedures, attendance policies and procedures, student conduct and discipline plan, school safety and emergency response plan, parent and family education and engagement plan;
- (x) school effectiveness measurement criteria; and
- (xi) location and description of school facilities.

(F) Describe how the governing body will ensure a sound and stable financial condition for the school, including:

Res.App.16a

- (i) description of the roles and responsibilities of the treasurer and financial officers, and how each has demonstrated experience in school finance or the equivalent thereof;
- (ii) financial policies, including financial controls, and compliance with audit requirements;
- (iii) financial plan for the first five years of operation including, but not limited to, any financial support from a third-party including loans, deficit protection, and other financial leverage;
- (iv) start-up and five-year budgets and cash flow projections. The documents provided must account for the school's anticipated enrollment, as well as, a budget if the school only realizes a portion of the school's anticipated enrollment;
- (v) anticipated fundraising plan, if applicable;
- (vi) insurance coverage/plan; and
- (vii) verifiable proof of secured funds for each source of revenue, and documentation to support any agreement, donation, or loan that supports the budget.

(G) Describe how the governing body will ensure the delivery of a high-quality education program that meets academic performance for grade level and subject matter growth and proficiency, graduation, and college career readiness, including, but not limited to:

- (i) grade levels served;

Res.App.17a

- (ii) plan for program delivery and program evaluation;
- (iii) curriculum and instructional model, including learning environment, curriculum overview, curriculum materials, instructional strategies, equipment and technology requirements, alignment with Oklahoma academic standards, which must include historical data and evaluation of the selected curriculum and instructional model, accreditations earned, and NCAA course certification status;
- (iv) student assessment, including plan to measure and report student progress, and benchmarks for student learning, district/school assessments, Oklahoma School Testing Program;
- (v) plan for support structures (*e.g.* online tutoring, home mentors, and technical support services in place 24x7) in addition to teacher support;
- (vi) plan for support of diverse learners, (students at-risk for poor learning outcomes, academically behind learners, English Language Learners (ELL), and other students identified through testing and assessments requiring targeted remediation, intervention, and/or support);
- (vii) co-curricular and extracurricular activities;
- (viii) student performance; and
- (ix) school culture.



Res.App.18a

(H) Include a concise plan that details expected school growth and how the school will evolve to meet the needs of school growth.

(I) Demonstrate the applicant's experience in pre-kindergarten through 12th grade school operation.

(3) Each applicant shall provide documentation of its school's ability to meet each of the following requirements specific to the virtual delivery of education services:

(A) That each statewide virtual charter school is adequately prepared to deliver services to all enrolled students on the school's first day of operation and for all required instructional hours for every school year through a stable virtual platform;

(B) That each statewide virtual charter school has consistent lawful procedures in place governing admission, transfers, enrollment, and withdrawal of students;

(C) That each statewide virtual charter school has consistent lawful procedures in place governing admission, child find responsibilities, evaluation, and re-evaluation of students with disabilities, as well as applicable procedural safeguards and policies and procedures to ensure provision of free appropriate online and other educational and related services, supplementary aids and services, modifications, accommodations, supports for personnel, and other technical supports provided in the least restrictive environment to students with disabilities and/or other special needs in compliance with applicable federal and state laws and regulations, including:

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- (i) Students who require or may require individualized education programs pursuant to the Individuals with Disabilities Education Act (IDEA); and
- (ii) Students who require or may require accommodations, regular or special education and related aids, or other services under a plan developed in accordance with the requirements of Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act;

(D) That each statewide virtual charter school has consistent procedures in place governing the admission, identification, evaluation, re-evaluation, parental notification, and provision of educational programs and services in compliance with applicable federal and state laws and regulations to students with special needs or unique abilities, including, but not limited to:

- (i) Students who are English Language Learners/Limited English Proficient and who require services as necessary to overcome language barriers and ensure that they can participate meaningfully in the district's education programs; and curriculum and instructional model, including learning environment, curriculum overview, curriculum materials, instructional strategies, equipment and technology requirements, alignment with Oklahoma academic standards, which must include historical data and evaluation of the selected curriculum and instructional model, accreditations earned, and NCAA course certification status;

Res.App.20a

- (iii) student assessment, including plan to measure and report student progress, and benchmarks for student learning, district/school assessments, Oklahoma School Testing Program;
- (iv) plan for support structures (*e.g.* online tutoring, home mentors, and technical support services in place 24x7) in addition to teacher support;
- (v) plan for support of diverse learners, (students at-risk for poor learning outcomes, academically behind learners, English Language Learners (ELL), and other students identified through testing and assessments requiring targeted remediation, intervention, and/or support);
- (vi) co-curricular and extracurricular activities;
- (vii) student performance; and
- (viii) school culture.

(H) Include a concise plan that details expected school growth and how the school will evolve to meet the needs of school growth.

(I) Demonstrate the applicant's experience in pre-kindergarten through 12th grade school operation.

(3) Each applicant shall provide documentation of its school's ability to meet each of the following requirements specific to the virtual delivery of education services:

(A) That each statewide virtual charter school is adequately prepared to deliver services to all enrolled students on the school's first day of operation and for

## Res.App.21a

all required instructional hours for every school year through a stable virtual platform;

(B) That each statewide virtual charter school has consistent lawful procedures in place governing admission, transfers, enrollment, and withdrawal of students;

(C) That each statewide virtual charter school has consistent lawful procedures in place governing admission, child find responsibilities, evaluation, and re-evaluation of students with disabilities, as well as applicable procedural safeguards and policies and procedures to ensure provision of free appropriate online and other educational and related services, supplementary aids and services, modifications, accommodations, supports for personnel, and other technical supports provided in the least restrictive environment to students with disabilities and/or other special needs in compliance with applicable federal and state laws and regulations, including:

- (i) Students who require or may require individualized education programs pursuant to the Individuals with Disabilities Education Act (IDEA); and
- (ii) Students who require or may require accommodations, regular or special education and related aids, or other services under a plan developed in accordance with the requirements of Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act;

(D) That each statewide virtual charter school has consistent procedures in place governing the admission, identification, evaluation, re-evaluation,

## Res.App.22a

parental notification, and provision of educational programs and services in compliance with applicable federal and state laws and regulations to students with special needs or unique abilities, including, but not limited to:

- (i) Students who are English Language Learners/Limited English Proficient and who require services as necessary to overcome language barriers and ensure that they can participate meaningfully in the district's education programs; and
- (ii) Students who meet the definition of "gifted and talented children" set forth in 70 O.S. § 1210.301;

(E) That each statewide virtual charter school complies with state and federal law in protection and handling of student records and data, including, but not limited to, protocols for secure storage and transmission of student records and data, parent/legal guardian access to student records and data and privacy of student records and data in compliance with all provisions of the Family Education Rights and Privacy Act of 1974 (FERPA) and the Individuals with Disabilities Education Act (IDEA), and ensures student records and data are exclusively the property of the school and the state of Oklahoma;

(F) That each statewide virtual charter school has consistent procedures and technology in place necessary to monitor and report student attendance, student participation in online school activities, and any necessary instruction in accordance with the requirements of state law;

Res.App.23a

(G) That each statewide virtual charter school has fair and consistent procedures in place to implement necessary and appropriate practices to promote and enforce student discipline that include sufficient due process protections for students facing accusations of conduct which may result in suspension and/or expulsion of a student;

(H) That each statewide virtual charter school has consistent procedures and technology in place to ensure delivery of services and that each virtual charter school provider has an adequate plan in place for communicating emergency procedures to students in the event of technical failures of equipment and/or loss of connectivity;

(I) That each statewide virtual charter school has consistent procedures and technology in place to ensure consistent and adequate communication with parents/guardians of students and provide student progress and academic reports to parents/guardians of students; and

(J) That each statewide virtual charter school has provided a full description and explanation of the grade levels in which the provider intends to provide instruction and, for each charter school that offers secondary level coursework for grades nine (9) through twelve (12), whether the charter school will offer coursework as necessary to comply with the graduation requirements of 70 O.S. § 11-103.6 and accompanying regulations.

(4) Each applicant shall provide a written plan for compliance with all state and federal financial recording and reporting requirements for state and federal funds that are applicable to public school

districts, including, but not limited to, compliance with:

(A) The School District Transparency Act at 70 O.S. § 5-135.4 et seq.;

(B) The Oklahoma Public School Audit Law at 70 O.S. §22-101 et seq.;

(C) Annual itemized expenditure budget and request for appropriated funds and estimate of revenues required by 70 O.S. § 5-128.1; and

(D) Statutes and regulations pertaining to the Oklahoma Cost Accounting System (OCAS).

(5) Each application shall include a contact name, mailing address of record, phone number, and email address of the governing body at which all written notices required by 70 O.S. § 3-134 shall be served. In the event that a change in contact information occurs during the application process, the governing body shall provide the Board with updated contact information in writing within five (5) business days of the date that the change occurs.

**(c) Filing, review, approval, and denial of charter school applications for sponsorship.** All applications for sponsorship shall be submitted by the governing body of the prospective charter school to the Statewide Virtual Charter School Board by filing an original and ten (10) copies, as well as an electronic version of the application with the Statewide Virtual Charter School Board. Upon receipt of an application for sponsorship, the Board shall stamp the application to record the date of receipt, and shall promptly submit written confirmation of the receipt of the

application to the contact name and address of record of the governing body listed on the application.

**INITIAL AUTHORIZATION APPLICATION PROCESS**

**(1) Application format.**

(A) The text and attachments shall use standard one-inch margins, be clearly paginated, and use a readable font not smaller in type than 11 point.

(B) A cover page shall be labeled *Application for Initial Authorization* and include the following information:

- (i) Name of proposed school;
- (ii) Address of proposed school;
- (iii) Contact information: name, title, phone, email address;
- (iv) Application submission date; and
- (v) Name of applicant(s) and requested sponsor.

(C) A cover letter not to exceed two (2) pages shall provide a brief overview of the proposed school.

(D) A clearly labeled table of contents shall be included setting forth all major sections (Foundation for the School Charter, Organizational Capacity, Financial Management, Education Program and Performance, Growth Plan), appendices, and page numbers.

(E) Tables, graphs, and other data provided in the application shall be clearly presented and explained and shall be relevant to the text.

(F) The application shall include signed and notarized statements from the Head of the School and



the governing body members, as applicable, showing their agreement to fully comply as an Oklahoma public charter school with all statute, regulations, and requirements of the United States of America, State of Oklahoma, Statewide Virtual Charter School Board, and Oklahoma Department of Education. Specifically cite agreement to abide by the Oklahoma Open Meeting Act and the Oklahoma Open Records Act, and to guarantee access to education and equity for all eligible students regardless of their race, ethnicity, economic status, academic ability, or other factors as established by law. In addition, the head of school and governing body members, as applicable, will guarantee to establish the components necessary to begin school operations in the State of Oklahoma on July 1 of the first year, including a public administration facility, state-approved school financial system, state-approved student information system, and secured applicable connections to state reporting systems.

(G) The application shall include documentation of applicant's completion of charter school training.

**(2) Initial review and recommendation.** Prior to consideration of the application by the Statewide Virtual Charter School Board, a review panel may be formed by the Executive Director for the purpose of developing a recommendation on the application to the Board for consideration. The panel, chaired by the Executive Director, may include representatives with expertise in the area of accountability, online education, school governance, accreditation, education services, technology, school finance, federal programs, education law, curriculum, instruction, special education, and student information.

**(3) Application review and criteria.** In reviewing an application for sponsorship of a statewide virtual charter school, the Statewide Virtual Charter School Board shall determine whether the applicant's proposal for sponsorship complies with the provisions of 70 O.S. § 3-134 and other applicable provisions of the Oklahoma Charter Schools Act. In addition, the Board may consider any other factors demonstrating the applicant's capacity to successfully comply with the goals set forth in its vision and mission statements and applicable state, federal, tribal, and/or local statutes and regulations. Such factors may include, but are not limited to the following:

(A) Whether the applicant can demonstrate previous experience in operation of one or more successful virtual charter schools;

(i) If the applicant cannot demonstrate previous experience in operation of one or more successful virtual charter schools, whether applicant has sufficient resources in place to ensure compliance with applicable state, federal, tribal, and/or local statutes and regulations.

(ii) If the applicant can demonstrate previous experience in operation of one or more successful virtual charter schools, whether applicant has a history of non-compliance with applicable state, federal, tribal, and/or local statutes and regulations either in the State of Oklahoma or in other jurisdictions.

(B) Whether the applicant has provided evidence demonstrating financial stability in

the pre-launch and operational years of the proposed school;

(C) Whether the criteria designed to measure the effectiveness of the charter school proposed by the applicant is reasonably calculated to provide accurate benchmarks for evaluation of teacher effectiveness and student learning; and

(D) Whether the charter school has adequate human resources, facilities, systems, and structures in place as necessary to evaluate the needs of and provide effective services to students with disabilities, English Language Learners, and gifted and talented students.

(4) **Acceptance or denial of sponsorship applications.** The Statewide Virtual Charter School Board shall review and consider the application in accordance with the timeline established pursuant to (a) of this Section, provided that a final decision on the application shall be made no later than ninety (90) calendar days from the date of receipt of the application by the Statewide Virtual Charter School Board. The Board shall promptly submit written notification of the decision of the Board, including reasons for rejection of the application, if applicable, to the applicant via certified mail, return receipt requested, to the address of record of the governing body designated on the application.

(5) **Reconsideration of sponsorship applications.** In the event of a denial of an application for sponsorship, the applicant may submit a revised application for reconsideration in accordance with the following procedures:

## Res.App.29a

(A) The revised application for reconsideration shall be filed with the Board within thirty (30) calendar days after the date of receiving notification of the rejection. The revised application shall meet all of the application requirements set forth in this Section. In the event that delivery of written notification required by paragraph two (2) of this subsection is refused by the applicant or returned as undeliverable due to the applicant's failure to update the contact of record in accordance with the requirements of (b)(4) of this Section, the date of receipt of notification of the rejection shall be considered the date of the meeting at which the Board took action on the proposed application.

(B) Within five (5) business days of the date of receipt of the application for reconsideration, the Board shall promptly set the application for consideration at a meeting of the Board and submit notification of the date, time, and place of the meeting to the applicant to the contact of record. The meeting to consider the application shall occur within thirty (30) calendar days of the date of receipt of the application.

(C) The Statewide Virtual Charter School Board shall take action to accept or reject the revised application within thirty (30) calendar days of its receipt by the Board.

**(6) Appeal of denial of sponsorship applications.** The procedures for filing appeals to the State Board of Education shall be governed by 70 O.S. § 3-145.3 and the policies and rules adopted by the State Board of Education, with a copy of the appeal mailed to the Statewide Virtual Charter School Board.

The proposed school's completed application must be submitted to the Statewide Virtual Charter School Board at the address noted below and in compliance with the Initial Application Process Timeline.

Oklahoma Statewide Virtual Charter School Board  
M.C. Connors Building  
2501 N. Lincoln Blvd., Suite 301  
Oklahoma City, OK 73105

## **SECTION 2. OVESIGHT AND EVALUATION**

### School Oversight and Evaluation Process

#### **Initial School Oversight and Evaluation**

The period of time between the authorization decision/approval of the charter contract and the school opening is an important timeframe for the establishment of the virtual charter school. There are required tasks that the school must be complete during these critical months, tasks that will better ensure the successful opening of the school. Statewide Virtual Charter School Board representatives will meet on a routine basis with school leadership to ensure appropriate progress in the establishment of the new school. The Pre-Opening Requirements Template (Appendix B) outlines the types of tasks expected to be completed within this timeframe. The template will be customized to reflect current statute and regulatory requirements, as well as reflect the expectations of the Application for Initial Authorization and Charter Contract.

#### **Routine and Ongoing School Oversight and Evaluation**

## Res.App.31a

Oklahoma communities rely on charter school authorizers to set standards that ensure families have access to quality schools. Through a Performance Framework, standards required for organizational capacity, financial management, and academic achievement provide transparency in reporting overall school performance.

The Statewide Virtual Charter School Board provides ongoing oversight and evaluation of sponsored schools through the following practices:

- Data and evidence collection (Appendix C)
- Site visits
- Audits
- Attendance at governing board meetings
- Performance Framework Reports (Appendix D and E)
- External school performance review(s)

According to Oklahoma statute, prior to the beginning of the final year of the charter contract term, the sponsor shall issue a Renewal Performance Framework Report and charter renewal application guidance to the school and the charter school board. The Performance Framework Report shall summarize the performance record of the charter school, based on the data required by the Oklahoma Charter Schools Act and charter contract and taking in consideration the percentage of at-risk students enrolled in the school. The Report 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 Framework Report and submit any corrections or clarifications for the report.

The Performance Framework does not negate the responsibility of the Statewide Virtual Charter School Board to take appropriate action on any statutory or regulatory violation or breach of contract deemed by the Board to be of significant nature.

### **OVERVIEW OF OVERSIGHT AND EVALUATION**

The Statewide Virtual Charter School Board assesses schools on their ability to operate as sound, independent school entities.

#### **Routine Submissions**

Throughout the year, schools are required to submit academic, financial, and organizational data. Required submissions are communicated to virtual charter schools via Appendix C of this Manual.

#### **Performance Framework Reports**

Each year an Annual Performance Framework is completed for the prior school year. The most recent data for each performance standard will be used to complete the report. In the absence of any data, the standard will be marked Not Available. In some instances, standards may also be marked Not Applicable.

Prior to the beginning of the final year of the charter contract term, a Renewal Performance Report, along the authorization renewal guidance, is completed and submitted to the school (70-3-135).

The Performance Framework may be found in Appendices D and E of this Manual.

#### **School Site Academic Ranking**

## Res.App.33a

1. Beginning in the 2016-2017 school year, the State Board of Education shall identify charter schools and virtual 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 or virtual charter school 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 (70-3-145.3).

### **STATEWIDE VIRTUAL CHARTER SCHOOL BOARD TIERED SCHOOL OVERSIGHT MODEL**

#### **CLOSURE**

Formal action taken by the Statewide Virtual Charter School Board (SVCSB) on a school who failed to resolve deficiency(ies).

- Termination action taken by SVCSB in open meeting
- Stakeholders follow SVCSB Closure Plan
- Final Action

#### **PROBATION**

Formal action taken by the SVCSB as a final opportunity for a school to resolve deficiency(ies).

- Action taken by SVCSB in open meeting
- Formalized final plan required



### WARNING

Formal action taken by the SVCSB to address unresolved deficiency(ies).

- Action taken by SVCSB in open meeting
- School governing board action required
- Deficiency(ies), terms and timeline for resolution identified
- Support resources may be offered or required

### NOTICE OF CONCERN

SVCSB staff provides official notice to the school of unresolved deficiency(ies) identified through the Review and Research stage.

- Staff action with notice provided to the school and its governing board membership, as well as to the SVCSB membership
- Deficiency(ies), terms and timeline for resolution included in the Notice
- SVCSB may offer support resources

### REVIEW AND RESEARCH

Using the results of the Performance Framework, SVCSB staff reviews and research identified areas to determine if a concern exists and if a response is needed. Other concerns outside of the Performance Framework that are brought to the attention of the Board may also result in further exploration through the Review and Research stage and additional oversight steps.

- Review and Research seeks understanding in order to assess potential deficiency(ies)

- School expected to take corrective action(s) to remedy identified deficiency(ies)
- Resolution expected during this stage

### **CHARTER SCHOOL PERFORMANCE FRAMEWORK**

- The Performance Framework and the indicators and benchmarks included serve as the SVCSB's review and evaluation of charter school performance as required in statute and Administrative Rules. School shall meet or show evidence of significant progress toward meeting the required standard accountability indicators as a condition of continued authorization.
- Performance Framework applied to all schools authorized by the SVCSB
- Performance Framework presented annually to the SVCSB in open meeting
- Performance Framework may identify potential concerns for further review and research

### **STATEWIDE VIRTUAL CHARTER SCHOOL BOARD *PERFORMANCE FRAMEWORK***

#### **Introduction of Performance Framework**

As mandated in the Oklahoma Charter School Act, the Performance Framework establishes the accountability criteria for virtual charter schools authorized by the Statewide Virtual Charter School Board.

The objective of the Statewide Virtual Charter School Board Performance Framework is to provide charter schools and governing boards with clear expectations, fact-based oversight and timely

feedback, while respecting virtual charter school autonomy. Performance Frameworks are issued annually in compliance with Oklahoma Statute (70-3-135), and a Renewal Performance Framework Report summarizing the Performance Framework data over the charter contract term is issued prior to the final year of the charter contract.

#### Performance Framework Obligations

- Clearly communicate standards and expectations to schools
- Conduct a transparent, consistent, and predictable oversight process
- Focus on school outcomes
- Provide data-based feedback to schools and communities clearly showing where schools stand relative to Performance Framework expectations and standards

**Performance Framework documents may be found in Appendices D and E.**

### SECTION 3. REAUTHORIZATION OF SCHOOLS

#### Reauthorization of a Virtual Charter School

In compliance with Oklahoma statute, prior to the beginning of the final year of operation within the charter contract term, the Statewide Virtual Charter School Board will issue a Renewal Performance Framework Report and charter renewal application guidance to the charter school and its governing board. The Renewal Performance Framework Report will summarize the performance record to date of the charter school and provide notice of any weaknesses

or concerns perceived by the sponsor concerning the charter school that may jeopardize its position in seeking renewal. The charter school shall have forty-five (45) days to respond to the Renewal Performance Framework Report and submit any corrections or clarifications to the Report.

Prior to the beginning of the last year of the charter contract, the charter school may apply for renewal of the contract with the sponsor. The renewal application guidance outlined in the Oklahoma Charter School Act and in this section of the Manual provides opportunity for the charter school to present additional evidence, beyond the data contained in the Renewal Performance Framework Report, supporting its case for charter renewal, describing improvements undertaken or planned for the school, and detailing the plan for the next charter term for the school. The application process allows for assessment of the school's performance record and culminates with a decision by the Statewide Virtual Charter School Board regarding the school's renewal.

The renewal of sponsorship process seeks to answer these questions:

- 1. Is the school faithful to the foundation of the school charter contract?*
- 2. Is the organization effective and well run?*
- 3. Is the school financially viable?*
- 4. Is the academic program a success?*
- 5. Does school leadership and the governing board engage in strategic planning that results in school improvement?*

Reauthorization decisions are grounded on evidence regarding the performance of the school over the term of the charter contract. In compliance with the Oklahoma Charter School Act, the at-risk student population is also considered.

*Virtual charter schools authorized by the State-wide Virtual Charter School Board that receive a score of seventy-five (75%) percent or higher calculated over the course of the charter contract term on the Performance Framework will result in renewal of authorization for a five(5) to ten (10) year term should the governing board of the charter school choose to submit a letter requesting reauthorization. In this situation, an application would not be required. However, a letter requesting reauthorization must be submitted in compliance with the Reauthorization Process Timeline.*

#### REAUTHORIZATION PROCESS TIMELINE

- Prior to the beginning of the final year of operation within the charter contract term, the sponsor of the school will issue a Renewal Performance Framework Report and renewal application guidance to the school and the governing board.
- The charter school shall have forty-five (45) days to respond to the performance report and submit any corrections or clarifications for the report.
- Prior to the final year of a charter contract term, the virtual charter school may apply for renewal of the contract. At least one (1) year prior to the expiration of the charter contract term, but no earlier than eighteen (18) months prior to the date of expiration of the contract, the governing board

Res.App.39a

of the charter school may apply for renewal of the contract.

- The application will be received and stamped by the Statewide Virtual Charter School Board at the address below. Ten (10) copies, as well as an electronic version of the application, are required.

Oklahoma Statewide Virtual Charter School Board  
M. C. Connors Building  
2501 N. Lincoln Blvd., Suite 301  
Oklahoma City, OK 73105

- The application will be distributed to the members of the Statewide Virtual Charter School Board for review.
- Applicant will conduct a public presentation of the application at the next regular Statewide Virtual Charter School Board meeting.
- The Statewide Virtual Charter School Board will consider the application at a subsequent board meeting.
- Prior to the board meetings, the Statewide Virtual Charter School Board will submit notice(s) of the date, time and location to the address of record in the application.
- Acceptance or rejection of renewal of sponsorship by the Statewide Virtual Charter School Board is required eight (8) months prior to expiration of charter contract.
- A written notification of acceptance or rejection of renewal of sponsorship by the Statewide Virtual Charter School Board will be mailed within five (5) business days of decision.
- If application for authorization is accepted, execution of a contract for sponsorship will begin. A

## Res.App.40a

charter contract similar to the template provided in Appendix G may be executed.

- If application for renewal of sponsorship is rejected, the written notification of rejection will outline reasons for the decision.
- If the Statewide Virtual Charter School Board denies a request for renewal, the charter school may proceed with appeal steps as allowed in statute and regulations.
- Should the decision to deny sponsorship be upheld, the Statewide Virtual Charter School Board and the charter school governing board will proceed with school closing procedures.

### **REAUTHORIZATION PROCESS**

In addition to the evidence and data in the Annual and Renewal Performance Framework Reports, the application for reauthorization is the school's opportunity to present other evidence that demonstrates the school's performance in the areas listed below. It is the school's explanation of why the Statewide Virtual Charter School Board should renew the school's charter. The application should build upon the Renewal Performance Framework Report and provide credible evidence in each of the core component areas and data-driven information regarding the school's plans for the future. Plans should address strengths and successes, as well as acknowledge weaknesses and strategies for improvement. School leadership should view this process as an opportunity to advocate for the school, provide an analysis of achievement, note successes, explain weaknesses, demonstrate solutions, and answer questions.

## Res.App.41a

It is recommended that applicants refer to the Oklahoma Charter School Act and related statute and regulations for guidance in the application process. All applications for renewal of authorization as an Oklahoma virtual charter school submitted to the Statewide Virtual Charter School Board for their consideration must adhere to the requirements of state and federal statutes and regulations, as well as to the direction of this document.

Applications for renewal of sponsorship will be accepted and thoughtfully considered. The charter renewal decision will be based on the school's performance over the term of the current contract with consideration in each of the following areas and the school's service to specific populations of students.

- 1) Faithfulness to the Foundation of the School Charter
- 2) Organizational Capacity
- 3) Financial Management
- 4) Academic Program and Performance
- 5) Strategic Planning, and
- 6) Corrective Action Plan (if required)

### **APPLICATION FOR REAUTHORIZATION**

(2) **Format for renewal application.** The renewal application shall include:

(A) Text and attachments using standard one-inch margins, clearly paginated, and using a readable font not smaller in type than 11 point.

(B) A cover page labeled *Application for Reauthorization*, including the following information:



Res.App.42a

- (i) Name of school;
- (ii) Address of school;
- (iii) Contact information: name, title, phone, email address;
- (iv) Date application approved by governing body; and
- (v) Application submission date.

(C) A cover letter no more than two (2) pages in length providing a brief overview of the school's mission, key school design elements, performance indicators and related data, and major challenges and accomplishments over the term of the current contract.

(D) A clearly labeled table of contents setting forth all major sections, appendices, and page numbers.

(E) Clearly labeled attachments provided in the appendix.

(F) Clearly labeled tables, graphs, and other data provided in this application in addition to an explanation of their relevance to the text.

(G) A signed and notarized statement from the Head of the School and the governing body members, as applicable, showing their consideration and approval of the reauthorization application and their agreement to fully comply, as an Oklahoma public charter school with all statute, regulations, and requirements of the United States of America, State of Oklahoma, State-wide Virtual Charter School Board, and Oklahoma Department of Education. Specifically cite agreement to abide by the Oklahoma Open Meeting Act and the

Oklahoma Open Records Act, and to guarantee access to education and equity for all eligible students regardless of their race, ethnicity, economic status, academic ability, or other factors.

(H) A single page entitled *Introduction to the School* containing, at a minimum, the following list of information:

- (i) Name of school;
- (ii) Location of school;
- (iii) Year opened;
- (iv) Year renewed, if applicable;
- (v) Maximum enrollment;
- (vi) Current enrollment;
- (vii) Grade span;
- (viii) Most recent accountability report information from the State of Oklahoma;
- (ix) Attendance rate;
- (x) Graduation rate;
- (xi) Recurrent enrollment;
- (xii) Dropout rate;
- (xiii) Percentage of at-risk students enrolled; and
- (xiv) Any other information the school deems necessary to include.

**(3) Information in renewal request.**

(A) In addition to the information found in the performance report, and the school's response to the performance report, if any, this reauthorization application is the school's opportunity to address each

of the following components highlighting what the school believes is most important in each area:

- (i) Faithfulness to the foundation of the charter;
- (ii) Organizational capacity;
- (iii) Financial management;
- (iv) Education program and performance;
- (v) Strategic planning; and
- (vi) Corrective Action Plan (if required).

(B) Appendices. Provide documents and related information for the term of the contract beyond those provided in the performance report and response, including examples of community and parent support of the school.

## **Section 4. School Closure**

### **School Closure Process**

Final closure determination may be made as the result of voluntary or involuntary school closure decisions. This includes a decision of the charter school governing board to close the school, nonrenewal of a charter contract, or termination of a charter contract. The Statewide Virtual Charter School Board has developed revocation and nonrenewal processes consistent with the Oklahoma Charter Schools Act. These procedures provide the charter school with the following:

1. A timely notification of the prospect of revocation or nonrenewal and of the reasons for possible closure;
2. A reasonable amount of time to prepare and submit a response;

## Res.App.45a

3. 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 renewal or revocation decision related to the school; and 4. After appropriate deliberations, a written response of the final determination.

In the event of a charter school closure determination, the Statewide Virtual Charter School Board will act to ethically and responsibly attend to school closing proceedings in accordance with statute and regulations and with the School Closure Protocol (Appendix G).

## **APPENDIX C. ROUTINE YEAR-ROUND COMPLIANCE REVIEW**

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### **Routine Year-Round Compliance Review**

Oklahoma statute provides that the Statewide Virtual Charter School Board “shall provide oversight of the operations of statewide virtual charter schools in this state.” (70-3-145.3) In addition, the National Association of Charter School Authorizers (NACSA) in *Principles and Standards for Quality Charter School Authorizing* recommends authorizers “base the renewal process and renewal decisions on thorough analyses of a comprehensive body of objective evidence defined by the Performance Framework in the charter contract.”

School data and information will be reviewed through the school year in a variety of methods including both in-house examination of data and on-site school visits. Data reviewed includes information related to the academic, financial, and organizational performance of the schools, as well as charter contract compliance.

The routine year-round compliance review includes those documents that are considered as relevant evidence in the oversight of the virtual charter schools sponsored by the Statewide Virtual Charter School Board. Other school information may be requested and is expected to be provided to ensure the transparency required for the Board to fulfill its duties.

### **Academic Compliance Review**

- ACT Profile Report
- College and Career Readiness Information
- College Remediation Data
- Four (4)-year Cohort and Extended Graduation Rate
- Internal Assessment Plan
- Oklahoma School Testing Program Participation Report
- Oklahoma School Testing Program Results
- Senior Graduation Report
- State Accountability Report

### **Financial Compliance Review**

- Annual Audit Document(s)
- Annual Budget
- Estimate of Needs Document(s)
- Fiscal Year Revenue and Expenditure Report
- Inventory
- Lease/Purchase Agreement(s)
- Quarterly Financial Statements
- School District Budgeting Act (SDBA) Documents
- School Funding

## **Organizational Compliance Review**

- Accreditation Documents
- Educational Management Organization Contract(s)
- Educational Management Organization Evaluation
- Enrollment
- First Quarter and Annual Statistical Reports
- Governing Board Agendas and Supporting Documents
- Governing Board By-laws
- Governing Board Meeting Calendar
- Governing Board Minutes
- Governing Board Policies
  - Attendance Policy
  - Code of Ethics Policy
  - Conflict of Interest Policy
  - Employment Policy
  - Enrollment / Lottery Policy
  - Finance and Procurement Policy
- Governing Board Roster
- Handbook(s)
- October 1 Child Count
- Organizational Chart
- Personnel Report
- Plan for Improvement
- School Calendar

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- School Mission, Key Design Elements and Performance Indicators
- Shared Services Agreement(s)
- Strategic Planning Document(s)
- Student Support Information

In compliance with 70 O.S. § 3.136(A) (16), all instances of any significant actions, material findings of noncompliance, or pending actions, claims, or proceedings in this state relating to the virtual charter school or an educational management organization with which the virtual charter school has a contract should be reported to the Statewide Virtual Charter School Board within ten (10) business days of receipt or action.

**Performance Framework Index**

<b>Performance Framework Index</b>		
<b>Performance Framework</b>	<b>Calculation</b>	<b>Weight</b>
Academic (A)	$(Score) * (Weight)$ $= (A)$	.40
Financial (F)	$(Score) * (Weight)$ $= (F)$	.35
Organizational (O)	$(Score) * (Weight)$ $= (O)$	.25
Performance Framework Index (PFI)	$[(A) + (F) + (O)]$ $= PFI$	



## Res.App.50a

A Performance Framework Index (PFI) score of 75% or higher calculated over the course of the charter contract term will result in renewal of authorization for a five (5) to ten (10) year term should the governing board of the charter school choose to submit a letter requesting reauthorization.

A Performance Framework Index (PFI) score of 60-74% or higher calculated over the course of the charter contract term is expected. However, an application for renewal of authorization is required for consideration by the Statewide Virtual Charter School Board.

A Performance Framework Index (PFI) score of less than 60% calculated over the course of the charter contract term places the charter school at risk of non-approval of the renewal for authorization. An application for reauthorization is required for consideration by the Statewide Virtual Charter School Board.

**\*NOTE:** In the event data is not available, the Statewide Virtual Charter School Board will designate corresponding score with “Not Applicable.”

**APPENDIX E. PERFORMANCE FRAMEWORK  
FOR ALTERNATIVE EDUCATION SITES**

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**Alternative Education Performance  
Framework Index**

<b>Performance Framework Index</b>		
<b>Performance Framework</b>	<b>Calculation</b>	<b>Weight</b>
Academic (A)	$(Score) * (Weight)$ $= (A)$	.40
Financial (F)	$(Score) * (Weight)$ $= (F)$	.35
Organizational (O)	$(Score) * (Weight)$ $= (O)$	.25
Performance Framework Index (PFI)	$[(A) + (F) + (O)]$ $= PFI$	

A Performance Framework Index (PFI) score of 75% or higher calculated over the course of the charter contract term will result in renewal of authorization for a five (5) to ten (10) year term should the governing board of the charter school choose to submit a letter requesting reauthorization.

A Performance Framework Index (PFI) score of 60-74% or higher calculated over the course of the charter contract term is expected. However, an application for renewal of authorization is required for consideration by the Statewide Virtual Charter School Board.

## Res.App.52a

A Performance Framework Index (PFI) score of less than 60% calculated over the course of the charter contract term places the charter school at risk of non-approval of the renewal for authorization. An application for reauthorization is required for consideration by the Statewide Virtual Charter School Board.

**\*NOTE:** In the event data is not available, the Statewide Virtual Charter School Board will designate corresponding score with “Not Applicable.”

**APPENDIX F. SCHOOL WEBSITE  
COMPLIANCE CHECKLIST**

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**School Website Compliance Checklist**

Name of School:

Website:

Date of Compliance Check:

Party Responsible for Compliance Check:

<b>Information Item</b>	
<b>Governance</b>	
<ul style="list-style-type: none"><li>● <b>Governing Board Members</b><ul style="list-style-type: none"><li>✓ Names</li><li>✓ Office Held (if applicable)</li><li>✓ Board Member Contact Information</li></ul></li></ul>	
<ul style="list-style-type: none"><li>● <b>Schedule of Governing Board Meetings</b><ul style="list-style-type: none"><li>✓ Date</li><li>✓ Time</li><li>✓ Place</li></ul></li></ul>	
<b>Board Meeting Agendas</b>	
<b>Board Meeting Approved Minutes</b>	
<b>Organizational Performance</b>	<b>Capacity/Academic</b>
<ul style="list-style-type: none"><li>● School Accountability Reports Link to Oklahoma School Report Cards <a href="https://www.oklaschools.com/">https://www.oklaschools.com/</a></li></ul>	

<b>Financial Responsibility</b>
<ul style="list-style-type: none"><li>● Per 70 O.S. § 5-135.4 – Availability of School District Expenditure Data Link to OCAS Transparency Website Posted <a href="https://sdeweb01.sde.ok.gov/OCAS_Reporting/Default.aspx?Year=2012">https://sdeweb01.sde.ok.gov/OCAS_Reporting/Default.aspx?Year=2012</a></li><li>● Per 70 O.S. § 5-135.4 - Total Compensation Package of the Superintendent</li></ul>
<b>Audit Reports</b>
<ul style="list-style-type: none"><li>● Per 70 O.S. § 22-108 - Most Recent Audit in Compliance with Oklahoma Statute</li></ul>
<b>Enrollment Capacity</b>
<ul style="list-style-type: none"><li>● Per 70 O.S. § 8-101.2<ul style="list-style-type: none"><li>✓ Virtual Charter School Enrollment Capacity Policy</li><li>✓ Virtual Charter School Transfer Capacities (by grade level)</li></ul></li></ul>
<b>Attendance Policy</b>
<ul style="list-style-type: none"><li>● Per 70 O.S. § 3-145.8 - Virtual Charter School Attendance Policy</li></ul>

**APPENDIX H.  
CHARTER CONTRACT TEMPLATE**

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Revision Date: 7.24.2023

**CONTRACT FOR CHARTER SCHOOL  
SPONSORSHIP TEMPLATE**

This Contract between the Oklahoma Statewide Virtual Charter School Board and [GOVERNING BOARD], the governing authority of the [CHARTER SCHOOL] (“Charter School”), shall set forth the terms and conditions of the sponsorship of the Charter School and shall constitute the Charter of [CHARTER SCHOOL].

**1. RECITALS**

**1.1** WHEREAS the Oklahoma State Legislature has enacted the Oklahoma Charter Schools Act set forth in 70 O.S. 3-130 *et seq.*; and

**1.2** WHEREAS the provisions of the Oklahoma Charter Schools Act apply to all virtual charter schools formed and operated in the State of Oklahoma; and

**1.3** WHEREAS the Statewide Virtual Charter School Board, a state agency established under 70 O.S. § 3-145.1 has the sole authority to authorize and sponsor statewide virtual charter schools in this state; and

**1.4** WHEREAS [GOVERNING BOARD] is the governing authority of the [CHARTER SCHOOL], and its principal place of business is [CITY], Oklahoma; and

**1.5** WHEREAS the Charter School submitted an application for (initial/renewal) sponsorship to the Board on [DATE]; and

**1.6** WHEREAS the Charter School's authorization application was approved at a regular meeting of the Board on [DATE], in accordance with the requirements of the Charter Schools Act; and

**1.7** In consideration of the foregoing, the Parties enter into this charter contract pursuant to the terms and conditions set forth herein. All attachments and recitals to this contract are incorporated by reference and made a part of this charter contract.

## **2. DEFINITIONS**

**2.1 "Applicable law"** means all federal and state statutes and rules and regulations applicable

to virtual charter schools organized under the Oklahoma Charter Schools Act.

**2.2 "Average daily attendance"** (ADA) and "average daily membership" (ADM) shall have the meanings set forth in 70 O.S. § 18-107.

**2.3 "Board"** or "**Sponsor**" or "**Authorizer**" means the Statewide Virtual Charter School Board.

**2.4 "Charter Contract"** means this contract executed between the Board and the governing hority of the Charter School.

**2.5 "Educational management organization"** means a for-profit or non-profit organization that receives public funds to provide management, administration and/or educational program implementation services for the Charter School.

**2.6 “Extracurricular activity”** means any student activity, club, organization, meeting or event offered by the Charter School or a vendor providing activities to students enrolled in the Charter School that is attended by students and unrelated to the Charter School’s curriculum-based program of instruction set forth in section 4 of this contract.

**2.7 “Financial records”** means all documents in any form relating to the funds of the Charter School, including, but not limited to, all public funds disbursed to the Charter School pursuant to state or federal law.

**2.8 “Full academic year”** shall mean a student is enrolled within the first twenty (20) instructional days of the school’s instructional year through and including the date of administration of the exam, without an enrollment lapse of ten (10) or more consecutive instructional days.

**2.9 “Public school”** shall mean a school that is free, established by the Legislature, and supported by funds appropriated by the Legislature.

### **3. GENERAL PROVISIONS**

**3.1 Authority.** The Charter School is authorized by the Sponsor to operate a statewide virtual charter school in accordance with the terms and conditions set forth in this contract and the Oklahoma Charter Schools Act, as well as any applicable statutes or regulations pertaining to charter schools, including but not limited to all rules and regulations of the Statewide Virtual Charter School Board, codified in Title 777 of the Oklahoma Administrative Code. Any act by the Charter School or its governing board that



is inconsistent with the terms of this contract or the Oklahoma Charter Schools Act or any applicable statutes or regulations pertaining to charter schools is hereby deemed a material violation of this contract and shall constitute good cause for termination of this charter contract and revocation of the charter.

**3.2 Term of the contract.** This contract shall commence on [DATE], and automatically terminate on [DATE]. The contract may be renewed upon application of the Charter School in accordance with the Charter School Act and Statewide Virtual Charter School Board rules and regulations.

**3.3 Operation.** [The Virtual Charter School] agrees that it will begin operations on or before July 1, [YEAR].

#### **4. CHARTER SCHOOL PROGRAM OF INSTRUCTION**

**4.1 Description of the program of instruction.** The Charter School is authorized to implement the program of instruction, curriculum, and other services as specified in the Application, unless otherwise modified by this charter contract.

**4.1.1 Grade levels.** The Charter School will provide a comprehensive program of instruction for grades \_\_\_ through \_\_\_.

**4.1.2 Change to program of instruction.** Any material change to the program of instruction, curriculum and other services specified in the Application or this charter contract requires Sponsor approval prior to the change.

**4.2 Graduation requirements.** The Charter School will comply with the graduation requirements set forth in 70 O.S. § 11-103.6.

**4.3 Textbooks, curriculum materials and equipment.** The Charter School shall provide all enrolled students with sufficient textbooks, workbooks, materials, equipment and/or technological aids necessary to ensure delivery of the Charter School's program of instruction during every school year of operation during the term of this contract.

**4.3.1 Equipment necessary for special education and students with disabilities.** In addition to the materials provided to students in accordance with the provisions of Section 4.3, the Charter School shall provide any additional equipment or technological aids to students with disabilities as necessary to ensure equal access to the Charter School's program of instruction in accordance with the student's IEP or Section 504 plan.

**4.4 Extracurricular activities.** Nothing in this contract shall obligate the Sponsor to provide funding of extracurricular activities to the Charter School unless explicitly required by statute or regulation. The provisions of Section 8.8.1 of this contract prohibiting the Charter School from charging tuition and/or fees shall not preclude the Charter School from recovering the reasonable costs of extracurricular activities or special events offered pursuant to the provisions of this Section from participating students or their parents/legal guardians, provided that under no circumstance may the Charter School recover an amount in excess of the cost of the activity or event. Further, a student's income shall not be used as a basis

for determining eligibility of a student to participate in extracurricular activities.

## **5. CHARTER SCHOOL OPERATIONS**

**5.1 Transportation.** The Charter School acknowledges that as a statewide virtual charter school, daily transportation of students to and from a school site is not required. However, the Charter School may provide transportation to students as necessary for limited circumstances (e.g., transportation of students to secure testing sites), provided that the Charter School shall not be eligible to receive transportation supplement funds set forth in the state aid formula set forth in 70 O.S. § 18-200.1, unless funding is available and otherwise permitted by state law and disbursement is approved by the Sponsor.

**5.2 Facilities.** The Charter School acknowledges that Charter School must maintain a public school administration facility and the Sponsor is under no obligation to provide facilities, furniture, or other equipment to the Charter School unless and until the parties enter into an agreement to do so.

**5.2.1 Inventory.** No later than July 1st of each year of operation, the Charter School shall provide the Sponsor with an itemized inventory of all real and personal property leased or purchased with public funds.

**5.2.2 Lease/purchase agreements.** The Charter School shall provide the Sponsor with copies of all agreements and/or contracts governing lease and/or purchase of real property by the Charter School. All agreements shall be in the name of the

Charter School, approved by the governing board, and signed by the governing board chairperson.

**5.2.3 Pricing.** Purchases or leases of real property must be for a reasonable amount, taking into consideration the fair market value at the time of purchase for like property.

**5.3 Shared Services Agreements.** The governing board of the Charter School may enter into shared service agreements with another school district to share the services of an administrator, teacher, or support service provider, to share equipment or facilities, and/or to share duties or responsibilities required of the school districts of the state.

**5.3.1 Sponsor Approval.** Shared service agreements shall be effective only after approval by the Sponsor and such agreements shall be subject to change or termination by the Sponsor.

**5.3.2 Duration.** The duration of a shared service agreement shall be for a term of one (1) year and notice of intent of a school district to withdraw from the shared service agreement must be given no later than March 15 for the ensuing school year. The agreements may be extended for one (1) year terms upon agreement by the parties and submission to the Sponsor annually for approval. The agreement shall also set forth a termination clause allowing either party to terminate the contract.

**5.3.3 Specificity requirement.** Shared service agreements shall not be blanket agreements for all services, but shall be separate, individualized, and specific agreements for each service/position/duty/equipment/facility sought to be shared.

**5.3.4 Proportional responsibility.** Shared service agreements shall specifically set forth the financial responsibility of each party, and specific payment terms. Payment for shared services shall be paid by each school in a proportionate manner, without reimbursement, except as set forth in section 5.3.6.

**5.3.5 Calculation.** The method of calculating the proportional share to be paid by each school shall be included in the agreement. If the calculation is based upon an enrollment count report that is updated on a recurring basis, the initial report shall be attached to the agreement, and the subsequent reports shall be made available to the sponsor upon request.

**5.3.5.1** The shared service calculation shall be based on the separate student enrollment numbers for each school district.

**5.3.6 Reimbursement.** Reimbursement shall only be allowed for equipment, testing sites, and utilities such as electrical, water, etc. that are unable to be invoiced separately. Reimbursement payments shall be paid on a quarterly basis, at a minimum.

**5.3.7 Ownership.** For agreements to share property or tangible items, the agreement shall be specific as to ownership and methods to be employed for disposing of property upon partial or complete termination of the agreement.

**5.3.8 Benefits.** For agreements to share personnel, the agreements shall account for how employees' benefits shall be paid proportionally by each party.

**5.3.9 Certain agreements not allowed.** Educational Management Organization contracts shall not be a shared service.

**5.3.10 Out-of-state.** The Charter School shall not enter into shared service agreements with school districts in states other than Oklahoma.

**5.3.11 Governing boards.** The governing boards of the schools utilizing shared services must be made up of entirely different members.

**5.3.12 Employment contracts.** Employment contracts for Charter School employees that will provide shared services shall include provisions for proportional compensation and all related information.

## **6. CHARTER SCHOOL MANAGEMENT AND ADMINISTRATION**

**6.1 Governing Board.** The governing board of the Charter School shall be responsible for the policies and operational decisions of the Charter School.

**6.1.1 Members.** The governing board of the Charter School shall have no less than five (5) members. One (1) of the members shall be a parent, grandparent, or legal guardian of a student currently or previously enrolled in the Charter School. New members of the governing board shall be selected by an interview process conducted by the governing board. Any board member serving on more than one governing board shall abstain from voting on shared services between the virtual charter school and any other school they serve as a board member.

**6.1.2 Terms.** The members of the governing board of the Charter School shall have specific terms of service set forth in its by-laws.

**6.1.3 Residence.** A majority of the governing board members shall be residents of the State of Oklahoma.

**6.1.4 Meetings.** The governing board shall meet no less than ten (10) months annually in a public meeting, in a location within the State of Oklahoma.

**6.1.5 Notification of changes.** The Charter School shall notify the Sponsor of any changes in the governing board within five (5) business days of the date of resignation or appointment. The Charter School shall also keep the Sponsor apprised of the officers of the governing board, and any changes thereto within five (5) business days of the election, appointment, or resignation.

**6.1.6 Conflicts of interest.** The governing board of the Charter School and the governing board of the Sponsor shall be subject to the same conflicts of interest requirements as members of local public school district school boards in the State of Oklahoma, including but not limited to the provisions of 70 O.S. § 5-113 and 70 O.S. § 5-124.

**6.1.7 Confidentiality of student records.** The Charter School shall comply with all provisions of federal and state law pertaining to parent/legal guardian access to student records and privacy of student records and student data, including but not limited to compliance with all provisions of the Family Education Rights and Privacy Act of

1974 (FERPA) and the Individuals with Disabilities Education Act (IDEA).

**6.1.8 Instruction and Continuing Education.**

The members of the governing board of the Charter School shall be subject to the same instruction and continuing education requirements as a member of a local school board set forth in 70 O.S. §§ 5-110 and 5-110.1.

**6.2 Administration.** The Chief Administrative Officer of the Charter School is the Superintendent. The duties of the Chief Administrative Officer shall include management and administration of the Charter School.

**6.2.1** The individual tasked with primary financial responsibility, such as the Chief Financial Officer or Treasurer for the Charter School, shall be separate and apart from any Educational Management Organization, regardless of title.

**6.3 Code of Ethics.** The Charter School governing authority shall develop and approve a Code of Ethics and a Conflict of Interest policy.

**6.4 Educational Management Organization.** The governing board may contract with an Educational Management Organization but must retain oversight authority over the Charter School. If the governing board contracts with or otherwise utilizes an Educational Management Organization, the governing board agrees to abide by the following:

**6.4.1** The relationship of the Charter School and an Educational Management Organization is that of a customer and vendor contractor. As such, the Charter School and the Educational



Management Organization shall be separate entities in all aspects, including but not limited to staffing, organizational management, financial, operations, etc.

**6.4.2** Public school employees shall not report to the Educational Management Organization or an employee of the Educational Management Organization. Public school employees paid with public dollars shall report to the Superintendent of the Charter School, who reports to the governing board. Employees that report to the Educational Management Organization shall be employees of the Educational Management Organization.

**6.4.3** All funds utilized to operate the Charter School, including but limited to paying Charter School employees, providing curriculum, technology, supplies, and/or extracurricular activities to students shall be maintained in Charter School accounts and controlled by Charter School employees.

**6.4.4** The governing board shall require the Educational Management Organization to report accurate, itemized expenditure information for the goods and services provided by the Educational Management Organization to the Charter School.

**6.4.5** All fees charged by the Educational Management Organization shall be clearly stated in the contract with the governing board.

**6.4.6** The governing board shall conduct an annual evaluation of the Educational Management Organization and an annual review of the Educational Management Organization's operat-

ing agreement, and such evaluation and review shall include an annual contract compliance audit. The governing board shall provide the Sponsor with a copy of the annual review.

**6.4.7** The governing board shall have access to Educational Management Organization records necessary to overseeing the Educational Management Organization contract.

**6.4.8** An employee of the Educational Management Organization for the Charter School shall not sit on the governing board of the Charter School.

## **7. FUNDING, MANAGEMENT, AND REPORTING**

**7.1 Financial Management.** The Charter School shall comply with the same state and federal statutes and regulations relating to reporting requirements, financial audits, audit procedures, and audit requirements applicable to Oklahoma public school districts unless otherwise expressly exempted by statute or regulation. In addition, the Charter School agrees to meet any additional requirements set forth herein deemed necessary by the Sponsor to ensure proper oversight and management of the Charter School's use of public funds. The Charter School shall comply with requests for appropriations, recording, reporting receipt, and expenditures of public funds under state and federal statutes and regulations. Such compliance requirements include, but are not limited to the following provisions:

**7.2 Fiscal year.** The Charter School shall operate on a fiscal year basis. The Charter School's

fiscal year shall begin July 1st and end on June 30th of the following calendar year.

**7.3 Indebtedness.** The Charter School shall abide by the “pay as you go” fiscal year restrictions applicable to school districts and other political subdivisions set forth under Art. 10 § 26 of the Oklahoma Constitution.

**7.4 No authority to bind Sponsor.** The terms of this contract shall not be construed as either express or implied authority of the Charter School to extend the faith and credit of the Sponsor or contractually bind the Sponsor to any third person or entity. The Charter School agrees and acknowledges that the Sponsor’s financial obligations to Charter School are limited to pass through distribution of state funding as authorized by law.

**7.5 Assets of the Charter School.** Pursuant to Art. 10 § 15 of the Oklahoma Constitution, the Charter School shall not apply, hold, credit or extend credit, transfer, or otherwise make use of public funds for any purpose other than operation of the Charter School.

**7.5.1 Transfer or sale of real property.** No real property obtained by the Charter School with public funds shall be sold, alienated, transferred, or otherwise disposed of without prior written consent of the Sponsor.

**7.5.2 Prohibition against encumbrance.** The Charter School shall not alienate, pledge, or otherwise encumber this Charter, public funds, or assets of the Charter School procured with public funds for the benefit of any individual, or entity, including creditors.

**7.6 Reporting requirement.** The Charter School and governing board shall promptly provide access to any and all records as requested by the Sponsor, the State Auditor and Inspector, the State Department of Education, or any other entity allowed by law to request and obtain records.

**7.7 Calculation of state aid.** State aid funding shall be calculated and disbursed in accordance with the provisions of the Oklahoma Charter Schools Act, accompanying statutes and regulations of the Sponsor, the Oklahoma State Department of Education, the Oklahoma State Board of Education, and the terms of this contract. Calculation of state aid shall be determined by the Oklahoma State Department of Education in accordance with the provisions of the Oklahoma Charter Schools Act and accompanying Department regulations pertaining to calculation of weighted average daily membership, average daily attendance, and other applicable student counts. The Charter School agrees that it shall maintain accurate and up-to-date records of student attendance and enrollment for all student grade levels and pupil categories and immediately report any changes as necessary to ensure accurate calculation of state aid in accordance with the requirements and deadlines set forth by 70 O.S. § 18-200.1 and accompanying regulations. The Charter School shall also be eligible to receive any other federal, state, or local revenues allowed by law.

**7.8 Disbursement of state aid.** The Sponsor may charge not more than three percent (3%) of the State Aid allocation for administrative services rendered. The Sponsor shall provide financial records documenting state funds charged for administrative

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services for the previous year to the State Department of Education. The Charter School agrees that in the event the Charter School fails to comply with the provisions of state or federal statutes or regulations, the State Department of Education may withhold funds until compliance is achieved as allowed by law.

**7.8.1 Oversight fee.** The Sponsor shall cease collection of the fee described in 7.8, beginning the month after the Sponsor's operating account, funded by the fee, accumulates to a sum greater than 120% of the current Fiscal Year Budget. Collection of the fees by the Sponsor shall resume the month after the Sponsor's operating account balance is below the 120% threshold for the remaining Fiscal Year budget, or an action by the board to resume collection has been passed in open public meeting.

**7.8.2** Any fees collected by a vendor of the Charter School shall be calculated on the actual amount of state funding received by the Charter School after the Sponsor has charged its oversight fee.

**7.9 Use of public funds.** The Charter School agrees that any federal, state or local public funds disbursed to the Charter School shall be used solely and exclusively for the benefit of the Charter School, with the exception of reimbursement funds pursuant to a shared service agreement as set forth in section 5.3 and the corresponding sub-sections. Public funds must stay in public charter school account until a sufficiently itemized invoice or bill is paid. Detailed records shall be kept by the Charter School of all expenditures of public funds. In addition, records shall be kept of all expenditures of public funds by any entity associated or affiliated with the Charter School.

Records shall be promptly provided to the Sponsor upon request.

**7.9.1 Spending Limitations.** The Charter School shall be subject to spending limitations, including but not limited to Oklahoma Constitution provisions on spending funds from the state, whether received through the State Department of Education or other source.

**7.10 Commingling prohibited.** The Charter School shall not commingle state funds disbursed to the Charter School with the funds of any other person or entity. The Charter School shall maintain separate and distinct accounting, budgeting, recordkeeping, admissions, employment, reporting, auditing, policies, and operational decisions for the management and operation of the Charter School.

**7.11 Fundraising.** Subject to limitations set forth by conflict of interest statutes and regulations applicable to the Charter School and its governing board, the Charter School may accept private donations, provided, however, that private donations shall in no way be used either directly or indirectly to affect enrollment decisions or otherwise subvert the Charter School's policies and procedures pertaining to admission and enrollment.

**7.12 Prohibition of funding home-schooled students or private school students.** Under no circumstances shall the Charter School and/or its program of instruction offered in accordance with this contract be used to provide or otherwise supplement instruction of home-schooled students or students enrolled in private schools, or used as a method of generating revenue for students who are being home-

schooled or are enrolled in private schools. The Charter School shall not receive state aid funding for students that are not enrolled full-time in a public school, regardless of platform such as virtual, charter, or a statewide virtual charter school.

**7.12.1 Part time enrollment.** The Charter School shall implement and enforce policies and procedures prohibiting enrollment of students on a part time basis unless otherwise expressly required by state law for the sole purpose of providing remediation pursuant to the Reading Sufficiency Act in 70 O.S. § 1210.508A *et seq.*

**7.13 Reporting.** The Charter School shall use the Oklahoma Cost Accounting System (“OCAS”) to report financial transactions to the Oklahoma State Department of Education and/or the Sponsor, and shall fully comply with all provisions of state law regarding school finance. The Charter school shall comply with all provisions of the School District Transparency Act. If the Charter School utilizes an Educational Management Organization, the expenditures of the Educational Management Organization must be reported through the OCAS system. Financial reporting by the Charter School and the Educational Management Organization shall be itemized by actual costs, and not based on estimates or prorated amounts.

**7.13.1 Quarterly financial statement.** In addition to the reporting requirements set forth by state law, regulations of the Oklahoma State Department of Education, and regulations of the Sponsor, the Charter School shall provide the Sponsor with a quarterly financial statement that includes an itemized report of all income and expenses of the Charter School. The financial

statement shall include a verification signed by the Charter School's treasurer substantially following the form provided below:

"I hereby certify under penalty of perjury under the laws of the State of Oklahoma and the United States of America that the foregoing is true and correct to the best of my knowledge as this \_\_\_ day of [month], [year]."

**7.13.2 Supporting documentation.** The governing board must also provide to the Sponsor all supporting documentation for all expenditures upon request, including but not limited to an itemized invoice clearly describing the item or service purchased, an encumbrance approved by the governing board, a purchase order, and proof of payment by warrant or check for each expenditure.

**7.14 Annual audit.** The Charter School shall ensure that an annual audit is conducted of the financial operations of the Charter School in accordance with the requirements of the Oklahoma Public School Audit law in 70 O.S. § 22-103 and accompanying regulations. Any expense of the audit shall be borne by the Charter School. The Sponsor may require the Charter School to present the audit at a regular or special meeting of the Board.

**7.14.1** The Charter School shall change audit firms, at a minimum, every three (3) years to ensure annual audits are completed by two (2) different firms over the term of the charter contract. If the term of the charter contract is less than five (5) years, the Charter School shall change audit firms every two (2) years, or other-



wise, to ensure annual audits are completed by two (2) different firms over the term of the charter contract.

**7.14.2** The Charter School shall be subject to requests for audit by the State Auditor's Office, and shall cooperate fully in all aspects of any request made pursuant to such audits.

**7.14.3** The Charter School shall be subject to compliance audits conducted by the Sponsor at any time during the charter contract term.

**7.15 Recordkeeping.** The Charter School and governing board shall maintain all financial records necessary to demonstrate compliance with the provisions of this contract, the Charter School Act, and to conduct the annual financial audits required by the Oklahoma Public School Audit law. All records pertaining to finances and accounting of Charter School funds shall be maintained for at least five (5) years from the ending date of the latest fiscal year(s) to which the record relates. The Sponsor shall have access to all financial records pertaining to the school.

**7.16 Access to records.** The Sponsor shall have access to all Charter School records related in any respect to Sponsor oversight or use of public funds including, but not limited to, financial records of the Educational Management Organization. The Charter School shall provide any requested access to the Sponsor upon request.

**7.17 Financial employees.** The Charter School shall employ or contract with an individual tasked with primary financial responsibility, such as a Chief Financial Officer or Treasurer, that regardless of title, works only for the Charter School and is separate and

apart from any Educational Management Organization. This individual may be subject to a shared service agreement only if approved by the Sponsor. The Charter School shall employ or contract with an encumbrance clerk(s) that is separate and apart from any Educational Management Organization. This individual may be subject to a shared service agreement only if approved by the Sponsor.

**7.17.1 Access to public funding.** Only public employees shall have access to Charter School bank accounts and any other account that is used for the operation of the school.

**7.18 Minimum requirement for financial policy and procedure.** The policies and procedures for the Charter School shall include at a minimum:

- i. An explanation of the specific OCAS compliant accounting system used for the school.
- ii. An explanation of the responsibilities of the chief financial officer, other financial employees, and the encumbrance clerk(s).
- iii. An explanation of the purchasing process, including but not limited to the procedure from open to close of purchase orders, explaining what documentation is to be kept on file, what software systems are to be used, which employees are responsible at each point in the process, and what potential consequences would come to employees in violation of the policy.
- iv. A requirement that the encumbrance clerk must have all supporting documentation on file for purchase orders and invoices, based

on the expenditure/procurement procedures approved by the governing board, prior to issuing payment.

- v. A policy for purchase order change orders indicating a threshold amount that may be approved by the Superintendent or designee and those that would require governing board approval.
- vi. An explanation of the payroll procedure process, including but not limited to an explanation of the calculation of payroll from the shared services employees, how the revenue will be allocated from the school's general fund to be ultimately paid out to employees, what documentation is to be kept on file by the accounting office, and what potential consequences would come to employees in violation of the policy.
- vii. An explanation of the calculation of student enrollment numbers that are used to calculate payroll for employees subject to shared service agreements.
- viii. A requirement that changes to the policy(ies) must be approved by the governing board of the Charter School.

## **8. COMPLIANCE WITH THE OKLAHOMA CHARTER SCHOOLS ACT**

**8.1 General.** The Charter School agrees to comply with all federal, state and local statutes and regulations relating to health, safety, civil rights and insurance.

**8.2 Prohibition of religious affiliation.** Except as permitted by applicable law, the Charter School shall be nonsectarian in its programs, admission policies, employment practices, and all other operations.

**8.3 Accountability and assessment.** The Charter School shall comply with all federal and state statutes and regulations pertaining to accountability and assessment of its student, including, but not limited to the following:

**8.3.1** The Charter School shall participate in all state testing required by the Oklahoma School Testing Program Act and accompanying Oklahoma State Department of Education regulations, including, but not limited to, testing required by the Reading Sufficiency Act in 70 O.S. § 1210.508C. The Charter School shall ensure that the number and/or percentages of students assessed meet the requirements of state and federal law and regulations. The Charter School shall provide the Sponsor with the district, school and grade level results of state assessments as provided by the Oklahoma State Department of Education. In addition, the Charter School should monitor student progress through the local assessment plan outlined in the Charter School's application. Student data shall be provided at the request of the Sponsor.

**8.3.2** The Charter School shall comply with all requirements for timely reporting of student test results to which Oklahoma public school districts are bound, including, but not limited to the provisions of 70 O.S. § 1210.545.

**8.3.3** The Charter School shall timely provide all necessary accountability and assessment data to the Oklahoma State Department of Education's Office of Accountability and Assessment as requested and in accordance with the deadlines established by the Oklahoma State Department of Education.

**8.4 Performance Framework.** The Performance Framework set forth in OAC 777:10-3-4 will be used to assess the Charter School's ability to operate in the areas of academic, financial and organizational capacities. The Sponsor shall evaluate the Charter School under the Performance Framework annually and present results of the evaluation to the governing board of the Charter School and the governing board of the Sponsor in an open meeting.

**8.4.1 Board data submission.** The Charter School agrees to participate in the Sponsor's data collection program for submitting school data as required by OAC 777:10-3-4, and submit all requested documentation by the required due dates.

**8.5 Plan of Improvement.** If the Performance Framework evaluation reveals weaknesses, concerns, violations, or deficiencies regarding the Charter School during any school year during the term of this contract, the Sponsor may require the Charter School to submit to the Sponsor a corrective action plan and corresponding timeline to be implemented during the following school year. The corrective action plan shall be incorporated into the terms of this contract, and the Charter School shall implement the plan for any school years remaining during the terms of the contract, provided that approval of the corrective action

plan shall not be construed as a waiver of any rights of the parties to terminate or not renew the contract. If the Charter Schools fails to substantially complete the corrective action plan, the Sponsor may choose not to renew the charter contract.

**8.6 Students with disabilities.** The Charter School shall comply with all federal and state laws relating to the education of children with disabilities in the same manner as an Oklahoma public school district, including but not limited to the Individuals with Disabilities Education Act (IDEA) in 20 U.S.C. § 1400 *et seq.*, Section 504 of the Rehabilitation Act of 1973 in 29 U.S.C. § 794, Title II of the Americans with Disabilities Act, and Policies and Procedures of the Oklahoma State Department of Education for Special Education in Oklahoma.

**8.7 English language learners.** The Charter School shall comply with all federal and state laws pertaining to the education of students identified as Limited English Proficient and/or English Language Learners, including but not limited to ensuring equal access to the Charter School's program of instruction and related educational services in accordance with Title VI of the Civil Rights Act of 1964 and accompanying regulations.

**8.8 Admission, attendance, and enrollment.** The Charter School shall ensure that no student shall be denied admission to the Charter School on the basis of race, color, national origin, sex, sexual orientation, gender identity, gender expression, disability, age, proficiency in the English language, religious preference or lack thereof, income, aptitude, or academic ability.

**8.8.1 Tuition and fees.** The Charter School shall be as equally free and open to all students as traditional public school. The Charter School agrees that students and/or parents/legal guardians of students shall not be charged tuition or fees. The prohibition against charging tuition or fees applies to any attempt by the school, the governing board of the school, or employees or contractors of the school, directly or indirectly, to recover costs of offering curriculum based programs of instruction and related services to students.

**8.8.2 Admission by lottery.** In the event the Charter School is required to implement a lottery selection process due to a limitation in enrollment capacity, the Charter School shall provide the Sponsor with an opportunity to have a representative present to monitor and/or observe the lottery proceedings. The Charter School shall provide the Sponsor with notification of the date, time, and location of the lottery no later than five (5) business days prior to the date of the lottery or any related meetings. If a lottery results in generation of a waiting list for enrollment, the Charter School shall provide the Sponsor with a copy no later than five (5) business days after the date of the lottery or any related meeting.

**8.8.3 Verification of residency.** The Charter School agrees that enrollment in the Charter School shall be open to any student who is considered a resident of the State of Oklahoma and who is eligible by age or grade to enroll in the Charter School's program of instruction. The Charter School shall not enroll any student who is not a legal resident of the State of Oklahoma,

and shall ensure that verification of residency, enrollment of students, and admission of students is conducted in accordance with the policies and procedures of the Charter School. Such policies and procedures shall include a requirement that the parent/legal guardian of a prospective student sign, in either electronic or handwritten fashion, a form verifying the student's legal address, and the accuracy of the information provided in the enrollment application. The form shall also include an acknowledgement that the student is being enrolled in a public school.

**8.8.4 Student support.** During each school year of operation, the Charter School shall have a teacher assigned to each student to provide meaningful student interaction and timely and frequent feedback that is highly individualized and detailed to achieve continued student progress. In addition to the classroom teacher, support services required for student success in online education (i.e. tutors, mentors, and technical assistance) will be provided.

**8.8.5 Student attendance.** The Charter School shall establish a system of accurate logging and recording of student participation in instruction as necessary to monitor and report compliance with the compulsory student attendance provisions of Article 13, § 4 of the Oklahoma Constitution, 70 O.S. § 3-145.8, 70 O.S. § 10-105, and Oklahoma State Department of Education regulations.

**8.8.5.1 Attendance Officer.** The Charter School agrees that it will designate an attendance officer as necessary to ensure the Charter School's compliance with all compulsory attend-



ance laws and ensure accurate recording, maintenance, and reporting of student attendance as required by Oklahoma law.

**8.8.6 State records system.** The Charter School agrees to participate in the state student records system as required by 70 O.S. § 3-160.

**8.8.7 Transcripts.** The Charter School agrees to transcript for each student, at a minimum, the full-time online courses the student is enrolled in per semester, all grades or incomplete grades received, grade-point averages, and/or class rank.

**8.9 School year.** The Charter School shall provide instruction each school year for at least the number of school date or hours required by Oklahoma law, 70 O.S. § 1-109 and 1-111(A). In the event an emergency, such as severe weather, interferes with the delivery of the program of instruction, student attendance, cancellation of school programs or activities, the instruction shall be conducted in accordance with the Charter School's emergency policies and procedures.

**8.10 Student conduct and discipline.** The Charter School shall comply with the student suspension requirements set forth in 70 O.S. § 24-101.3, and in accordance with the Charter School's student conduct, discipline, and due process policies and procedures

**8.11 Employees.** The Charter School shall ensure that employment of the Charter School's personnel is conducted in accordance with all state and federal statutes pertaining to labor and employment, unemployment compensation and worker's compensation, and withholding and reporting of

employee wages. In addition, the Charter School shall ensure that employment is conducted in accordance with the Charter School's personnel policies and procedures.

**8.11.1 Oklahoma Teachers' Retirement System.** If the Charter School elects to participate in the Oklahoma Teachers' Retirement System (OTRS), the Charter School agrees that it will fully comply with all statutes and regulations governing the OTRS.

**8.11.2 Employment Contracts.** The Charter School's contracts for services with teachers and school personnel shall comply with the requirements of 70 O.S. § 3-135(B). On or before August 1st of the fiscal year, the Charter School agrees to provide the Sponsor documentation of all compensation (salaries, hourly wages, benefit compensation, bonuses, etc.) paid to each and every employee of the Charter School, including the Chief Administrative Officer/Superintendent.

**8.11.3 Disclosures.** Upon contracting with any teacher or other personnel, the governing board of the Charter School shall, in writing, disclose employment rights of the employees in the event the Charter School closes or is not renewed.

**8.11.4 Instructional personnel.** The Charter School agrees that all individuals employed to teach students shall hold a valid teaching certificate issued or recognized by the State Board of Education or other qualifying credentials as allowed by the Oklahoma Charter School Act.

**8.11.5 Background checks.** The Charter School shall comply with the provisions of state law

pertaining to background checks of school district employees.

**8.12 Open Meeting Act and Open Records Act.** The Charter School and its governing board shall comply with all provisions of the Oklahoma Open Meeting Act at 25 O.S. § 301 *et seq.* and the Oklahoma Open Records Act at 51 O.S. § 24A.1 *et seq.*

**8.13 Contracts.** Pursuant to 70 O.S. § 3-136(D), the Charter School may enter into contracts, sue and be sued.

**8.14 Disposition of property.** Within sixty (60) days of the date of school closure, or upon failure of the Charter School to continue operations, all real and personal property obtained by the Charter School with public funds shall be retained by the Sponsor consistent with state law, and the Charter School shall ensure execution of any title documents necessary to ensure legal title of such property is transferred to the State. The Sponsor shall not be responsible for any of the Charter School's non-payable warrants, certificates of indebtedness, or financial obligation related to the operation of the Charter School.

**8.15 Inspection.** The Charter School agrees to permit inspections of the Charter School by the Sponsor, State Department of Education, and the State Auditor and Inspector as necessary to ensure compliance with the provision of this contract and applicable state and federal law and regulations. Further, the Charter School agrees to respond to requests for documentation by the Sponsor to ensure compliance with the provision of this contract and applicable state and federal law and regulation.

**8.16 Role of the Sponsor.** The Statewide Virtual Charter School Board (“Sponsor”) shall authorize, oversee, and sponsor the Charter School.

**8.16.1 Duties of the Sponsor.** The Sponsor shall oversee operations of the Charter School and establish rules, policies, and procedures required to operate statewide virtual charter schools and ensure free appropriate public education and related services are provided to virtual charter students across the state in a safe, consistent, effective, and appropriate manner. The Sponsor shall also comply with its specific responsibilities provided in the Charter School Act.

**8.16.2 Operation of the Sponsor.** The Sponsor shall comply with the policies and procedures codified in Title 777 of the Oklahoma Administrative Code.

## **9. ASSUMPTION OF LIABILITY**

**9.1 Liability.** The Charter School and the Sponsor agree that neither party agrees to indemnify or hold harmless the other party with regard to any loss, damage, or claims arising out of this contract or the operation of the Charter School, unless expressly provided elsewhere in this contract or as expressly stated by state or federal law.

**9.2 Insurance.** The Charter School shall be considered an Oklahoma public school district for purposes of the Oklahoma Governmental Tort Claims Act.

**9.2.1 Verification of Insurance.** Prior to commencing operations of the Charter School for the school years set forth in this contract and on an

annual basis thereafter, the Charter School shall provide the Sponsor with copies of certificates of insurance proving that the Charter School maintains public liability insurance equal to or greater than the limits of liability required in the Oklahoma Governmental Tort Claims Act in 51 O.S. § 151. In addition, the Charter School shall provide the Sponsor with copies of certificates of insurance and any other documentation required by the Sponsor, proving that the Charter School maintains sufficient property and casualty insurance to cover the value of all property of the Charter School purchased using state, federal or local funds. The Board or Oklahoma State Department of Education may not disburse state aid funds to the Charter School unless and until compliance with the requirements of this Section have been met.

## **10. MODIFICATION, RENEWAL, AND TERMINATION**

**10.1 Modification/Amendment of contract for sponsorship.** All modifications or amendments to the Charter School contract shall require valid written approval by a majority of both the governing board of the Charter School and of the Sponsor. The modification or amendment shall be documented in writing and include the minutes of the board meetings in which the modification or amendment was approved. Failure by the parties to agree on modified or amended terms shall not constitute a basis for invoking rights to dispute resolution, arbitration, or mediation as set forth under the Oklahoma Charter School Act.

**10.2 Renewal of Contract.** Renewal of this contract shall be conducted in accordance with the provisions of 70 O.S. § 3-137 and the accompanying regulations of the Board in effect as of the date of receipt of the Charter School's application.

**10.3 Termination of the Contract.** Termination of this contract shall be conducted in accordance with the provisions of 70 O.S. § 3-137 and the accompanying regulations of the Board in effect as of the date of the Sponsor's notification of intent to terminate is received by the Charter School. All costs resulting from any termination of this contract shall be the sole responsibility of the Charter School.

**10.4 Prohibition of assignment.** The Charter School's obligations under this contract may not be assigned, delegated, subcontracted, transferred to, or assumed by any other person or entity, provided that the Charter School may contract with individuals or entities for services necessary to assist the Charter School in fulfilling its obligations under this contract.

## **11. MISCELLANEOUS**

**11.1 Superseding law.** In the event of any conflict between the terms of this contract and provisions of state or federal statutes or regulations applicable to charter schools and in effect at any time during the term of this contract, the terms of this contract shall be deemed superseded by the conflicting statutes or regulations.

**11.2 Entire Agreement.** The parties agree that this contract, including all attachments and terms and provisions incorporated by reference, contains the entire agreement between the parties. All prior

representations, understandings, and discussions between the parties are merged into, superseded by, and canceled by this contract.

**11.2.1 Construction.** This contract has been prepared jointly by the parties and shall not be construed more or less favorably with respect to either party.

**11.3 Choice of Law.** This contract shall be interpreted and construed in accordance with the laws of the State of Oklahoma, without giving effect to any rule or provision governing choice of law or conflict of laws that would otherwise result in application of the laws of any jurisdiction other than the State of Oklahoma to govern the dispute.

**11.4 Jurisdiction and Venue.** Any claims arising from the terms and provisions of this contract shall only be brought in the District Court of Oklahoma County, Oklahoma, or the United States District Court for the Western District of Oklahoma, provided, however, that this provision shall not be interpreted as a waiver of any or all rights of sovereign immunity to which the Board or individual members of the Board may be entitled to exercise.

**11.5 Severability.** In the event a court of competent jurisdiction issues a determination declaring any term or provision of this contract to be void, invalid, and/or unenforceable, the remaining terms and provisions of this contract shall remain in full force and effect.

**11.6 No waiver of breach.** The parties agree that neither express nor implied consent to any breach of any terms, warranties, or covenants of this contract shall waive any succeeding or other breach.

**11.7 Duty to Notify.** The Charter School shall promptly notify the Sponsor if any adverse action such as litigation, audits, criminal investigations, or claims against teachers, etc., material finding of non-compliance, or pending action, claim, or proceeding arises relating to the Charter School or an Educational Management Organization or a Charter Management Organization that have contracted with the Charter School. In the event the Charter School and/or its governing board sues or is named by any individual or entity as a party in a suit or administrative proceeding in any jurisdiction, the Charter School agrees to provide the Sponsor with a copy of the complaint, petition, or other instrument initiating the suit or proceeding within five (5) business days of the date of service upon the Charter School or its governing board. In addition, the Charter School agrees to timely provide the Sponsor with any information concerning the suit or proceeding as may be requested by the Sponsor and as allowed by law.

**11.8 Notice.** All notices required by the provisions of this contract shall be delivered to the address of record for the party. The parties shall be notified of any change in address of record of the other party within five (5) business days of the date of the change in address. The address of record for the parties shall be as follows:

**Notice to the Charter School:**

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**Notice to the Sponsor:**



Statewide Virtual Charter School Board  
2501 N. Lincoln Blvd., Suite 301  
Oklahoma City, OK 73105

**11.9 Incorporation.** The Charter School's Application for Sponsorship and accompanying documents approved by the Board on [DATE], are hereby incorporated by reference. In the event of a conflict between the terms of this contract and the approved terms in the Charter School's Application/Reapplication for Sponsorship, the terms of this contract shall supersede.

## **12. WARRANTIES AND COVENANTS**

**12.1** The Charter School warrants that it has not entered into an employment contract with any teacher or other personnel prior to the execution of this contract except as otherwise disclosed to the Sponsor.

**12.2** The Charter School warrants that it is not affiliated with a nonpublic sectarian school or religious institution.

**12.3** The Charter School warrants that it is not chartered for the purpose of offering a curriculum for deaf or blind students that is the same or similar to the curriculum being provided by or for the education of deaf or blind students that are being served by the Oklahoma School for the Blind or the Oklahoma School for the Deaf.

**12.4** The Charter School warrants that it shall not be used by the governing board or any other entity as a method of generating revenue for students who are being home schooled or in private school and are not being educated by the Charter School.

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**12.5** The Charter School warrants that no governing board member, school staff member, or contractor/vendor shall receive pecuniary gain beyond negotiated transaction, incidental or otherwise, from the earnings of the school or the Educational Management organization.

**12.6** The Charter School warrants that it and its governing board have not and shall not make any attempt to levy taxes or issue bonds except as may be allowed by law.

**12.7** The Charter School warrants that there is no current, pending, threatened, or anticipated litigation as of the date of the execution of this contract that could reasonably be foreseen to limit or otherwise adversely impact the operations of the Charter School and/or the governing board of the Charter School or the ability of the parties to discharge their duties under this contract.

**12.8** The individual(s) signing this contract on behalf of the Charter School warrant and represent that they are authorized to execute this instrument on behalf of the Charter School.

**Sponsor**

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Chairperson  
Statewide Virtual Charter School Board

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Date

**Governing Board of Charter School**

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Chairperson  
[Charter School]

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Date

**APPENDIX I.  
OKLAHOMA STATUTES**

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**OKLAHOMA CHARTER SCHOOLS ACT**

**TITLE 70. SCHOOLS**

**§70-3-130. Short Title**

Sections 6 through 18 of this act shall be known and may be cited as the “Oklahoma Charter Schools Act”.

*Historical Data*

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Laws 1999, HB 1759, c. 320, § 5, emerg. eff. July 1, 1999.

**§70-3-131. Purpose**

A. The purpose of the Oklahoma Charter Schools Act is to:

1. Improve student learning;
2. Increase learning opportunities for students;
3. Encourage the use of different and innovative teaching methods;
4. Provide additional academic choices for parents and students;
5. Require the measurement of student learning and create different and innovative forms of measuring student learning;
6. Establish new forms of accountability for schools; and

7. Create new professional opportunities for teachers and administrators including the opportunity to be responsible for the learning program at the school site.

B. The purpose of the Oklahoma Charter Schools Act is not to provide a means by which to keep open a school that may otherwise be closed. Applicants applying for a charter for a school which is to be otherwise closed shall be required to prove that conversion to a charter school fulfills the purposes of the act independent of closing the school. Nothing in this section shall be interpreted to preclude a school designated as a "high challenge school" from becoming a charter school.

*Historical Data*

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Laws 1999, HB 1759, c. 320, § 6, emerg. eff. July 1, 1999.

**§70-3-132. Application of Oklahoma Charter Schools Act**

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 any school district located 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 technology center school district if the charter school is located in a school district served by the technology center school district in which

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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;

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;

4. By 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 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;

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;

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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;

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 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;

8. By a federally recognized Indian tribe only when the charter school is located within the former reservation or treaty area boundaries of the tribe on property held in trust by the Bureau of Indian Affairs of the United States Department of the Interior for the benefit of the tribe; or

9. 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

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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:



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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, 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

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as defined in the Elementary and Secondary Education Act of 1965, 20 U.S.C. 8065.

E.

1. For the purposes of the Oklahoma Charter Schools Act, "conversion school" means a school created by converting all or any part of a traditional public school in order to access any or all flexibilities afforded to a charter school.

2. Prior to the board of education of a school district converting all or any part of a traditional public school to a conversion school, the board shall prepare a conversion plan. The conversion plan shall include documentation that demonstrates and complies with paragraphs 1, 2, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 34 and 35 of subsection B of Section 3-134 of this title. The conversion plan and all documents shall be in writing and shall be available to the public pursuant to the requirements of the Oklahoma Open Records Act. All votes by the board of education of a school district to approve a conversion plan shall be held in an open public session. If the board of education of a school district votes to approve a conversion plan, the board shall notify the State Board of Education within sixty (60) days after the vote. The notification shall include a copy of the minutes for the board meeting at which the conversion plan was approved.

3. A conversion school shall comply with all the same accountability measures as are required of a charter school as defined in subsection D of this section. The provisions of Sections 3-140 and 3-

142 of this title shall not apply to a conversion school. Conversion schools shall comply with the same laws and State Board of Education rules relating to student enrollment which apply to traditional public schools. Conversion schools shall be funded by the board of education of the school district as a school site within the school district and funding shall not be affected by the conversion of the school.

4. The board of education of a school district may vote to revert a conversion school back to a traditional public school at any time; provided, the change shall only occur during a break between school years.

5. Unless otherwise provided for in this subsection, a conversion school shall retain the characteristics of a traditional public school.

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.

### *Historical Data*

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Laws 1999, HB 1759, c. 320, § 7, emerg. eff. July 1, 1999; Amended by Laws 2000, HB 2728, c. 232, § 5, emerg. eff. July 1, 2000 (superseded document available); Amended by Laws 2001, HB 1214, c. 33, § 67, emerg. eff. July 1, 2001 (superseded document available); Amended by Laws 2007, HB 1589, c. 257, § 1 (superseded document available); Amended by Laws 2010, HB 2753, c. 288, § 1, eff. November 1, 2010 (repealed by Laws 2011, SB 553, c. 1, § 35, emerg. eff. March 18, 2011); Amended by Laws 2010, SB 1862, c. 290, § 1, eff. November 1, 2010 (superseded document

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available); Amended by Laws 2011, SB 553, c. 1, § 34, emerg. eff. March 18, 2011 (superseded document available); Amended by Laws 2011, SB 278, c. 367, § 1 (superseded document available); Amended by Laws 2012, SB 1816, c. 367, § 1, emerg. eff. July 1, 2012 (superseded document available); Amended by Laws 2013, HB 1385, c. 83, § 3, emerg. eff. July 1, 2013 (superseded document available); Amended by Laws 2013, SB 267, c. 212, § 1, eff. September 1, 2013 (superseded document available); Amended by Laws 2015, SB 782, c. 170, § 1 (superseded document available); Amended by Laws 2015, HB 1034, c. 205, § 1, eff. November 1, 2015 (repealed by Laws 2016, HB 3201, c. 210, § 42, emerg. eff. April 26, 2016) (superseded document available); Amended by Laws 2016, HB 3201, c. 210, § 41, emerg. eff. April 26, 2016 (repealed by Laws 2017, SB 833, c. 42, § 30) (superseded document available); Amended by Laws 2016, HB 2720, c. 27, § 1, emerg. eff. July 1, 2016 (superseded document available); Amended by Laws 2017, SB 833, c. 42, § 29 (superseded document available); Amended by Laws 2022, HB 3872, c. 222, § 1 (superseded document available).

### **§70-3-132.1. Statewide Charter School Board**

This Statute Will Go Into Effect

On: 09/01/2023

See Historical Data for Current Version

A. There is hereby created the Statewide Charter School Board. Beginning July 1, 2024, the Board shall have the sole authority to sponsor statewide virtual charter schools in this state and may sponsor charter schools in this state. The Board shall be composed of nine (9) voting members as follows:

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1. Three members appointed by the Governor;
2. Two members appointed by the President Pro Tempore of the Senate;
3. Two members appointed by the Speaker of the House of Representatives;
4. The Superintendent of Public Instruction or his or her designee; and
5. The State Auditor and Inspector or his or her designee.

B. Initial appointments shall be made by October 31, 2023. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each appoint one member for one (1) year and one member for two (2) years. The Governor shall appoint one member for one (1) year and two members for two (2) years. Members shall serve until their successors are duly appointed for a term of three (3) years. Appointments shall be made by and take effect on July 31 of the year in which the appointment is made. Annually by December 30 the Board shall elect from its membership a chair and vice chair.

C. A member may be removed from the Board by the appointing authority for cause which shall include but not be limited to:

1. Being found guilty by a court of competent jurisdiction of a felony or any offense involving moral turpitude;
2. Being found guilty of malfeasance, misfeasance, or nonfeasance in relation to Board duties;
3. Being found mentally incompetent by a court of competent jurisdiction; or

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4. Failing to attend three successive meetings of the Board without just cause, as determined by the Board.

D. Vacancies shall be filled by the appointing authority.

E. No member of the Senate or House of Representatives may be appointed to the Board while serving as a member of the Legislature or for two (2) full years following the expiration of the term of office.

F. Members of the Statewide Charter School Board shall not receive compensation but shall be reimbursed for necessary travel expenses pursuant to the provisions of the State Travel Reimbursement Act.

G. The Statewide Charter School Board shall meet at the call of the chair. The first meeting of the Board shall be held no later than sixty (60) days after the effective date of this act.

H. Five members of the Board shall constitute a quorum, and an affirmative vote of at least five members shall be required for the Board to take any final action.

I. Beginning July 1, 2024, statewide virtual charter schools shall be sponsored only by the Statewide Charter School Board created pursuant to this section. Effective July 1, 2024, the Statewide Virtual Charter School Board shall be abolished and the Statewide Charter School Board shall succeed to any contractual rights and responsibilities and settlement agreements incurred by the Statewide Virtual Charter School Board in a virtual charter school sponsorship contract executed prior to July 1, 2024.

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1. All powers, duties, responsibilities, policies, personnel, property, equipment, supplies, records, assets, funds, current and future liabilities, encumbrances, obligations, and indebtedness of the Statewide Virtual Charter School Board or associated with a virtual charter school sponsorship contract entered into by the Statewide Virtual Charter School Board prior to July 1, 2024, shall be transferred to the Statewide Charter School Board. No items shall be expended or used for any purpose other than the performance of duties and responsibilities as directed and required in this act. Appropriate conveyances and other documents shall be executed to effectuate the transfer of property associated with a sponsorship contract. The Statewide Charter School Board may contract for additional legal and administrative services as necessary to effectuate the transfers provided in this subsection.

2. The Director of the Office of Management and Enterprise Services shall coordinate the transfer of funds, allotments, purchase orders, and outstanding financial obligations and encumbrances relating to the regulation of virtual charter schools as transferred pursuant to the provisions of this act.

3. Upon succession of sponsorship contracts, the Statewide Charter School Board shall assume sponsorship of the virtual charter schools for the remainder of the term of the contracts. Prior to the end of the current term of the contract, the Statewide Charter School Board shall allow a virtual charter school to apply for renewal of the sponsorship contract in accordance with the

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renewal procedures established pursuant to Section 3-137 of Title 70 of the Oklahoma Statutes.

4. Effective July 1, 2024, all administrative rules promulgated by the Statewide Virtual Charter School Board relating to the implementation and enforcement of the Oklahoma Charter Schools Act shall be enforceable by the Statewide Charter School Board. The rules shall continue in force and effect and the Statewide Charter School Board shall have authority to amend, repeal, recodify, or make additions to the rules pursuant to the Administrative Procedures Act.

J. Effective July 1, 2024, the Statewide Charter School Board shall succeed to any contractual rights and responsibilities and settlement agreements incurred by the State Board of Education in a charter school sponsorship contract executed prior to July 1, 2024. All property, equipment, supplies, records, assets, funds, current and future liabilities, encumbrances, obligations, and indebtedness associated with a charter school sponsorship contract entered into by the State Board of Education prior to July 1, 2024, shall be transferred to the Statewide Charter School Board. Appropriate conveyances and other documents shall be executed to effectuate the transfer of property associated with a sponsorship contract. Upon succession of sponsorship contracts, the Statewide Charter School Board shall assume sponsorship of the charter schools for the remainder of the term of the contracts. Prior to the end of the current term of the contract, the Statewide Charter School Board shall allow a charter school to apply for renewal of the sponsorship contract in accordance with the renewal procedures



established pursuant to Section 3-137 of Title 70 of the Oklahoma Statutes.

K. Beginning July 1, 2024, at the end of the current term of a charter school sponsorship contract with a school district, an accredited comprehensive or regional institution that is a member of The Oklahoma State System of Higher Education, a community college, or a federally recognized Indian tribe, a charter school may apply for contract renewal with the Statewide Charter School Board for sponsorship.

*Historical Data*

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Laws 2023, SB 516, c. 323, § 1, eff. September 1, 2023.

**§70-3-132.2. Duties**

This Statute Will Go Into Effect

On: 09/01/2023

See Historical Data for Current Version

A. Beginning July 1, 2024, and subject to the requirements of the Oklahoma Charter Schools Act, the Statewide Charter School Board shall:

1. Provide supervision, services, and oversight of the operations of statewide virtual charter schools in this state and charter schools for which the Statewide Charter School Board is the sponsor, recommend legislation pertaining to charter schools to the Legislature, and promulgate rules and policies that the Board deems necessary to accomplish the purposes prescribed in this section;
2. Ensure compliance with state laws and training requirements for all charter schools, virtual charter schools, and sponsors;

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3. Establish a procedure for accepting, approving, and disapproving charter school and statewide virtual charter school applications and a process for renewal or revocation of approved charter contracts which meet the procedures set forth in the Oklahoma Charter Schools Act;
4. Hire an Executive Director and other staff for its operation;
5. Prepare a budget for expenditures necessary for the proper maintenance of the Board and accomplishment of its purpose;
6. Comply with the requirements of the Oklahoma Open Meeting Act and Oklahoma Open Records Act; and
7. Give priority to opening charter schools and virtual charter schools that serve at-risk student populations or students from low-performing traditional public schools.

B. The State Board of Education shall be responsible for accreditation of charter schools and virtual charter schools and ensure compliance with special education laws and federal laws and programs administered by the State Board of Education.

C.

1. For purposes of the Oklahoma Charter Schools Act, “charter school” means:
  - a. prior to July 1, 2024, a public school established by contract with a school district board of education, a technology center school district, a higher education institution, a

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federally recognized Indian tribe, or the State Board of Education, and

- b. on July 1, 2024, and after, a public school established by contract with a school district board of education, a higher education institution, an institution of higher learning accredited pursuant to Section 4103 of Title 70 of the Oklahoma Statutes, a federally recognized Indian tribe, or the Statewide Charter School Board, to provide learning that will improve student achievement and as defined in the Elementary and Secondary Education Act of 1965, as reauthorized by P.L. No. 114-95, also known as the Every Student Succeeds Act.

2. 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.

D.

1. For the purposes of the Oklahoma Charter Schools Act, “conversion school” means a school created by converting all or any part of a traditional public school in order to access any or all flexibilities afforded to a charter school; provided, however, all or any part of a traditional public school shall not be converted to a virtual charter school.

2. Prior to the board of education of a school district converting all or any part of a traditional public school to a conversion school, the board shall prepare a conversion plan. The conversion plan shall include documentation that demonstrates

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and complies with paragraphs 1, 2, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 34, and 35 of subsection B of Section 3-134 of Title 70 of the Oklahoma Statutes. The conversion plan and all documents shall be in writing and shall be available to the public pursuant to the requirements of the Oklahoma Open Records Act. All votes by the board of education of a school district to approve a conversion plan shall be held in an open public session. If the board of education of a school district votes to approve a conversion plan, the board shall notify the State Board of Education within sixty (60) days after the vote. The notification shall include a copy of the minutes for the board meeting at which the conversion plan was approved.

3. A conversion school shall comply with all the same accountability measures as are required of a charter school as defined in subsection C of this section. The provisions of Sections 3-140 and 3-142 of Title 70 of the Oklahoma Statutes shall not apply to a conversion school. Conversion schools shall comply with the same laws and State Board of Education rules relating to student enrollment which apply to traditional public schools. Conversion schools shall be funded by the board of education of the school district as a school site within the school district and funding shall not be affected by the conversion of the school.

4. The board of education of a school district may vote to revert a conversion school back to a traditional public school at any time; provided, the change shall only occur during a break between school years.

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5. Unless otherwise provided for in this subsection, a conversion school shall retain the characteristics of a traditional public school.

E.

1. Beginning July 1, 2024, the Statewide Charter School Board shall make publicly available a list of supplemental online courses which have been reviewed and certified by the Board to ensure that the courses are high-quality options and are aligned with the subject matter standards adopted by the State Board of Education pursuant to Section 11-103.6 of Title 70 of the Oklahoma Statutes. The Statewide Charter School Board shall give special emphasis on listing supplemental online courses in science, technology, engineering, and math (STEM), foreign language, and advanced placement courses. School districts shall not be limited to selecting supplemental online courses that have been reviewed and certified by the Statewide Charter School Board and listed as provided for in this paragraph.

2. In conjunction with the Office of Management and Enterprise Services, the Board shall negotiate and enter into contracts with supplemental online course providers to offer a state rate price to school districts for supplemental online courses that have been reviewed and certified by the Statewide Charter School Board and listed as provided for in this subsection.

*Historical Data*

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Laws 2023, SB 516, c. 323, § 2, eff. September 1, 2023.

**§70-3-132.3. Statewide Charter School Board Revolving Fund**

This Statute Will Go Into Effect

On: 09/01/2023

See Historical Data for Current Version

There is hereby created in the State Treasury a revolving fund for the Statewide Charter School Board to be designated the “Statewide Charter School Board Revolving Fund”. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Statewide Charter School Board from state appropriations. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Statewide Charter School Board for the purposes set forth in Section 2 of this act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

*Historical Data*

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Laws 2023, SB 516, c. 323, § 3, eff. September 1, 2023.

**§70-3-133. Repealed**

Repealed by Laws 2007, HB 1589, c. 257, § 5

**§70-3-134. Sponsor Proposal**

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

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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 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;

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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;
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;



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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;

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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

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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 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. 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.

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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.

*Historical Data*

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Laws 1999, HB 1759, c. 320, § 9, emerg. eff. July 1, 1999; Amended by Laws 2001, HB 1214, c. 33, § 69, emerg. eff. July 1, 2001 (superseded document available); Amended by Laws 2007, HB 1589, c. 257, § 2 (superseded document available); Amended by Laws 2010, HB 2753, c. 288, § 2, eff. November 1, 2010; Amended by Laws 2010, SB 1862, c. 290, § 2, eff. November 1, 2010 (repealed by Laws 2011, SB 553, c. 1, § 37, emerg. eff. March 18, 2011) (superseded document available); Amended by Laws 2011, SB 553, c. 1, § 36, emerg. eff. March 18, 2011 (superseded document available); Amended by Laws 2011, SB 278, c. 367, § 2 (superseded document available); Amended by Laws 2015, SB 782, c. 170, § 2 (superseded document available). Amended by Laws 2022, HB 3872, c. 222, § 2, emerg. eff. May 5, 2022 (superseded document available).

**§70-3-135. Sponsor Contract Guidelines**

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:

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1. A description of the program to be offered by the school which complies with the purposes outlined in Section 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;
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;

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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 this title. The contract shall conform to all applicable provisions set forth in Section 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.



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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;

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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.

### *Historical Data*

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Laws 1999, HB 1759, c. 320, § 10, emerg. eff. July 1, 1999; Amended by Laws 2015, SB 782, c. 170, § 3 (superseded document available).

**§70-3-136. Charter School Compliance**

This Statute Will Go Into Effect

On: 07/01/2024

See Historical Data for Current Version

A. Beginning July 1, 2024, a written contract entered into between the Statewide Charter School Board and the governing board of a charter school or statewide virtual charter school or a written contract entered into between a sponsor and the governing board of a charter school shall ensure compliance with the following:

1. Except as provided for in the Oklahoma Charter Schools Act, a charter school and virtual charter school shall be exempt from all statutes and rules relating to schools, boards of education, and school districts; provided, however, a charter school or virtual charter school shall comply with all federal regulations and state and local rules and statutes relating to health, safety, civil rights, and insurance. By January 1, 2000, the State Department of Education shall prepare a list of relevant rules and statutes which a charter school and virtual charter school must comply with as required by this paragraph and shall annually provide an update to the list;
2. A charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations. A sponsor may not authorize a charter school or program that is affiliated with a nonpublic sectarian school or religious institution;
3. The charter contract shall provide a description of the educational program to be offered. A

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charter school or virtual charter school may provide a comprehensive program of instruction for a prekindergarten program, a kindergarten program, or any grade between grades one and twelve. Instruction may be provided to all persons between four (4) and twenty-one (21) years of age. A charter school or virtual charter school may offer a curriculum which emphasizes a specific learning philosophy or style or certain subject areas such as mathematics, science, fine arts, performance arts, or foreign language. The charter of a charter school or virtual charter school which offers grades nine through twelve shall specifically address whether the charter school or virtual charter school will comply with the graduation requirements established in Section 11-103.6 of this title. No charter school shall be chartered for the purpose of offering a curriculum for deaf or blind students that is the same or similar to the curriculum being provided by or for educating deaf or blind students that are being served by the Oklahoma School for the Blind or the Oklahoma School for the Deaf;

4. A charter school or virtual charter school shall participate in the testing as required by the Oklahoma School Testing Program Act and the reporting of test results as is required of a school district. A charter school or virtual charter school shall also provide any necessary data to the Office of Accountability within the State Department of Education;

5. A charter school or virtual charter school shall be subject to the same reporting requirements, financial audits, audit procedures, and audit

requirements as a school district. The State Department of Education or State Auditor and Inspector may conduct financial, program, or compliance audits. The Statewide Charter School Board may request that the State Auditor and Inspector conduct a financial, program, or compliance audit for any charter school or virtual charter school it oversees. A charter school or virtual charter school shall use the Oklahoma Cost Accounting System to report financial transactions to the State Department of Education. The charter school or virtual charter school shall be subject to the limitations on spending, including provisions of the Oklahoma Constitution, for any funds received from the state, either through the State Department of Education or other sources;

6. A charter school or virtual charter school shall comply with all federal and state laws relating to the education of children with disabilities in the same manner as a school district;

7. A charter school or virtual charter school shall provide for a governing board for the school which shall be responsible for the policies and operational decisions of the charter school or virtual charter school. All of the charter school or virtual charter school governing board members shall be residents of this state and shall meet no fewer than ten (10) months of the year in a public meeting within the boundaries of the school district in which the charter school is located or within this state if the governing board oversees multiple charter schools in this state or oversees a virtual charter school. The governing board of a

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charter school or virtual charter school shall be subject to the same conflict of interest requirements as a member of a school district board of education including but not limited to Sections 5-113 and 5-124 of this title. Members appointed to the governing board of a charter school or virtual charter school shall be subject to the same instruction and continuing education requirements as a member of a school district board of education and pursuant to Section 5-110 of this title shall complete twelve (12) hours of instruction within fifteen (15) months of appointment to the governing board and pursuant to Section 5-110.1 of this title shall attend continuing education;

8. A charter school or virtual charter school shall not be used as a method of generating revenue for students who are being home schooled and are not being educated at an organized charter school site or by a virtual charter school;

9. A charter school or virtual charter school shall be as equally free and open to all students as traditional public schools and shall not charge tuition or fees;

10. A charter school or virtual charter school shall provide instruction each year for at least the number of days or hours required in Section 1-109 of this title;

11. A charter school or virtual charter school shall comply with the student suspension requirements provided for in Section 24-101.3 of this title;

12. A charter school or virtual charter school shall be considered a school district for purposes

of tort liability under The Governmental Tort Claims Act;

13. Employees of a charter school or virtual charter school may participate as members of the Teachers'

Retirement System of Oklahoma in accordance with applicable statutes and rules if otherwise allowed pursuant to law;

14. A charter school or virtual charter school may participate in all health and related insurance programs available to employees of a public school district;

15. A charter school or virtual charter school and their respective governing boards shall comply with the Oklahoma Open Meeting Act and the Oklahoma Open Records Act;

16. The governing board of a charter school or virtual charter school shall notify the sponsor within ten (10) business days in the instance of any significant adverse actions, material findings of noncompliance, or pending actions, claims, or proceedings in this state relating to the charter school, the virtual charter school, or an educational management organization with which the charter school or virtual charter school has a contract;

17. No later than September 1 each year, the governing board of each charter school or virtual charter school formed pursuant to the Oklahoma Charter Schools Act shall prepare a statement of actual income and expenditures for the charter school or virtual charter school for the fiscal year

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that ended on the preceding June 30, in a manner compliant with Section 5-135 of this title. The statement of expenditures shall include functional categories as defined in rules adopted by the State Board of Education to implement the Oklahoma Cost Accounting System pursuant to Section 5-145 of this title. Charter schools and virtual charter schools shall not be permitted to submit estimates of expenditures or prorated amounts to fulfill the requirements of this paragraph; and

18. A charter school or virtual charter school contract shall include performance provisions based on a performance framework that clearly sets forth the academic and operational performance indicators that shall be used by charter school and virtual charter school sponsors to evaluate their respective schools. The sponsor may develop a separate performance framework to evaluate a charter school or virtual charter school that has been designated by the State Department of Education as implementing an alternative education program throughout the school. The sponsor shall require a charter school or virtual charter school to submit the data required in this subsection 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 or virtual charter school to provide permission to the Department to share all required data with the Board. The performance framework shall serve as the minimum requirement for charter school and virtual charter school



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performance evaluation and shall include, but not be limited to, the following indicators:

- a. student academic proficiency,
- b. student academic growth,
- c. achievement gaps in both proficiency and growth between major student subgroups,
- d. student attendance,
- e. recurrent enrollment from year to year as determined by the methodology used for public schools in Oklahoma,
- f. in the case of high schools, graduation rates as determined by the methodology used for public schools in Oklahoma,
- g. in the case of high schools, postsecondary readiness,
- h. financial performance and sustainability and compliance with state and Internal Revenue Service financial reporting requirements,
- i. audit findings or deficiencies,
- j. accreditation and timely reporting,
- k. governing board performance and stewardship including compliance with all applicable laws, regulations, and terms of the charter contract, and
- l. mobility of student population for the virtual charter school framework.

The sponsor including the Statewide Charter School Board shall annually evaluate its charter schools or virtual charter schools according to the

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performance framework. The results of the evaluation shall be presented to the governing board of the charter school or virtual charter school and the governing board of the charter school sponsor in an open meeting.

B. An applicant or the governing board of an applicant may hold one or more charter contracts. Each charter school or virtual charter school that is part of a charter contract shall be separate and distinct from any other charter school or virtual charter school. For the purposes of this subsection, “separate and distinct” shall mean that a charter school or virtual charter school governing board with oversight of more than one charter school or virtual charter school shall not combine accounting, budgeting, record-keeping, admissions, employment, or policies and operational decisions of the charter schools or virtual charter schools it oversees.

C. The charter contract of a charter school or virtual charter school shall include a description of the personnel policies, personnel qualifications, and method of school governance. A charter school or virtual charter school shall not enter into an employment contract with any teacher or other personnel until a contract has been executed with its sponsor. The employment contract shall set forth the personnel policies of the charter school or virtual 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

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employer-employee bargaining, but the charter school or virtual charter school shall not be required to comply with the provisions of Sections 509.1 through 509.10 of this title.

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

No charter school or virtual charter school may begin serving students without a contract executed in accordance with the provisions of the Oklahoma Charter Schools Act and approved in an open meeting of the governing board of the sponsor or the Statewide Charter School Board. The governing board of the sponsor or the Statewide Charter School Board may establish reasonable preopening requirements or conditions to monitor the start-up progress of newly approved charter schools or virtual charter schools and ensure that each brick-and-mortar 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.

D. The charter of a charter school or virtual charter school may be amended at the request of the governing board of the charter school or virtual charter school and upon the approval of the sponsor.

E. A charter school or virtual charter school may enter into contracts and sue and be sued.

F. The governing board of a charter school or virtual charter school shall not levy taxes or issue

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bonds. A school district that proposes a bond shall include any charter school established pursuant to subsection A of Section 3-132 of this title and located within the school district in planning conversations regarding the bond.

G. The charter of a charter school or virtual charter school shall include a provision specifying the method or methods to be employed for disposing of real and personal property acquired by the charter school or virtual charter school upon expiration or termination of the charter or failure of the charter school or virtual charter school to continue operations. Except as otherwise provided, any real or personal property purchased with state or local funds shall be retained by the sponsor. If a charter school that was previously sponsored by the board of education of a school district continues operation within the school district under a new charter sponsored by an entity authorized pursuant to Section 3-132 of this title, the charter school may retain any personal property purchased with state or local funds for use in the operation of the charter school until termination of the new charter or failure of the charter school to continue operations.

### *Historical Data*

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Laws 1999, HB 1759, c. 320, § 11, emerg. eff. July 1, 1999; Amended by Laws 2000, HB 2728, c. 232, § 7, emerg. eff. July 1, 2000 (superseded document available); Amended by Laws 2008, SB 2100, c. 439, § 1, emerg. eff. July 1, 2008 (superseded document available); Amended by Laws 2014, SB 1461, c. 277, § 1, emerg. eff. July 1, 2014 (superseded document

available); Amended by Laws 2023, SB 516, c. 323, § 7, eff. July 1, 2024 (superseded document available).

**§70-3-137. Length of Contract - Termination of Contract**

A. An approved contract for a charter school shall be effective for 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

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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 expecta-

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tions 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.

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

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 binding arbitration as provided for in subsection G of Section 3-134 of this title.

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:



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- 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 designated 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,

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- 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,

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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 non-renewal 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;

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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.

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.

#### *Historical Data*

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Laws 1999, HB 1759, c. 320, § 12, emerg. eff. July 1, 1999; Amended by Laws 2003, HB 1787, c. 434, § 6, emerg. eff. July 1, 2003 (superseded document available); Amended by Laws 2004, SB 713, c. 472, § 1, emerg. eff. June 7, 2004 (superseded document available); Amended by Laws 2007, HB 1589, c. 257, § 3 (superseded document available); Amended by Laws 2015, SB 782, c. 170, § 4 (superseded document available); Amended by Laws 2016, SB 1268, c. 42, § 1, emerg. eff. July 1, 2016 (superseded document available).

### **§70-3-138. Unlawful Reprisal Actions Prohibited**

A board of education of a school district or an employee of the district who has control over personnel actions shall not take unlawful reprisal action

against an employee of the school district for the reason that the employee is directly or indirectly involved in an application to establish a charter school. As used in this section, “unlawful reprisal” means an action that is taken by a board of education or a school district employee as a direct result of a lawful application to establish a charter school and that is adverse to an employee or an education program.

*Historical Data*

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Laws 1999, HB 1759, c. 320, § 13, emerg. eff. July 1, 1999.

**§70-3-139. Teacher Status Upon Returning from Charter School**

A. A sponsoring school district shall determine whether a teacher who is employed by or teaching at a charter school and who was previously employed as a teacher at the sponsoring public school district shall not lose any right of salary status or any other benefit provided by law due to teaching at a charter school upon returning to the sponsoring public school district to teach.

B. A teacher who is employed by or teaching at a charter school and who submits an employment application to the school district where the teacher was employed immediately before employment by or at a charter school shall be given employment preference by the school district if:

1. The teacher submits an employment application to the school district no later than three (3) years after ceasing employment with the school district; and

2. A suitable position is available at the school district.

*Historical Data*

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Laws 1999, HB 1759, c. 320, § 14, emerg. eff. July 1, 1999.

**§70-3-140. Eligible Students - Discrimination - Limit on Number of Students**

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 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.

*Historical Data*

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Laws 1999, HB 1759, c. 320, § 15, emerg. eff. July 1, 1999; Amended by Laws 2010, HB 2753, c. 288, § 3, eff. November 1, 2010; Amended by Laws 2010, SB 1862, c. 290, § 3, eff. November 1, 2010 (superseded document available); Laws 2010, SB 1862, c. 290, § 3 repealed by Laws 2011, SB 553, c. 1, § 38, emerg. eff. March 18, 2011 (superseded document available); Amended by Laws 2011, SB 445, c. 185, § 1; Amended by Laws 2011, SB 278, c. 367, § 3 (superseded document available); Amended by Laws 2012, SB 1816, c. 367, § 2, emerg. eff. July 1, 2012 (superseded document available); Amended by Laws 2013, HB 1385, c. 83, § 4, emerg. eff. July 1, 2013 (superseded document available); Amended by Laws 2013, SB 267, c. 212, § 2, eff. September 1, 2013 (superseded document available); Amended by Laws 2015, SB 782, c. 170, § 5 (superseded document available).

**§70-3-141. Transportation**

A. Transportation shall be provided by the charter school in accordance with Sections 9-101 through 9-118 of this title.

B. A charter school shall provide the parent or guardian information regarding transportation at the time the student enrolls in the charter school.

*Historical Data*

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Laws 1999, HB 1759, c. 320, § 16, emerg. eff. July 1, 1999; Amended by Laws 2023, HB 2314, c. 177, § 1, emerg. eff. July 1, 2023 (superseded document available).

**§70-3-142. State-Appropriated Funding - Funding From Non-State Sources - Charter School Closure Reimbursement Revolving Fund**

A. The student membership and attendance of the charter school shall be considered separate from the student membership and attendance of the sponsor for the purpose of calculating enrollment and funding including 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. A charter school shall receive the State Aid allocation, federal funds to which it is eligible and qualifies for and any other state-appropriated revenue generated by its students for the applicable year. Not more than three percent (3%) 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. A sponsor of a charter school shall not charge any additional State Aid allocation or charge the charter school any additional fee above the amounts allowed

by this subsection unless the additional fees are for additional services rendered. The charter school sponsor shall provide to the State Department of Education financial records documenting any state funds charged by the sponsor for administrative services rendered for the previous year.

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 of a full-time statewide virtual charter school sponsored by the Statewide Virtual Charter School Board 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 statewide virtual charter school shall be

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adjusted using the first quarter weighted average daily membership for the virtual charter school calculated pursuant to subsection A of this section.

C. Except as explicitly authorized by state law, a charter school shall not be eligible to receive state-dedicated, local or county revenue; provided, a charter school may be eligible to receive any other aid, grants or revenues allowed to other schools. A charter school shall be considered a local education agency for purposes of funding.

D. Any unexpended funds received by a charter school 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.

F. Except as otherwise provided in this subsection, each charter school shall pay to the Charter School Closure Reimbursement Revolving Fund created in subsection G of this section an amount equal to Five Dollars (\$5.00) per student based on average daily membership, as defined by paragraph 2 of Section 18-107 of this title, during the first nine (9) weeks of the school year. Each charter school shall complete the

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payment every school year within thirty (30) days after the first nine (9) weeks of the school year. If the Charter School Closure Reimbursement Revolving Fund has a balance of One Million Dollars (\$1,000,000.00) or more on July 1, no payment shall be required the following school year.

G. There is hereby created in the State Treasury a revolving fund for the State Department of Education to be designated the "Charter School Closure Reimbursement Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Department of Education from charter schools as provided in subsection F of this section. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the State Department of Education for the purpose of reimbursing charter school sponsors for costs incurred due to the closure of a charter school. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment. The State Department of Education may promulgate rules regarding sponsor eligibility for reimbursement.

### *Historical Data*

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Laws 1999, HB 1759, c. 320, § 17, emerg. eff. July 1, 1999; Amended by Laws 2004, SB 713, c. 472, § 2, emerg. eff. June 7, 2004 (superseded document available); Amended by Laws 2006, SB 1493, c. 278, § 1, emerg. eff. July 1, 2006 (superseded document available); Amended by Laws 2007, HB 1589, c. 257, § 1 (superseded document available); Amended by

Laws 2010, SB 2212, c. 204, § 1 (superseded document available); Amended by Laws 2010, HB 2753, c. 288, § 4, eff. November 1, 2010; Amended by Laws 2010, SB 1862, c. 290, § 4, eff. November 1, 2010 (repealed by Laws 2011, SB 553, c. 1, § 40, emerg. eff. March 18, 2011) (superseded document available); Amended by Laws 2011, SB 553, c. 1, § 39, emerg. eff. March 18, 2011 (superseded document available); Amended by Laws 2011, SB 256, c. 184, § 1 (superseded document available); Amended by Laws 2013, SB 267, c. 212, § 3, eff. September 1, 2013 (superseded document available); Amended by Laws 2015, SB 782, c. 170, § 6 (superseded document available); Amended by Laws 2020, SB 212, c. 61, § 1, emerg. eff. July 1, 2020 (repealed by Laws 2021, SB 1064, c. 101, § 10, emerg. eff. April 20, 2021) (superseded document available); Amended by Laws 2020, HB 3369, c. 122, § 1, eff. November 1, 2020 (superseded document available); Amended by Laws 2021, SB 1064, c. 101, § 9, emerg. eff. April 20, 2021 (superseded document available); Amended by Laws 2021, SB 229, c. 563, § 7, emerg. eff. May 28, 2021 (superseded document available).

### **§70-3-143. Annual Report**

The State Board of Education shall issue an annual report to the Legislature and the Governor outlining the status of charter schools in the state. Each charter school shall annually file a report with the Office of Accountability. The report shall include such information as requested by the Office of Accountability, including but not limited to information on enrollment, testing, curriculum, finances and employees.

*Historical Data*

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Laws 1999, HB 1759, c. 320, § 18, emerg. eff. July 1, 1999.

**§70-3-144. Charter Schools Incentive Fund**

A. There is hereby created in the State Treasury a fund to be designated the “Charter Schools Incentive Fund”. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies appropriated by the Legislature, gifts, grants, devises and donations from any public or private source. The State Department of Education shall administer the fund for the purpose of providing financial support to charter school applicants and charter schools for start-up costs and costs associated with renovating or remodeling existing buildings and structures for use by a charter school. The State Department of Education is authorized to allocate funds on a per-pupil basis for purposes of providing matching funds for the federal State Charter School Facilities Incentive Grants Program created pursuant to the No Child Left Behind Act, 20 USCA, Section 7221d.

B. The State Board of Education shall adopt rules to implement the provisions of this section, including application and notification requirements.

*Historical Data*

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Laws 1999, HB 1565, c. 351, § 16, emerg. eff. June 8, 1999; Amended by Laws 2004, SB 713, c. 472, emerg. eff. June 7, 2004 (superseded document available).

**§70-3-145.1 Statewide Virtual Charter School Board**

A. There is hereby created the Statewide Virtual Charter School Board. The Board shall have the sole authority to authorize and sponsor statewide virtual charter schools in this state. The Board shall be composed of five (5) voting members as follows:

1. One member appointed by the Governor, who shall be a resident and elector of the Fifth Congressional District;
2. Two members appointed by the President Pro Tempore of the Senate, one of whom shall be a resident and elector of the First Congressional District and one of whom shall be a resident and elector of the Third Congressional District;
3. Two members appointed by the Speaker of the House of Representatives, one of whom shall be a resident and elector of the Second Congressional District and one of whom shall be a resident and elector of the Fourth Congressional District; and
4. The State Superintendent of Public Instruction and the Secretary of Education or their designees shall serve as ex officio nonvoting members, and shall not be counted toward a quorum.

B. Initial appointments shall be made by August 1, 2012. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each appoint one member for one (1) year and one member for three (3) years. The Governor shall appoint one member for two (2) years. Members shall serve until their successors are duly appointed for a term of three (3) years. Appointments shall be made



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by and take effect on November 1 of the year in which the appointment is made. Annually by December 30 the Board shall elect from its membership a chair and vice-chair.

C. A member may be removed from the Board by the appointing authority for cause which shall include, but not be limited to:

1. Being found guilty by a court of competent jurisdiction of a felony or any offense involving moral turpitude;
2. Being found guilty of malfeasance, misfeasance or nonfeasance in relation to Board duties;
3. Being found mentally incompetent by a court of competent jurisdiction; or
4. Failing to attend three successive meetings of the Board without just cause, as determined by the Board.

D. Vacancies shall be filled by the appointing authority.

E. No member of the Senate or House of Representatives may be appointed to the Board while serving as a member of the Legislature, or for two (2) full years following the expiration of the term of office.

F. The State Department of Education shall provide staff support to the Board until December 31, 2014, and thereafter the Department shall provide office space for the operation of the Board.

*Historical Data*

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Laws 2012, SB 1816, c. 367, § 3, emerg. eff. July 1, 2012; Amended by Laws 2013, SB 267, c. 212, § 4, eff. September 1, 2013 (superseded document available).

### **§70-3-145.2 Meetings - Quorum – Reimbursement**

A. The Statewide Virtual Charter School Board shall meet at the call of the chair. The first meeting of the Board shall be held no later than sixty (60) days after the effective date of this act.

B. Three members of the Board shall constitute a quorum and an affirmative vote of at least three members shall be required in order for the Board to take any final action.

C. Members of the Board shall receive necessary traveling expenses while in the performance of their duties in accordance with the State Travel Reimbursement Act. Members shall receive reimbursement from the State Department of Education.

#### *Historical Data*

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Laws 2012, SB 1816, c. 367, § 4, emerg. eff. July 1, 2012.

### **§70-3-145.3 Powers and Duties**

A. Subject to the requirements of the Oklahoma Charter Schools Act, the Statewide Virtual Charter School Board shall:

1. Provide oversight of the operations of statewide virtual charter schools in this state;
2. Establish a procedure for accepting, approving and disapproving statewide virtual charter school applications and a process for renewal or revocation of approved charter school contracts

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which minimally meet the procedures set forth in the Oklahoma Charter Schools Act;

3. Make publicly available a list of supplemental online courses which have been reviewed and certified by the Statewide Virtual Charter School Board to ensure that the courses are high quality options and are aligned with the subject matter standards adopted by the State Board of Education pursuant to Section 11-103.6 of this title. The Statewide Virtual Charter School Board shall give special emphasis on listing supplemental online courses in science, technology, engineering and math (STEM), foreign language and advanced placement courses. School districts shall not be limited to selecting supplemental online courses that have been reviewed and certified by the Statewide Virtual Charter School Board and listed as provided for in this paragraph; and

4. In conjunction with the Office of Management and Enterprise Services, negotiate and enter into contracts with supplemental online course providers to offer a state rate price to school districts for supplemental online courses that have been reviewed and certified by the Statewide Virtual Charter School Board and listed as provided for in paragraph 3 of this subsection.

B. Each statewide virtual charter school which has been approved and sponsored by the Board or any virtual charter school for which the Board has assumed sponsorship of as provided for in Section 3-145.5 of this title shall be considered a statewide virtual charter school and, except as provided in subsection H of this section, the geographic boundaries of each

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statewide virtual charter school shall be the borders of the state.

C. Each statewide virtual charter school approved by the Statewide Virtual Charter School Board shall be eligible to receive federal funds generated by students enrolled in the charter school for the applicable year. Each statewide virtual charter school shall be considered a separate local education agency for purposes of reporting and accountability.

D. As calculated as provided for in Section 3-142 of this title, a statewide virtual charter school shall receive the State Aid allocation and any other state-appropriated revenue generated by students enrolled in the virtual charter school for the applicable year, less up to five percent (5%) of the State Aid allocation, which may be retained by the Statewide Virtual Charter School Board for administrative expenses and to support the mission of the Board. A statewide virtual charter school shall be eligible for any other funding any other charter school is eligible for as provided for in Section 3-142 of this title. Each statewide virtual charter school shall be considered a separate local education agency for purposes of reporting and accountability.

E. A virtual charter school shall be subject to the same reporting requirements, financial audits, audit procedures and audit requirements as a school district. The State Department of Education or State Auditor and Inspector may conduct financial, program or compliance audits. A virtual charter school shall use the Oklahoma Cost Accounting System (OCAS) to report financial transactions to the State Department of Education.

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F. A virtual charter school governing body shall be responsible for the policies that govern the operational decisions of the virtual charter school. The governing body of a virtual charter school shall be subject to the same conflict of interest requirements as a member of a local school board including, but not limited to, Sections 5-113 and 5-124 of this title. Members appointed to the governing body of a virtual charter school after July 1, 2019, shall be subject to the same instruction and continuing education requirements as a member of a local school board and pursuant to Section 5-110 of this title, complete twelve (12) hours of instruction within fifteen (15) months of appointment to the governing body, and pursuant to Section 5-110.1 of this title, attend continuing education.

G. Students enrolled full-time in a statewide virtual charter school sponsored by the Statewide Virtual Charter School Board shall not be authorized to participate in any activities administered by the Oklahoma Secondary Schools Activities Association. However, the students may participate in intramural activities sponsored by a statewide virtual charter school, an online provider for the charter school or any other outside organization.

H.

1. Beginning with the 2021-2022 school year, a public school student who wishes to enroll in a virtual charter school shall be considered a transfer student from their resident school district. A virtual charter school shall pre-enroll any public school student whose parent expresses intent to enroll in the district. Upon pre-enrollment, the State Department of Education

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shall initiate a transfer on a form to be completed by the receiving virtual charter school. Upon approval of the receiving virtual charter school, the student may begin instructional activities. Upon notice that a public school student has transferred to a virtual charter school, the resident school district shall transmit the student's records within three (3) school days.

2. The State Department of Education shall notify the Legislature and Governor if it determines that the information technology infrastructure necessary to process the transfer of students to a virtual charter school is inadequate and one (1) additional school year is needed for implementation.

3. A public school student may transfer to one statewide virtual charter school at any time during a school year. For purposes of this subsection, "school year" shall mean July 1 through the following June 30. After one statewide virtual charter school transfer during a school year, no public school student shall be permitted to transfer to any other statewide virtual charter school without the concurrence of both the resident school district and the receiving virtual charter school. A student shall have a grace period of fifteen (15) school days from the first day of enrollment in a statewide virtual charter school to withdraw without academic penalty and shall continue to have the option of one virtual charter school transfer without the concurrence of both districts during that same school year. A statewide virtual charter school student that has utilized the allowable one transfer pursuant to this

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subsection shall not be permitted to transfer to another district or other statewide virtual charter school without first notifying his or her resident district and initiating a new transfer. Upon cancellation of a transfer the virtual charter school shall transmit the student's records to the student's new school district within three (3) school days. Students enrolled in a statewide virtual charter school shall not be required to submit a virtual charter transfer for consecutive years of enrollment. Any student enrolled in a statewide virtual charter school the year prior to the implementation of this section shall not be required to submit a transfer in order to remain enrolled.

4. For purposes of this subsection, "parent" shall mean the parent of the student or person having custody of the student as provided for in paragraph 1 of subsection A of Section 1-113 of this title.

I.

1. A student shall be eligible to enroll in a statewide virtual charter school if he or she is a student whose parent or legal guardian is transferred or is pending transfer to a military installation within this state while on active military duty pursuant to an official military order.

2. A statewide virtual charter school shall accept applications by electronic means for enrollment and course registration for students described in paragraph 1 of this subsection.

3. The parent or legal guardian of a student described in paragraph 1 of this subsection shall

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provide proof of residence in this state within ten (10) days after the published arrival date provided on official documentation. A parent or legal guardian may use the following addresses as proof of residence:

- a. a temporary on-base billeting facility,
- b. a purchased or leased home or apartment, or
- c. federal government or public-private venture off-base military housing.

4. The provisions of paragraph 3 of subsection H shall apply to students described in paragraph 1 of this subsection.

5. For purposes of this subsection:

- a. “active military duty” means full-time military duty status in the active uniformed service of the United States including members of the National Guard and Military Reserve on active duty orders, and
- b. “military installation” means a base, camp, post, station, yard, center, homeport facility for any ship or other installation under the jurisdiction of the Department of Defense or the United States Coast Guard.

J. A virtual charter school shall not accept or deny a transfer based on ethnicity, national origin, gender, income level, disabling condition, proficiency in the English language, measure of achievement, aptitude or athletic ability.

K. The decision of the Statewide Virtual Charter School Board to deny, nonrenew or terminate the charter contract of a statewide virtual charter school



may be appealed to the State Board of Education within thirty (30) days of the decision by the Statewide Virtual Charter School Board. The State Board of Education shall act on the appeal within sixty (60) days of receipt of the request from the statewide virtual charter school applicant. The State Board of Education may reverse the decision of the Statewide Virtual Charter School Board or may remand the matter back to the Statewide Virtual Charter School Board for further proceeding as directed.

*Historical Data*

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Laws 2012, SB 1816, c. 367, § 5, emerg. eff. July 1, 2012; Amended by Laws 2013, SB 267, c. 212, § 5, eff. September 1, 2013 (superseded document available); Amended by Laws 2015, SB 136, c. 293, § 1 (superseded document available); Amended by Laws 2019, HB 1395, c. 272, § 1, emerg. eff. May 2, 2019 (superseded document available); Amended by Laws 2020, HB 2905, c. 27, § 2, emerg. eff. July 1, 2020 (superseded document available); Amended by Laws 2021, SB 69, c. 74, § 1, emerg. eff. July 1, 2021 (superseded document available).

**§70-3-145.4 Authority to Promulgate Rules**

Pursuant to and in compliance with Article I of the Administrative Procedures Act, the Statewide Virtual Charter School Board shall promulgate rules as may be necessary to implement the provisions of this act.

*Historical Data*

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Laws 2012, SB 1816, c. 367, § 6, emerg. eff. July 1, 2012; Amended by Laws 2013, SB 267, c. 212, § 6, eff. September 1, 2013 (superseded document available).

**§70-3-145.5 School Districts - Virtual Education - Residency Requirement**

A. Notwithstanding any other provision of law, beginning July 1, 2014, no school district shall enter into a virtual charter school contract with a provider to provide full-time virtual education to students who do not reside within the school district boundaries.

B. Effective July 1, 2014, the Statewide Virtual Charter School Board shall succeed to any contractual rights and responsibilities incurred by a school district in a virtual charter school contract executed prior to January 1, 2014, with a provider to provide full-time virtual education to students who do not reside within the school district boundaries. All property, equipment, supplies, records, assets, current and future liability, encumbrances, obligations, and indebtedness associated with the contract shall be transferred to the Statewide Virtual Charter School Board. Appropriate conveyances and other documents shall be executed to effectuate the transfer of any property associated with the contract. Upon succession of the contract, the Board shall assume sponsorship of the virtual charter school for the remainder of the term of the contract. Prior to the end of the current term of the contract, the Board shall allow the provider of the virtual charter school to apply for renewal of the contract with the Board in accordance with the renewal procedures established pursuant to Section 3-145.3 of this title.

*Historical Data*

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Laws 2012, SB 1816, c. 367, § 7, emerg. eff. July 1, 2012; Amended by Laws 2013, SB 267, c. 212, § 7, eff. September 1, 2013 (superseded document available);

Amended by Laws 2022, SB 1238, c. 153, § 2, emerg. eff. July 1, 2022 (superseded document available).

**§70-3-145.6 Virtual Education Providers - Non-Resident Students**

A. A virtual education provider that offers full-time virtual education to students who are not residents of the school district with which the provider is contracted shall be considered a site within each school district with which the provider contracts and subject to the accountability system established pursuant to Section 1210.545 of this title.

B. The virtual education provider and the school district with which it contracts are hereby directed to identify those students who are full-time virtual students and do not live in the physical boundaries of the district. The district and provider shall submit in electronic format as necessary to the State Department of Education detailed data on the performance of nonresident students who are receiving full-time instruction.

*Historical Data*

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Laws 2013, SB 169, c. 108, § 1, emerg. eff. July 1, 2013; Amended by Laws 2014, SB 1461, c. 277, § 2, emerg. eff. July 1, 2014 (superseded document available).

**§70-3-145.7 Statewide Virtual Charter School Board Revolving Fund**

There is hereby created in the State Treasury a revolving fund for the Statewide Virtual Charter School Board to be designated the “Statewide Virtual Charter School Board Revolving Fund”. The fund shall be a continuing fund, not subject to fiscal year

limitations, and shall consist of all monies received by the Statewide Virtual Charter School Board from State Aid pursuant to Section 3-145.3 of Title 70 of the Oklahoma Statutes or any other state appropriation. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Statewide Virtual Charter School Board for the purpose of supporting the mission of the Statewide Virtual Charter School Board. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

*Historical Data*

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Laws 2015, SB 505, c. 225, § 1.

**§70-3-145.8 Virtual Charter School Attendance Policy**

A. It shall be the duty of each virtual charter school approved and sponsored by the Statewide Virtual School Board pursuant to the provisions of Section 3-145.3 of Title 70 of the Oklahoma Statutes to keep a full and complete record of the attendance of all students enrolled in the virtual charter school in one of the student information systems approved by the State Department of Education and locally selected by the virtual school from the approved list.

B. By July 1, 2020, the governing body of each virtual charter school shall adopt an attendance policy. The policy may allow attendance to be a proportional amount of the required attendance policy provisions based upon the date of enrollment of the student. The attendance policy shall include the following provisions:

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1. The first date of attendance and membership shall be the first date the student completes an instructional activity.
  2. A student who attends a virtual charter school shall be considered in attendance for a quarter if the student:
    - a. completes instructional activities on no less than ninety percent (90%) of the days within the quarter,
    - b. is on pace for on-time completion of the course as defined by the governing board of the virtual charter school, or
    - c. completes no less than seventy-two instructional activities within the quarter of the academic year.
  3. For a student who does not meet any of the criteria set forth in paragraph 1 or 2 of this subsection, the amount of attendance recorded shall be the greater of:
    - a. the number of school days during which the student completed the instructional activities during the quarter,
    - b. the number of school days proportional to the percentage of the course that has been completed, or
    - c. the number of school days proportional to the percentage of the required minimum number of completed instructional activities during the quarter.
- C. For the purposes of this section, “instructional activities” shall include instructional meetings with a

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teacher, completed assignments that are used to record a grade for a student that is factored into the student's grade for the semester during which the assignment is completed, testing and school-sanctioned field trips, and orientation.

D. Each statewide virtual charter school approved and sponsored by the Statewide Virtual Charter School Board pursuant to the provisions of Section 3-145.3 of this title shall offer a student orientation, notify the parent or legal guardian and each student who enrolls in that school of the requirement to participate in the student orientation, and require all students enrolled to complete the student orientation prior to completing any other instructional activity. The Statewide Virtual Charter School Board shall promulgate rules to develop materials for orientation.

E. Any student that is behind pace and does not complete an instructional activity for a fifteen-school-day-period shall be withdrawn for truancy. The virtual charter school shall submit a notification to the parent or legal guardian of a student who has been withdrawn for truancy or is approaching truancy.

F. A student who is reported for truancy two times in the same school year shall be withdrawn and prohibited from enrolling in the same virtual charter school for the remainder of the school year.

G. The governing body of each statewide virtual charter school shall develop, adopt and post on the school's website a policy regarding consequences for a student's failure to attend school and complete instructional activities. The policy shall state, at a minimum, that if a student fails to consistently attend school and complete instructional activities after

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receiving a notification pursuant to subsection E of this section and reasonable intervention strategies have been implemented, a student shall be subject to certain consequences including withdrawal from the school for truancy.

H. If a statewide virtual charter school withdraws a student pursuant to subsections F and G of this section, the virtual charter school shall immediately notify the student's resident district in writing of the student's disenrollment.

I. The provisions of subsections F, G and H of this section shall not be in effect until the implementation of subsection H of Section 3-145.3 of this title.

J. The Statewide Virtual Charter School Board may promulgate rules to implement the provisions of this section.

### *Historical Data*

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Laws 2017, SB 244, c. 247, § 1, eff. January 1, 2018; Amended by Laws 2020, HB 2905, c. 27, § 3, emerg. eff. July 1, 2020 (superseded document available).

**OKLAHOMA STATUTES**

**TITLE 70. SCHOOLS**

**CHAPTER 1 - SCHOOL CODE OF 1971**

**Section 5-200 - Educational Management Organization - Use Oklahoma Cost Accounting System - Disclosure of Ownership Position - Teaching Contract Binding - Exception - Suspension**

Cite as: 70 O.S. § 5-200 (OSCN 2023)

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A. As used in this section, “educational management organization” means a for-profit or nonprofit organization that receives public funds to provide administration and management services for a charter school, statewide virtual charter school or traditional public school.

B. A charter school that contracts with an educational management organization shall use the Oklahoma Cost Accounting System (OCAS) to report the total amount paid to an educational management organization as well as itemized expenditure information for the goods or services provided by the management organization as defined by OCAS expenditure codes, including the total compensation package of the superintendent including the base salary, insurance, retirement and other fringe benefits.

C. Any owner of an educational management organization shall be required to disclose to the governing board of the school in a public meeting any ownership position in any business that contracts or proposes to contract with the same public school that the educational management organization is managing.



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D. Whenever any person shall enter into a contract with any school district or public charter school in the state to teach in such school district or public charter school the contract shall be binding on the teacher and on the board of education until the teacher legally has been discharged from the teaching position or released by the board of education from the contract. Except as provided in Section 5-106A of Title 70 of the Oklahoma Statutes, until such teacher has been thus discharged or released, the teacher shall not have authority to enter into a contract with any other board of education in Oklahoma for the same time covered by the original contract. If upon written complaint by the board of education in a district any teacher is reported to have failed to obey the terms of the contract previously made and to have entered into a contract with another board of education, including a public charter school board of education, without having been released from the former contract except as provided in Section 5-106A of Title 70 of the Oklahoma Statutes, the teacher, upon being found to be employed full-time for another public school, including a public charter school in the state, at a hearing held before the State Board of Education, shall have such teacher's certificate suspended for the remainder of the term for which the contract was made.

### *Historical Data*

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Laws 2019, HB 1395, c. 272, § 2, emerg. eff. May 2, 2019.

**CHAPTER 24 - OKLAHOMA ADVANCED PLACEMENT  
INCENTIVE PROGRAM**

**Section 1210.704 - Access to Advanced Placement  
Courses**

Cite as: 70 O.S. § 1210.704 (OSCN 2023)

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A. Beginning with the 2024–2025 school year, all public high schools in this state shall make a minimum of four advanced placement courses available to students.

B. Local boards of education in each district shall be responsible for ensuring annually that all high school students have access to advanced placement courses beginning in the 2024-2025 school year. Such access may be provided through enrollment in courses offered through:

1. A school site or sites within the district;
2. A career and technology institution within the district;
3. A program offered by the Statewide Virtual Charter School Board or one of its vendors; or
4. A school site or sites in another school district.

C. The Statewide Virtual Charter School Board shall maintain an online learning platform to provide high quality online learning opportunities for Oklahoma students that are aligned with the subject matter standards adopted by the State Board of Education pursuant to Section 11-103.6 of Title 70 of the Oklahoma Statutes. The Board shall implement online courses, with an emphasis on science, technology, engineering, and math (STEM) courses, foreign language,

age courses and advanced placement courses. The online platform shall be available to all Oklahoma school districts.

D. The State Department of Education shall provide information to all local boards of education, to be distributed to their students and parents, on available opportunities and the enrollment process for students to take advanced placement courses. The information shall explain the value of advanced placement courses in preparing students for postsecondary-level coursework, enabling students to gain access to postsecondary opportunities, and qualifying for scholarships and other financial aid opportunities.

E. The State Department of Education shall retain records of which options outlined in subsection B of this section local boards of education selected for their students and make the information available on the Department's website.

F. As used in this section, "advanced placement course" shall have the same meaning as provided in paragraph 1 of Section 1210.702 of Title 70 of the Oklahoma Statutes.

*Historical Data*

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Laws 2020, HB 3400, c. 86, § 1, eff. November 1, 2020.

**CHAPTER 1 - SCHOOL CODE OF 1971**

**ARTICLE XXIV - MISCELLANEOUS PROVISIONS**

**Section 24-157 - Prohibition of Mandatory Gender or Sexual Diversity Training or Counseling - Prohibited Course Concepts - Rule**

Cite as: 70 O.S. § 24-157 (OSCN 2023)

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A.

1. No enrolled student of an institution of higher education within The Oklahoma State System of Higher Education shall be required to engage in any form of mandatory gender or sexual diversity training or counseling; provided, voluntary counseling shall not be prohibited. Any orientation or requirement that presents any form of race or sex stereotyping or a bias on the basis of race or sex shall be prohibited.

2. Pursuant to the provisions of the Administrative Procedures Act, the Oklahoma State Regents for Higher Education shall promulgate rules, subject to approval by the Legislature, to implement the provisions of this subsection.

B. The provisions of this subsection shall not prohibit the teaching of concepts that align to the Oklahoma Academic Standards.

1. No teacher, administrator or other employee of a school district, charter school or virtual charter school shall require or make part of a course the following concepts:

- a. one race or sex is inherently superior to another race or sex,
- b. an individual, by virtue of his or her race or sex, is inherently racist, sexist or oppressive, whether consciously or unconsciously,
- c. an individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex,

- d. members of one race or sex cannot and should not attempt to treat others without respect to race or sex,
  - e. an individual's moral character is necessarily determined by his or her race or sex,
  - f. an individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex,
  - g. any individual should feel discomfort, guilt, anguish or any other form of psychological distress on account of his or her race or sex, or
  - h. meritocracy or traits such as a hard work ethic are racist or sexist or were created by members of a particular race to oppress members of another race.
2. The State Board of Education shall promulgate rules, subject to approval by the Legislature, to implement the provisions of this subsection.

*Historical Data*

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Laws 2021, HB 1775, c. 426, § 1, emerg. eff. July 1, 2021.

**CHAPTER 1 - SCHOOL CODE OF 1971**  
**ARTICLE XVIII - STATE AID**

**Section 18-107 - Definitions**

Cite as: 70 O.S. § 18-107 (OSCN 2023)

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As used in this title:

1. "Average Daily Attendance" (ADA) means the legal average number of pupils, early childhood

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education programs through grade twelve, in a school district during a school year as determined pursuant to the provisions of Section 18-111 of this title. A day of school for early childhood education programs and kindergarten shall be at least two and one-half (2 1/2) hours and, for early childhood education, may be six (6) hours.

2. "Average Daily Membership" (ADM) means the average number of pupils present and absent in a school district during a school year. Average Daily Membership shall be calculated by dividing the sum of the pupil's total days present and total days absent by the number of days taught.

- a. A pupil who has been absent without excuse ten (10) consecutive days shall be taken off the roll beginning the eleventh day and thereafter shall not be considered in a district's average daily membership calculation until the pupil is placed on the roll in the district. For the purpose of this paragraph, consecutive days means days for which enrollment is recorded.
- b. A pupil enrolled in a statewide virtual charter school who is behind pace and has not completed instructional activity as defined by Section 3-145.8 of this title for a fifteen-school-day-period, without excuse as authorized by Section 10-105 of this title, shall be taken off the roll beginning the sixteenth day and thereafter shall not be considered in the virtual charter school's average daily membership calculation until the pupil is placed on the roll in the virtual charter school.

3. “Total Adjusted Assessed Valuation” means the sum of public service property assessed valuation, personal property assessed valuation and real property assessed valuation as adjusted pursuant to the provisions of Section 18-109.1 of this title.

4. “Eighty-five percent (85%) of maximum allowable”, for the purpose of assessing class size penalty pursuant to Sections 18-113.1 and 18-113.2 of this title, means eighty-five percent (85%) of ten percent (10%) of the preceding year’s net assessed valuation of a school district. The calculation of indebtedness as provided for in paragraph a of subsection G of Section 18-113.1 and subparagraph a of paragraph 4 of subsection A of Section 18-113.2 of this title shall include the outstanding principal amount of bonds issued by the school district plus the principal amount of any bonds authorized by a vote of the people for issuance but not yet issued by the school district.

### *Historical Data*

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Laws 1971, HB 1163, c. 305, § 7, emerg. eff. June 17, 1971; Amended by Laws 1981, HB 1236, c. 347, § 14, emerg. eff. July 1, 1981; Amended by Laws 1983, HB 1179, c. 330, § 11, emerg. eff. July 1, 1983; Amended by Laws 1992, SB 741, c. 111, § 3, emerg. eff. July 1, 1992; Amended by Laws 1996, HB 2055, c. 215, § 1, emerg. eff. July 1, 1996; Amended by Laws 1998, HB 1657, c. 204, § 3, emerg. eff. July 1, 1998 (superseded document available); Amended by Laws 2020, HB 2905, c. 27, § 4, emerg. eff. July 1, 2020 (superseded document available).

**CHAPTER 1 - SCHOOL CODE OF 1971**  
**ARTICLE III - STATE DEPARTMENT OF EDUCATION**

**Section 3-145.8 - Virtual Charter School Attendance Policy**

Cite as: 70 O.S. § 3-145.8 (OSCN 2023)

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A. It shall be the duty of each virtual charter school approved and sponsored by the Statewide Virtual School Board pursuant to the provisions of Section 3-145.3 of Title 70 of the Oklahoma Statutes to keep a full and complete record of the attendance of all students enrolled in the virtual charter school in one of the student information systems approved by the State Department of Education and locally selected by the virtual school from the approved list.

B. By July 1, 2020, the governing body of each virtual charter school shall adopt an attendance policy. The policy may allow attendance to be a proportional amount of the required attendance policy provisions based upon the date of enrollment of the student. The attendance policy shall include the following provisions:

1. The first date of attendance and membership shall be the first date the student completes an instructional activity.
2. A student who attends a virtual charter school shall be considered in attendance for a quarter if the student:
  - a. completes instructional activities on no less than ninety percent (90%) of the days within the quarter,



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- b. is on pace for on-time completion of the course as defined by the governing board of the virtual charter school, or
- c. completes no less than seventy-two instructional activities within the quarter of the academic year.

3. For a student who does not meet any of the criteria set forth in paragraph 1 or 2 of this subsection, the amount of attendance recorded shall be the greater of:

- a. the number of school days during which the student completed the instructional activities during the quarter,
- b. the number of school days proportional to the percentage of the course that has been completed, or
- c. the number of school days proportional to the percentage of the required minimum number of completed instructional activities during the quarter.

C. For the purposes of this section, “instructional activities” shall include instructional meetings with a teacher, completed assignments that are used to record a grade for a student that is factored into the student’s grade for the semester during which the assignment is completed, testing and school-sanctioned field trips, and orientation.

D. Each statewide virtual charter school approved and sponsored by the Statewide Virtual Charter School Board pursuant to the provisions of Section 3-145.3 of this title shall offer a student orientation, notify the parent or legal guardian and each student

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who enrolls in that school of the requirement to participate in the student orientation, and require all students enrolled to complete the student orientation prior to completing any other instructional activity. The Statewide Virtual Charter School Board shall promulgate rules to develop materials for orientation.

E. Any student that is behind pace and does not complete an instructional activity for a fifteen-school-day-period shall be withdrawn for truancy. The virtual charter school shall submit a notification to the parent or legal guardian of a student who has been withdrawn for truancy or is approaching truancy.

F. A student who is reported for truancy two times in the same school year shall be withdrawn and prohibited from enrolling in the same virtual charter school for the remainder of the school year.

G. The governing body of each statewide virtual charter school shall develop, adopt and post on the school's website a policy regarding consequences for a student's failure to attend school and complete instructional activities. The policy shall state, at a minimum, that if a student fails to consistently attend school and complete instructional activities after receiving a notification pursuant to subsection E of this section and reasonable intervention strategies have been implemented, a student shall be subject to certain consequences including withdrawal from the school for truancy.

H. If a statewide virtual charter school withdraws a student pursuant to subsections F and G of this section, the virtual charter school shall immediately notify the student's resident district in writing of the student's disenrollment.

I. The provisions of subsections F, G and H of this section shall not be in effect until the implementation of subsection H of Section 3-145.3 of this title.

J. The Statewide Virtual Charter School Board may promulgate rules to implement the provisions of this section.

*Historical Data*

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Laws 2017, SB 244, c. 247, § 1, eff. January 1, 2018; Amended by Laws 2020, HB 2905, c. 27, § 3, emerg. eff. July 1, 2020 (superseded document available).

**TITLE 25. DEFINITIONS AND GENERAL PROVISIONS**  
**CHAPTER 8 - PUBLIC MEETINGS**  
**OKLAHOMA OPEN MEETING ACT**

**Section 307 - Executive Sessions**

Cite as: 25 O.S. § 307 (OSCN 2023), Oklahoma Open Meeting Act

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A. No public body shall hold executive sessions unless otherwise specifically provided in this section.

B. Executive sessions of public bodies will be permitted only for the purpose of:

1. Discussing the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any individual salaried public officer or employee;
2. Discussing negotiations concerning employees and representatives of employee groups;
3. Discussing the purchase or appraisal of real property;

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4. Confidential communications between a public body and its attorney concerning a pending investigation, claim, or action if the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation, or proceeding in the public interest;
5. Permitting district boards of education to hear evidence and discuss the expulsion or suspension of a student when requested by the student involved or the student's parent, attorney or legal guardian;
6. Discussing matters involving a specific handicapped child;
7. Discussing any matter where disclosure of information would violate confidentiality requirements of state or federal law;
8. Engaging in deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act;
9. Discussing matters involving safety and security at state penal institutions or correctional facilities used to house state inmates;
10. Discussing contract negotiations involving contracts requiring approval of the State Board of Corrections, which shall be limited to members of the public body, the attorney for the public body, and the immediate staff of the public body. No person who may profit directly or indirectly by a proposed transaction which is under

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consideration may be present or participate in the executive session; or

11. Discussing the following:
  - a. the investigation of a plan or scheme to commit an act of terrorism,
  - b. assessments of the vulnerability of government facilities or public improvements to an act of terrorism,
  - c. plans for deterrence or prevention of or protection from an act of terrorism,
  - d. plans for response or remediation after an act of terrorism,
  - e. information technology of the public body but only if the discussion specifically identifies:
    - (1) design or functional schematics that demonstrate the relationship or connections between devices or systems,
    - (2) system configuration information,
    - (3) security monitoring and response equipment placement and configuration,
    - (4) specific location or placement of systems, components or devices,
    - (5) system identification numbers, names, or connecting circuits,
    - (6) business continuity and disaster planning, or response plans, or

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- (7) investigation information directly related to security penetrations or denial of services, or
- f. the investigation of an act of terrorism that has already been committed.

For the purposes of this subsection, the term “terrorism” means any act encompassed by the definitions set forth in Section 1268.1 of Title 21 of the Oklahoma Statutes.

C. Notwithstanding the provisions of subsection B of this section, the following public bodies may hold executive sessions:

1. The State Banking Board, as provided for under Section 306.1 of Title 6 of the Oklahoma Statutes;
2. The Oklahoma Industrial Finance Authority, as provided for in Section 854 of Title 74 of the Oklahoma Statutes;
3. The Oklahoma Development Finance Authority, as provided for in Section 5062.6 of Title 74 of the Oklahoma Statutes;
4. The Oklahoma Center for the Advancement of Science and Technology, as provided for in Section 5060.7 of Title 74 of the Oklahoma Statutes;
5. The Oklahoma Health Research Committee for purposes of conferring on matters pertaining to research and development of products, if public disclosure of the matter discussed would interfere with the development of patents, copyrights, products, or services;

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6. The Workers' Compensation Commission for the purposes provided for in Section 20 of Title 85A of the Oklahoma Statutes;
7. A review committee, as provided for in Section 855 of Title 62 of the Oklahoma Statutes;
8. The Child Death Review Board for purposes of receiving and conferring on matters pertaining to materials declared confidential by law;
9. The Domestic Violence Fatality Review Board as provided in Section 1601 of Title 22 of the Oklahoma Statutes;
10. The Opioid Overdose Fatality Review Board, as provided in Section 2-1001 of Title 63 of the Oklahoma Statutes;
11. All nonprofit foundations, boards, bureaus, commissions, agencies, trusteeships, authorities, councils, committees, public trusts, task forces or study groups supported in whole or part by public funds or entrusted with the expenditure of public funds for purposes of conferring on matters pertaining to economic development including the transfer of property, financing, or the creation of a proposal to entice a business to remain or to locate within their jurisdiction if public disclosure of the matter discussed would interfere with the development of products or services or if public disclosure would violate the confidentiality of the business;
12. The Oklahoma Indigent Defense System Board for purposes of discussing negotiating strategies in connection with making possible counteroffers to offers to contract to provide legal

representation to indigent criminal defendants and indigent juveniles in cases for which the System must provide representation pursuant to the provisions of the Indigent Defense Act;

13. The Quality Investment Committee for purposes of discussing applications and confidential materials pursuant to the terms of the Oklahoma Quality Investment Act;

14. The Oklahoma Municipal Power Authority established pursuant to Section 24-101 et seq. of Title 11 of the Oklahoma Statutes and in its role as an electric utility regulated by the federal government, for purposes of discussing security plans and procedures including, but not limited to, cybersecurity matters; and

15. The Oklahoma Tax Commission for purposes of discussing confidential taxpayer matters as provided in Section 205 of Title 68 of the Oklahoma Statutes, and in compliance with subsection E of this section.

D. Except as otherwise specified in this subsection, an executive session for the purpose of discussing the purchase or appraisal of real property shall be limited to members of the public body, the attorney for the public body and the immediate staff of the public body. No landowner, real estate salesperson, broker, developer or any other person who may profit directly or indirectly by a proposed transaction concerning real property which is under consideration may be present or participate in the executive session, unless they are operating under an existing agreement to represent the public body.



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E. No public body may go into an executive session unless the following procedures are strictly complied with:

1. The proposed executive session is noted on the agenda as provided in Section 311 of this title;
2. The executive session is authorized by a majority vote of a quorum of the members present and the vote is a recorded vote; and
3. Except for matters considered in executive sessions of the State Banking Board and the Oklahoma Tax Commission, and which are required by state or federal law to be confidential, any vote or action on any item of business considered in an executive session shall be taken in public meeting with the vote of each member publicly cast and recorded.

F. A willful violation of the provisions of this section shall:

1. Subject each member of the public body to criminal sanctions as provided in Section 314 of this title; and
2. Cause the minutes and all other records of the executive session including tape recordings, to be immediately made public.

### *Historical Data*

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Laws 1977, HB 1416, c. 214, § 7, eff. October 1, 1977; Amended by Laws 1985, HB 1339, c. 168, § 9, emerg. eff. June 18, 1985; Amended by Laws 1985, HB 1384, c. 218, § 1, eff. November 1, 1985; Amended by Laws 1986, HB 1371, c. 264, § 12, emerg. eff. July 1, 1986; Amended by Laws 1987, HB 1267, c. 61, § 20, emerg.

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eff. May 4, 1987; Amended by Laws 1987, HB 1444, c. 222, § 115, emerg. eff. July 1, 1987; Amended by Laws 1988, HB 1798, c. 153, § 7, emerg. eff. July 1, 1988; Amended by Laws 1989, HB 1113, c. 7, § 1, emerg. eff. emerg. eff. March 27, 1989; Amended by Laws 1989, SB 154, c. 200, § 1, emerg. eff. May 8, 1989; Amended by Laws 1992, HB 2409, c. 12, § 1, eff. September 1, 1992; Amended by Laws 1993, HB 1228, c. 69, § 1, eff. September 1, 1993; Amended by Laws 1993, HB 1136, c. 195, § 3, emerg. eff. July 1, 1993; Amended by Laws 1994, HB 2427, c. 384, § 13, emerg. eff. July 1, 1994; Amended by Laws 1998, HB 2863, c. 201, § 6, emerg. eff. May 11, 1998 (superseded document available); Amended by Laws 1998, SB 996, c. 315, § 2, emerg. eff. May 28, 1998 (superseded document available); Amended by Laws 1999, HB 1845, c. 1, § 10, emerg. eff. February 24, 1999 (superseded document available); Amended by Laws 2001, HB 1372, c. 284, § 3, emerg. eff. July 1, 2001 (superseded document available); Amended by Laws 2003, SB 395, c. 175, § 1, emerg. eff. May 5, 2003 (superseded document available); Amended by Laws 2006, HB 1619, c. 1, §§ 11, 15, eff. July 1, 2007; Laws 2005, SB 755, c. 239, State Question 725, Legis. Ref. No. 340, approved by the people at the general election held November 7, 2006 (superseded document available); Amended by Laws 2015, HB 1032, c. 109, § 1, eff. November 1, 2015 (superseded document available); Amended by Laws 2018, SB 898, c. 51, § 1 (superseded document available); Amended by Laws 2018, HB 2798, c. 252, § 1, eff. November 1, 2018 (superseded document available); Amended by Laws 2019, HB 2367, c. 476, § 57, emerg. eff. May 28, 2019 (superseded document available); Amended by Laws 2021, SB 118, c. 130, § 1, eff. November 1, 2021 (superseded document available);

Amended by Laws 2022, SB 1298, c. 182, § 1, eff. November 1, 2022 (superseded document available).

**APPENDIX J.**  
**TITLE 777 STATEWIDE VIRTUAL CHARTER  
SCHOOL BOARD ADMINISTRATIVE RULES**

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**TITLE 777.**  
**STATEWIDE VIRTUAL CHARTER SCHOOL BOARD**  
**CHAPTER 1. ADMINISTRATIVE OPERATIONS**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**777:1-1-1. Purpose**

This Chapter contains rules and regulations of general applicability to the administrative operations, formal proceedings, and informal proceedings of the Statewide Virtual Charter School Board.

**777:1-1-3. Authority, interpretation, and severability of rules**

These rules are adopted pursuant to the provisions of the Oklahoma Charter Schools Act and the Administrative Procedures Act. Should a court of competent jurisdiction or the Attorney General of Oklahoma find any part of these rules to be inconsistent with the provisions of law as they presently exist or are hereafter amended, they shall be interpreted to comply with the statutes as they presently exist or are hereafter amended. The partial or total invalidity of any section of this Title shall not affect the valid sections.

**777:1-1-4. Organization**

**(a) Objectives.** As the sole entity authorized to sponsor statewide virtual charter school programs in this state in accordance with the provisions of the Oklahoma Charter Schools Act, the Statewide Virtual Charter School Board shall be charged with establishing any rules, policies, and procedures necessary to regulate operation of statewide virtual charter schools and to ensure that free appropriate public education and related services are provided to statewide virtual charter school students enrolled in statewide virtual charter schools in a manner that is safe, consistent, effective, and appropriate.

**(b) Staff.** Subject to the availability of funding, the Statewide Virtual Charter School Board may maintain such staff as is authorized by law and as necessary to fulfill the duties set forth by Oklahoma statutes and regulations.

**(c) Hours of operation.** The official hours of operation of the principal office of the Statewide Virtual Charter School Board shall be the same as the hours of operation of the State Department of Education, and shall exclude Saturdays, Sundays, and legal holidays.

**777:1-1-5. Time computation**

Any period of time prescribed by this Title shall be calculated in accordance with the following provisions:

- (1) The day of the act or event from which the designated period of time begins to run shall not be included.

(2) The last day of the period so computed shall be included, unless:

- (A) The last day falls on a Saturday, a Sunday, or a legal holiday as defined by the Oklahoma Statutes, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday as defined by the Oklahoma Statutes; or
- (B) The last day falls on any other day when the administrative office of the Statewide Virtual Charter School Board does not remain open for public business until 4:30 p.m., in which event the period runs until the end of the next day when the receiving office does remain open for public business until 4:30 p.m.

**777:1-1-6. Records requests**

**(a) Custodian of records.** The Statewide Virtual Charter School Board may designate a records custodian. In absence of a records custodian designated by the Statewide Virtual Charter School Board, the records custodian of the Statewide Virtual Charter School Board shall be deemed to be the Statewide Virtual Charter School Board.

**(b) Procedure for records requests.** Any individual or group seeking access to public records maintained by the Statewide Virtual Charter School Board (the "Requester") shall submit a written request to the Statewide Virtual Charter School Board records custodian, by fax, email, regular mail or in person. A form is available on the Board's website. In addition, all records requests must comply with the Open

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Records Act at 51 O.S. § 24A.1 et seq. and all of the following provisions:

- (1) All records requests must include:
  - (A) Identification and contact information of the individual and/or entity making the request;
  - (B) A description of the records requested with sufficient detail necessary to enable the records custodian to reasonably identify whether records responsive to the request exist; and
  - (C) If the Requester claims the public interest exemption from search fees in accordance with the provisions of (d) of this Section, all information necessary for the records custodian to determine the applicability of the exemption.
- (2) Within a prompt and reasonable time of the date of receipt of the request, the records custodian shall review the request, seek any additional information from the Requester necessary to clarify the request, and shall ascertain whether any records responsive to the request exist.
- (3) In addition, the records custodian shall promptly notify the Requester if records responsive to the request exist and whether the search will incur any fees and costs pursuant to 51 O.S. § 24A.5.
- (4) If the Requester fails to furnish additional information reasonably necessary to identify the records sought or otherwise enable agency personnel to accurately process the request, or if fees and costs have not been paid, any further

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processing of the request may be suspended by the records custodian. A request that remains suspended for a period of forty-five (45) calendar days or more shall be deemed abandoned

**(c) Fees for record searches and copies of records.** Fees and costs associated with record searches and providing copies of records shall be determined in accordance with the following procedures:

**(1) Fees to recover reasonable and direct costs of record searches.** Requests for individual records of persons that are either solely for commercial purposes or requests that cause an excessive disruption of the essential functions of the agency are subject to fees for recovery of the reasonable, direct costs of record searches. However, requesters shall be exempted from search fees when the release of the requested records is in the public interest, including, but not limited to, release of records in response to requests from:

- (A) News media;
- (B) Scholars;
- (C) Authors; and
- (D) Taxpayers seeking to determine whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants.

**(2) Fees to recover reasonable and direct costs of record copies.** Requests for records are subject to fees for recovery of the reasonable, direct costs of copying records and/or certification of each individual copy of a record.

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- (A) For purposes of this paragraph, “copying” of a record may include costs of:
  - (i) Mechanical reproduction of a paper (“hard copy”) record; or
  - (ii) Conversion of a record into an electronic format (e.g., pdf).
- (B) In no instance shall the fees per page fee for copying and/or certification of individual copies of documents exceed the amount set forth in 51 O.S. § 25A.5(3).
- (C) The Board is authorized to periodically review and adjust the rates that will be charged for providing copies of records in accordance with the law. Those rates will include costs for record copies, document searches and transcript rates. The rates will be posted at principal office of the Statewide Virtual Charter School Board and filed with the county clerk as required by law.
- (D) All fees and/or costs shall be paid by the requester prior to delivery of the response to the request. All fees must be paid by check or money order. No cash will be accepted.

### **777:1-1-7. Procedures for declaratory rulings**

(a) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning:

- (1) **“Declaratory ruling”** shall mean an informal declaration as to the applicability of a rule or order in an individual case for the purpose of providing a petitioner with a definitive response



to a question about an ambiguity in the law as necessary to allow a petitioner to ascertain legal obligations and comply accordingly.

**(b) Petitions for declaratory ruling.** Any person affected by a rule adopted by the Statewide Virtual Charter School Board set forth in this Title or an order issued by the Board may petition for a declaratory ruling as to the applicability of a specific rule or order in a specified set of circumstances involving petitioner. Petitions for a declaratory ruling shall be submitted in accordance with the following procedures:

- (1) The petition must be in writing and submitted to the Statewide Virtual Charter School Board;
- (2) The petition shall specifically identify the rule in question by citation to the Oklahoma Administrative Code;
- (3) The petition shall pose the specific issue(s) to be answered by the Statewide Virtual Charter School Board;
- (4) The petition shall state clearly and with specificity all factual and legal grounds in support of petitioner's interpretation of the rule or order and shall include:
  - (A) An allegation of all facts upon which the declaratory ruling is based; and
  - (B) Copies of all documentation cited by petitioner in support of petitioner's claim attached to the petition;
- (5) The petition shall be signed by the petitioner or an authorized representative of the petitioner; and

(6) The petition shall state the name, address, telephone number, and email address of the petitioner or an authorized representative of petitioner at which all notices required by this Section shall be served.

**(c) Review of a petition for declaratory ruling.** Upon receipt by the Board, the petition will be stamped to show the date of submission, and the Board shall promptly notify the petitioner, the agency's legal counsel, and any other interested parties of the date of the board meeting at which the petition has been set for initial review by the Board. The date set for initial review shall be at least ten (10) calendar days from the date of receipt of the petition by the Board.

**(d) Initial review of petition.** Upon preliminary review of the petition, the Board may take one of the following actions:

- (1) The Board may consider the merits of the petition and issue a ruling at the meeting;
- (2) The Board may dismiss the petition on one or more of the following grounds:
  - (A) The petition was not filed in accordance with the requirements of this Section; or
  - (B) The request for a declaratory ruling stated in the petition is more appropriately handled through the agency rulemaking process in accordance with the provisions of the Administrative Procedures Act; or
- (3) The Board may order a hearing on the matter and specify a date at which petitioner, counsel for the agency and any other individuals or entities

deemed interested parties by the Board may present oral argument on the issues raised in the petition. The Board shall prescribe the amount of time allotted for oral argument.

**(e) Declaratory ruling.** At the conclusion of the presentation of the matter, the Board may render a decision on the petition or continue the meeting for further deliberation at a later date. Upon rendering a decision, a written decision memorializing the Board's decision shall be issued and signed by the Chairman of the Board, and a copy of the decision shall be mailed to Petitioner via certified mail within ten (10) calendar days of the date the decision is rendered.

**(f) Judicial review.** A declaratory ruling or refusal to issue such ruling, shall be subject to judicial review in the manner provided for review of decisions in individual proceedings set forth in the Oklahoma Administrative Procedures Act at 75 O.S. §§ 317-323.

### **777:1-1-8. Petitions for adoption, amendment, or repeal of a rule**

**(a) Definitions.** The following words and terms, when used in this Section, shall have the following meaning:

**(1) "Rule"** shall have the meaning set forth in the Administrative Procedures Act at 75 O.S. § 250.3.

**(2) "Rulemaking"** shall have the meaning set forth in the Administrative Procedures Act at 75 O.S. § 250.3.

**(3) “Submission of a petition”** shall mean receipt of a petition by the Board in accordance with the requirements of (b) of this Section.

**(b) Petitions.** Any person may initiate an informal proceeding for the purpose of requesting the Board to promulgate, amend, or repeal a rule in this Title. An informal proceeding to request rulemaking in accordance with the provisions of this Section shall be initiated by filing a petition in accordance with all of the following requirements:

(1) Petitions shall be submitted in writing and filed with the Statewide Virtual Charter School Board. The petition shall meet all of the following requirements:

- (A) The petition shall state a description of the alleged necessity or basis for the requested change;
- (B) The petition shall describe any potential conflicts with any existing statute or regulation that would result from the proposed rulemaking action requested;
- (C) The petition shall include citations to all statutory provisions, if any, which provide authority for the Board to promulgate, amend, or repeal the rule;
- (D) The petition shall be signed by the petitioner or an authorized representative of the petitioner; and
- (E) The petition shall state the name, address, telephone number, and email address of the petitioner or an authorized representative of petitioner.

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(2) Upon receipt by the Board, the petition will be stamped to show the date of submission, and the Board shall review the petition for compliance with all of the provisions of this Section. If the petition complies with all provisions of (b) of this Section, the Board may set the petition for consideration by the Board at the next regular meeting of the Board, or at a subsequent meeting if the petition is not received until after the agenda for the next meeting has already been set.

### **(c) Review and consideration of petitions.**

Petitions for adoption, amendment, or repeal of a rule in accordance with the provisions of this Section shall be considered by the Board in accordance with the following provisions:

(1) If the Board approves further consideration of the proposed change, the decision shall be reflected in the meeting minutes of the Board. Within five (5) business days of the date of the meeting, written notification will be mailed to petitioner that such proposal will be formally considered for adoption, amendment, or repeal, provided that the process for rule adoption, amendment, or repeal shall be conducted in accordance with the requirements of the Administrative Procedures Act.

(2) In the event the Board determines that the proposal or request should not receive further consideration, the decision shall be reflected in the minutes of the Board. Within five (5) business days of the date of the meeting, written notification of the denial of the petition will be mailed to petitioner.

(3) In the event the Board fails to decide whether or not to take action on the petition within thirty (30) days of the date of submission of the petition, the petition shall be deemed to have been denied in accordance with the provisions of 75 O.S. § 305.

### **777:1-1-9. Individual proceedings**

**(a) Definitions.** The following words and terms, when used in this subchapter, shall have the following meaning:

(1) “Board” shall mean the Statewide Virtual Charter School Board.

(2) “Individual proceeding” shall have the meaning set forth in the Administrative Procedures Act at 75 O.S. § 250.3.

**(b) Computation of time.** Any period of time prescribed pursuant to the provision of this rule shall be computed in accordance with the provisions of the Administrative Procedures Act at 70 O.S. § 250.8.

**(c) Petitions.** An individual proceeding shall be initiated by filing a petition with the Statewide Virtual Charter School Board. The petition shall meet all of the following requirements:

(1) The Petition must include:

(A) A statement of the legal authority and jurisdiction under which the petitioner seeks to initiate the proceeding and the hearing is to be held;

(B) A reference to each particular statute and/or rule involved;

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- (C) A short and plain statement of the allegations asserted; and
  - (D) A statement or description of the request for the relief petitioner seeks from the Board.
- (2) The Petition must clearly identify the petitioner(s) and be signed by the petitioner or counsel for the petitioner.

**(d) Informal disposition.** Nothing in this Section shall prevent informal disposition of a petition from being made by stipulation, agreed settlement, consent order, or default, unless otherwise precluded by law. In the event of an informal disposition of a petition, written notice signed by each party or counsel representatives shall be delivered to the Statewide Virtual Charter School Board prior to the time of the scheduled hearing.

**(e) Right to counsel.** All parties to an individual proceeding shall have the right to representation by legal counsel in accordance with the provisions of 75 O.S. § 310. The Board may be represented by its own counsel, or, if deemed necessary by the Chairperson of the Board, a request may be made of the Attorney General to provide Board Advisor counsel to assist the Board in ruling on motions, questions of admissibility of evidence, competency of witnesses, and any other questions of law. In the event that counsel is not requested from the Attorney General, the Chairperson of the Board or a hearing officer appointed by the Board will rule on motions, the evidence, competency of the witnesses and other questions of law.

**(f) Legal counsel.** In accordance with 74 O.S. § 20i (2014), the Chairperson of the Board may request

a private attorney on behalf of the Statewide Virtual Charter School Board and contract for legal representation.

**(g) Entry of appearance.** All parties or attorneys representing parties in an individual proceeding shall file an entry of appearance. The entry of appearance shall constitute the address of record for the party at which all documents in the individual proceedings will be served. The entry of appearance shall meet all of the following requirements:

- (1) The case caption of the individual proceeding;
- (2) The name and signature of the party or parties entering an appearance in the individual proceeding; and
- (3) The mailing address, telephone, fax number and e-mail address of the party or parties entering an appearance in the individual proceeding or, if represented by counsel:
  - (A) The name and signature of the attorney or attorneys entering an appearance in the individual proceeding on behalf of the party or parties;
  - (B) The name of the law firm of the attorney(s), if any; and
  - (C) The Oklahoma Bar Association number of the attorney(s).

**(h) Motions.** All requests for action in an individual proceeding before the Board or hearing officer shall be made in the form of a motion. Motions shall be filed with the Board, and shall comply with all of the following requirements:



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- (1) The motion must clearly and specifically state:
  - (A) The facts upon which the request is based;
  - (B) All legal grounds in support of the request; and
  - (C) The action or relief sought.
- (2) The motion must be signed by the movant or counsel for the movant;
- (3) The motion must include the name and contact information of record of the movant or counsel for the movant; and
- (4) The motion must be timely served upon all parties to the proceeding and shall include a certificate of service that complies with the provisions of (h)(3) of this Section.
- (5) If the non-moving party wishes to file a response to a motion, the response must be filed with the Board ten (10) business days from the date of service and served on the opposing party.

**(i) Service.** Methods of service and proof of service of any notice, pleading, order, or other document required by this Section shall comply with the following provisions:

- (1) Methods of service.** Service of any notice, pleading, or order required by this Section shall be made by one of the following methods:
  - (A) By personal delivery, served by a person licensed to make service of process in civil cases;
  - (B) By certified mail with delivery shown by return receipt. Service by certified mail shall

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be effective on the date of receipt or, if refused, on the date refusal by the Respondent. Acceptance or refusal by any officer of a business or an authorized agent for a business shall constitute acceptance or refusal by the party addressed;

- (C) By publication if it is shown that service cannot be made by any other means despite the exercise of due diligence; or
- (D) Any other method authorized by 12 O.S. § 2005(B).

**(2) Proof of service.** Proof of service of any petition to initiate an individual proceeding shall be filed with the Statewide Virtual Charter School Board. Acknowledgment in writing of the document by the recipient, or appearance by the recipient at a hearing without objection to service, shall be considered proof of service.

**(3) Certificates of service.** All documents filed with the Statewide Virtual Charter School Board in a pending individual proceeding and all documents requiring service in accordance with the provisions of this Section shall include a Certificate of Service that meets all of the following requirements:

- (A) The Certificate of Service shall state “I hereby certify that on this \_\_\_\_ day of \_\_\_\_, \_\_\_\_, a copy of the foregoing document was mailed, postage prepaid, to:” and shall identify the name and address of all parties to whom the document was served.

- (B) The Certificate of Service shall be signed by the party or counsel for the party charged with service of the document.

**(j) Formal hearing procedures.** A hearing on a petition shall be conducted by the Chairman of the Board or the hearing officer in accordance with 75 O.S. § 310 and the following procedures:

**(1) Date of hearing.** When a petition is filed, the Board shall promptly set the petition for hearing. Notice of the hearing shall comply with the requirements of 75 O.S. § 309. At the hearing, the Board may choose to consider evidence and arguments in support of or in opposition to the petition, the Board may set the matter for further hearing.

**(2) Appointment of a hearing officer.** The Chairman of the Board shall preside over any hearing conducted in an individual proceeding in accordance with the provisions of this Section. Alternatively, the Board, at its discretion, may utilize a hearing officer to conduct the hearing. If utilized, the hearing officer shall be appointed by the Chairperson of the Board upon a vote of the majority of the members of the Board.

**(3) Continuances.** Any party to the proceeding may request a continuance of the scheduled hearing in accordance with the following provisions:

- (A) A party may request to continue a hearing scheduled in an individual proceeding by filing a motion for continuance with the Board. The motion for continuance shall meet all of the following requirements:

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- (i) The motion shall comply with all of the requirements of (g) of this Section; and
  - (ii) The motion shall be filed at least fifteen (15) business days prior to the scheduled hearing date, provided that this time requirement may be waived by the Board or hearing officer for good cause shown by the movant.
- (B) The Board may continue a scheduled hearing by submitting written notification to all parties via certified mail, return receipt requested, or by electronic mail at least five (5) business days prior to the date of the scheduled hearing, provided that the time requirement may be waived by the Board or the hearing officer for good cause shown by the Board or counsel for the Board.
- (C) If a motion for continuance is unopposed and the Board finds good cause for granting the motion, counsel for the Board shall prepare and sign a continuance order. The continuance order shall be filed with the Board and served in accordance with the requirements of (h) of this Section.
- (D) If a motion for continuance is opposed, the non-moving party shall file a response motion opposing the continuance stating all factual and legal grounds for denial of the motion. The Board or the hearing officer shall issue an order concerning the motion as soon as possible prior to the hearing. The order shall be filed with the Board, and copies of the order served in accordance with the

provisions of (h) of this Section and by email if possible.

**(4) Discovery and subpoenas.** The Board or the hearing officer may require parties to an individual proceeding to attend discovery when necessary and appropriate for prompt adjudication of an individual proceeding conducted in accordance with the provisions of this Section. Discovery shall be conducted in accordance with 75 O.S. § 315 and the following provisions:

**(A) Depositions.** The parties, upon notice may take depositions of witnesses in the same manner prescribed for depositions in civil actions in the district courts of the State of Oklahoma. The depositions may be admitted into evidence by the Board or the hearing officer in the same manner as other evidence. Costs of depositions shall be borne by the deposing party.

**(B) Subpoenas.** Subpoenas for the attendance of a witness or for production of evidence may be issued in accordance with the following provisions:

**(i) Issuance of a subpoena.** The Chairman of the Board or the hearing officer may direct the Board to issue a subpoena upon the motion of a party. The signature of the Executive Director shall be sufficient authentication for issuance of any subpoena. A motion for issuance of a subpoena shall comply with the provisions of (g) of this Section and shall be filed with sufficient time to permit

service of the subpoena at least five (5) business days prior to the hearing at which the attendance of the witness or ten (10) business days prior to the date production of records is required.

- (ii) Objections to subpoenas.** Any party to the proceeding may oppose the issuance of a subpoena by filing a response to the motion for issuance within five (5) business days of receipt of service of the motion for subpoena. The Board may deny the issuance of a subpoena if, in its discretion, the request for subpoena is not necessary and proper for purposes of the individual proceeding.
- (iii) Service of a subpoena.** Subpoenas shall be served as set forth in (i)(1)(A) or (i)(1)(B).
- (iv) Quashing a subpoena.** Any party or the recipient of the subpoena may move to quash a subpoena or subpoenas duces tecum issued in accordance with the provisions of this Section, provided that, prior to quashing a subpoena or subpoenas duces tecum the agency shall give notice to all parties. A subpoena or subpoenas duces tecum may not be quashed if any party objects.
- (v) Enforcement of subpoenas.** Upon the failure of any person to obey a subpoena, or upon the refusal of any witness to be sworn or make an affirmation or to answer a question put to her or him in

the course of any individual proceeding, the Board shall consider the issue of enforcement of the subpoena as soon as convenient. By resolution, the Board may direct initiation of appropriate judicial proceedings necessary to enforce the subpoena or grant a party's motion for the party to seek compliance with the subpoena from the district court. Meanwhile, the hearing or other matters shall proceed, so far as is possible, but the Board or the hearing officer, at its discretion at any time may order a stay or continuance of the proceedings for such time as may be necessary to secure a final ruling in the compliance proceedings.

**(vi) Costs of issuance and service of subpoenas.** The costs covering the issuance and service of subpoenas and all witness fees incurred on behalf of a party to the proceedings, other than the Board, shall be borne by the party on whose behalf they are incurred, provided that the Board in its final order may tax such costs to another party if justice so requires.

**(j) Disqualification of a Board member or hearing officer.** A Board member or hearing officer shall withdraw from any individual proceeding in which he or she cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification on the ground of his or her inability to give a fair and impartial hearing by filing an affidavit

promptly upon discovery of the alleged disqualification, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be determined promptly by the Board, or if it affects a member of the Board, by the remaining members thereof, if a quorum. Upon the entry of an order of disqualification affecting a hearing officer, the Board shall either assign a replacement hearing officer, or conduct the hearing itself. Upon the entry of an order of disqualification affecting a Board member, the Governor immediately shall appoint a member pro tempore to sit in place of the disqualified member in that proceeding.

**(k) Presentation and consideration of evidence.** Presentation and consideration of evidence shall be conducted in accordance with the following procedures:

**(1) Witness and exhibit lists.** The parties to the hearing shall exchange witness and exhibit lists no later than five (5) business days prior to the hearing, or within a different time by agreement of the parties.

**(2) Admissibility and consideration of evidence.** The Board or hearing officer may determine the order in which evidence shall be received and presented. Admission and consideration of evidence in an individual proceeding conducted in accordance with the provisions of this Section shall be conducted in accordance with the Administrative Procedures Act at 75 O.S. §§ 309 through 326 and the following provisions:



- (A) Official notice.** The Board or hearing officer may take notice of judicially cognizable facts or of generally recognized technical or scientific facts within the specialized knowledge of the Statewide Virtual Charter School Board. The Board or hearing officer shall give notice to all parties, prior to, or at the hearing, of any facts of which it proposes to take official notice. Any party or her/his attorney may request that official notice be taken of any fact qualified for such notice by the statutes of this state. If such official notice is taken, it shall be stated in the record, and all parties shall have opportunity to contest and give evidence in rebuttal or derogation of the official notice.
- (B) Exclusion of witnesses.** A party may request the exclusion of witnesses to the extent and for the purposes stated in 12 O.S. § 2615. Exclusion of a witness shall not be considered a violation of the Oklahoma Open Meeting Act.
- (C) Testimony of witnesses.** All testimony of witnesses presented by parties shall be made under oath or affirmation. A party may conduct cross-examination of witnesses called by other parties. Witnesses may also be questioned by the Board or the hearing officer.
- (D) Objections to evidence.** Objections to evidence may be made and shall be included in the record of the proceedings.

**(E) Documentary evidence and authentication.** Documentary evidence may be received in the form of copies or excerpts. Parties may challenge the authenticity of any copies. Any part of the evidence may be received in written form, when a hearing will be expedited and the interests of the parties will not be prejudiced.

**(l) Order of procedure.** The order of procedure at the hearing shall be as follows:

- (1) Opening statements by legal counsel of both parties;
- (2) Presentation of evidence by both parties followed by cross-examination of witnesses, and questions by State Board members or the hearing officer;
- (3) Closing arguments by legal counsel of both parties; and
- (4) Submission of case to the Board or the hearing officer for decision.

**(m) Dismissal of an action.** Upon a hearing, if the petitioner fails to show a prima facie case for lack of sufficient evidence, the Board may dismiss the petition upon grounds of failure to prove sufficient facts in support of the petition or upon the recommendation of the hearing officer on the same grounds. If the petitioner fails to appear at the scheduled hearing without prior notification to the Statewide Virtual Charter School Board within the time frame to request a stay or continuance set forth in (i) of this Section and without a demonstration of good cause, or

fails to prove the allegations by clear and convincing evidence, the petition shall be dismissed.

**(n) Decisions.** After the conclusion of the hearing, a decision will be rendered on the petition.

(1) If the Board presided over the hearing, deliberations may be held in executive session pursuant to the provisions of the Open Meeting Act set forth at 25 O.S. § 307. After deliberations, the decision of the Board shall be announced in open session. Within a reasonable amount of time, the Board shall render a Final Order containing findings of fact and conclusions of law. All findings of fact made by the Board shall be based exclusively on the evidence presented during the course of the hearing or previously filed briefs, (made a part of the record), and of the testimony of witnesses taken under oath.

(2) If a hearing officer presided over the hearing, the hearing officer may allow the parties to prepare and submit proposed findings of fact and conclusions of law within a reasonable period of time following the hearing. Then, as expeditiously as possible, the hearing officer shall prepare proposed findings of fact and conclusions of law and submit them to the Board. After the parties have been given notice and an opportunity to file exceptions, present briefs and oral arguments to the proposed findings of fact and conclusions of law, the Board may take action to accept, reject, or modify the proposed Findings and Conclusions of the hearing officer for the final order.

**(o) Final order.** As the final determination of the matter, the final order shall constitute the final

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agency order and shall comply with the requirements set forth at 75 O.S. § 312. If no motion for rehearing, reopening or reconsideration of the order is filed in accordance with (r) of this Section, the final agency order shall represent exhaustion of all administrative remedies. All final orders in an individual proceeding shall be in writing and made a part of the record. Final orders are to be issued and signed by the Chairperson of the Board for transmission to the parties by the Board. Within five (5) business days of the date of issuance of the final order, parties shall be notified of a final order either personally or by certified mail, return receipt requested. Upon request, a copy of the order shall be delivered or mailed to each party and the party's attorney of record, if any.

**(p) Communication with parties.** Unless required for the disposition of ex parte matters authorized by law, the Chairperson and the members of the Board, or the hearing officer if applicable, shall not communicate, directly or indirectly, in connection with any issue of fact, with any party, nor, in connection with any issue of law, with any party or his or her representative except upon notice and opportunity for all parties to participate. The Chairperson and members of the Board or their employees may communicate with one another in compliance with the Open Meeting Act and have the aid and advice of one or more personal assistants. Advice may also be secured from the Attorney General's office.

**(q) Record of hearing.** The record of the hearing shall be set forth in such form and detail as the Chairperson or the Board may direct.

(1) In accordance with the requirements of 75 O.S. § 309, the record shall include:

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- (A) All pleadings, motions, and intermediate rulings;
- (B) Evidence received or considered during the individual proceeding;
- (C) A statement of matters officially noticed;
- (D) Questions and offers of proof, objections, and rulings thereon;
- (E) Proposed findings and exceptions;
- (F) Any decision, opinion, or report by the Board or a hearing officer presiding at the hearing; and
- (G) All other evidence or data submitted to the Board or hearing officer in connection with their consideration of the case.

(2) The Board shall ensure that all proceedings, except for executive sessions, are electronically recorded. The recording shall be made and maintained in accordance with the requirements of 75 O.S. § 309, and a copy shall be provided to any party to the proceeding upon request. The Board may, but is not required to direct the recording of a proceeding to be fully transcribed and have a copy of the transcript placed on file in the Board's office. Parties to the proceeding may have the proceedings transcribed by a court reporter at their own expense.

**(r) Rehearing, reopening or reconsideration of an order.** The ruling shall become final unless, within ten (10) calendar days of entry of the order of declaratory ruling, the petitioner files a written request for a reconsideration of the petition with the

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Board stating all grounds upon which the petitioner seeks reconsideration of the Board's ruling. A petition for rehearing, reopening, or reconsideration of an agency order issued pursuant to the provisions of this Section shall comply with the following procedures:

(1) A petition for rehearing, reopening or reconsideration of a final order must be filed with the Board within ten (10) days from the entry of the order. It must be signed by the party or his or her attorney, and must set forth with particularity the statutory grounds upon which it is based. However, a petition based upon fraud practiced by the prevailing party or upon procurement of the orders by perjured testimony or fictitious evidence may be filed at any time. All petitions for rehearing, reopening, or reconsideration will be considered and ruled upon as soon as the convenient conduct of the Board's business will permit.

(2) A petition for a rehearing, reopening, or reconsideration shall set forth the grounds for the request. The grounds for such a petition shall be either:

- (A) Newly discovered or newly available evidence, relevant to the issues;
- (B) Need for additional evidence adequately to develop the facts essential to proper decision;
- (C) Probable error committed by the Agency in the proceeding or in its decision such as would be grounds for reversal on judicial review of the order;

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- (D) Need for further consideration of the issues and the evidence in the public interest; or
- (E) A showing that issues not previously considered ought to be examined in order to properly dispose of the matter. The grounds justifying the rehearing shall be set forth by the Statewide Virtual Charter School Board which grants the order, or in the petition of the individual making the request for the hearing.

(3) It is the burden of the party requesting a rehearing to notify the opposing party of the appeal.

(4) Upon receipt of a written request for reconsideration in accordance with this subsection, the request shall be set on the agenda for consideration by the Statewide Virtual Charter School Board at the next available regular meeting or at a subsequent regular or special meeting. Rehearing, reopening, or reconsideration of the matter may be heard by the Statewide Virtual Charter School Board or may be referred to a hearing officer. The hearing must be confined to those grounds on which the recourse was granted.

**(s) Judicial review.** Any person or party aggrieved or adversely affected by a final order in an individual proceeding, after the exhaustion of administrative remedies, is entitled to certain judicial review in accordance with the provisions of the Oklahoma Administrative Procedures Act, and the procedures set forth therein shall govern appeals.

**CHAPTER 10.**  
**STATEWIDE VIRTUAL CHARTER SCHOOLS**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**777:10-1-2. Definitions**

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

**“Charter school site”** or **“school site”** or **“statewide virtual charter school site”** means the physical location of any facility or structure, leased or owned by the school, other than the legal residence of a student or the parent/legal guardian of a student, for use by a statewide virtual charter school to provide face-to-face or virtual instruction to students enrolled in the statewide virtual charter school.

**“Educational Management Organization** or **“EMO”** means a for-profit or nonprofit organization that receives public funds to provide administration and management services for a charter school, statewide virtual charter school, or traditional public school.

**“Face-to-face instruction”** means any in-person tutoring, educational instruction, or any other activity provided by the statewide virtual charter school to an enrolled student for which the student’s physical presence and/or participation is used by the charter school to earn credit for a virtual course, meet the instructional requirements of 70 O.S.§ 1-111 and/or counted toward the student’s compulsory attendance



requirements set forth at Art. 13, § 4 of the Oklahoma Constitution, 70 O.S. § 10-105, and/or accompanying regulations of the State Department of Education relating to student attendance.

**“Statewide virtual charter school”** means any charter school sponsored by the Statewide Virtual Charter School Board in accordance with the requirements of the Oklahoma Charter Schools Act for the purpose of providing full-time virtual public school courses of instruction for Pre-K through twelfth (12th) grade students whose legal residence is located within the State of Oklahoma.

**“SVCSB”** or **“Board”** means the Statewide Virtual Charter School Board.

**“OCAS”** means the Oklahoma Cost Accounting System.

### **777:10-1-3. School establishment requirements**

**(a) Information Technology Systems and Facilities.** By July 1 of the first year of operation, the school shall have in place the following:

(1) Purchased and implemented a state-approved school finance system; Every approved statewide virtual charter school must utilize a state-approved school finance system aligned with the Oklahoma Cost Accounting System (OCAS). The school must notify the Statewide Virtual Charter School Board of the name of the system being utilized by July 1 prior to the start of school.

(2) Purchased and implemented a state-approved student information system; Every approved

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statewide virtual charter school must utilize a state-approved student information system. The school must notify the Statewide Virtual Charter School Board of the name of the system being utilized by July 1 prior to the start of school.

(3) Established secure connectivity to state reporting systems; Every approved statewide virtual charter school must verify connections to state-reporting systems that meet federal and state requirements for student data, student privacy, and applicable laws and statutes. The school must notify the Statewide Virtual Charter School Board of the name of the system being utilized by July 1 prior to the start of school.

(4) Secured and occupy a public school administration facility. Every approved statewide virtual charter school must have a public site that allows the public to have access to the main office of the school. The school must notify the State Virtual Charter School Board of the location, address, contact information of the facility by July 1 prior to the start of the school, and during the year if the location of the site changes.

Notification to the Statewide Virtual Charter School Board shall be through the online information gathering system set forth in 777:10-3-4.

### **(b) Governing Boards.**

(1) All virtual charter schools authorized by the Statewide Virtual Charter School Board shall be governed by a board whose members are separate and distinct from any/all other school governing boards.

(2) Any board member serving on two (2) governing boards shall abstain from voting on shared services between the virtual charter school and any other school on which they serve as a board member.

(3) School governing boards are required to have a minimum of (5) members, at least one (1) of which shall be a parent, grandparent, or guardian of currently or previously enrolled student(s).

(4) School governing board by-laws shall include specific terms of service for board members and methods for selections and re-appointment (if applicable).

#### **777:10-1-4. Educational Management Organizations**

Any virtual charter school that contracts with or otherwise utilizes an educational management organization shall abide by the following:

(1) The relationship of the charter school and an educational management organization is that of a customer and vendor. As such, the charter school and the educational management organization shall be separate entities in all aspects.

(2) The name of the educational management organization shall not be the same or similar to the name of the charter school.

(3) Charter school and governing body email addresses shall not be connected to the same web domain as the educational management organization or have the same email addresses as the educational management organization.

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(4) All funds utilized to operate the charter school, including, but not limited to, paying charter school employees, providing curriculum, technology, supplies, and/or extra-curricular activities to students shall be maintained in public charter school accounts and controlled by charter school employees.

(5) All payments to educational management organizations shall be supported by documentation on file including, but not limited to, purchase orders, invoices, OCAS coding details, staff approvals, and board approvals. Prior to payments from the school to educational management organizations, all funds shall be maintained in public school accounts, subject to open records requests and audits.

(6) All products and services provided as well as all management fees charged by the educational management organization shall be specifically listed and explained in the management contract. Any amendments to the contract shall be provided to the sponsor within five (5) business days of approval by the school's governing body.

(7) School governing boards shall evaluate their educational management organization annually and submit the evaluation to the SVCSB.

(8) An owner of an educational management organization shall not serve as superintendent of the virtual charter school.

**SUBCHAPTER 3. STATEWIDE VIRTUAL CHARTER  
SCHOOL SPONSORSHIP**

**777:10-3-1. Purpose**

The rules in this subchapter set forth procedures for authorization and sponsorship of statewide virtual charter schools and requirements for contracts for sponsorship of statewide virtual charter schools, including procedures for renewal and termination of contracts for sponsorship of statewide virtual charter schools.

**777:10-3-3. Applications to sponsor statewide virtual charter schools; renewal and termination of contracts for sponsorship of statewide virtual charter schools**

**(a) Sponsorship application cycle and timelines.** To ensure that timely processing, review, and consideration of applications for sponsorship occurs within the time periods specified by 70 O.S. § 3-134, and to ensure that the application process is completed with sufficient time for new schools to comply with all statutory reporting requirements for the beginning of the next school year, (e.g., statutory state finance reporting deadlines for state aid purposes) the timeline for the application cycle for the following school year is as follows:

- (1) Completion of charter school training required by 70 O.S. § 3-134(A) prior to submission of letter of intent to submit an application;
- (2) Submission of a full application for statewide virtual charter school sponsorship in January,

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eighteen (18) months prior to the first year of proposed operation;

(3) Public presentation of application/proposal for sponsorship at the next regularly scheduled Statewide Virtual Charter School Board meeting;

(4) Review of application and recommendation by a team of experts in education;

(5) Statewide Virtual Charter School Board decision on application for sponsorship at a subsequent Board meeting;

(6) Submission of an amended application within thirty (30) calendar days of receipt of notification of rejection;

(7) Board decision on amended application, if applicable, within thirty (30) calendar days of receipt of amended application; and

(8) Negotiation and execution of a contract for sponsorship.

**(b) Sponsorship application requirements.**

In addition to meeting the requirements of 70 O.S. § 3-134, new applications to the Statewide Virtual Charter School Board for sponsorship of a statewide virtual charter school must include the following information in the sponsorship proposal:

(1) For initial consideration for sponsorship, every applicant shall submit a set of policies and procedures governing administration and operation of the proposed statewide virtual charter school. The policies and procedures governing administration and operation of the proposed statewide virtual charter school shall be incor-

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porated into the terms of the contract of the virtual charter school, and shall include, but are not limited to, all of the following subject areas:

- (A) Each of the following provisions required by 70 O.S. § 3-135:
  - (i) A description of the charter school program offered by the school which complies with the purposes outlined in 70 O.S. § 3-136;
  - (ii) Student admission and enrollment policies and procedures;
  - (iii) Management and administration of the charter school;
  - (iv) Requirements and procedures for program and financial audits;
  - (v) All of the requirements set forth in 70 O.S. § 3-136, including, but not limited to, compliance with all regulations of the State Department of Education pertaining to health, safety, civil rights, and insurance and financial reporting and auditing requirements;
  - (vi) Assumption of liability by the charter school; and
  - (vii) Employment rights and personnel policies of the school required to be included in employee contracts pursuant to 70 O.S. § 3-135(B);
- (B) Duties and responsibilities of the charter school governing body;

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- (C) Student grade placement, promotion, retention, and graduation requirements;
- (D) Use and maintenance of charter school property and facilities, including:
  - (i) Virtual provider technology protocols that ensure conformity to the Rehabilitation Act of 1973 Sections 504 and 508 provisions for electronic and information technology, W3C's Web Content Accessibility guidelines, and Oklahoma's Information Technology Accessibility Standards to include minimum and recommended specifications for hardware, software, operating system, and Internet service, course delivery, and technical support;
  - (ii) Facility safety and emergency and crisis management;
  - (iii) School calendar, sample daily schedule as applicable to online learning at proposed school, school instructional hours, school holidays, dismissals and closures, attendance requirements;
- (E) Contracts with prospective contractors, including, but not limited to, any educational management organization, in which all products and services as well as all management fees are specifically listed and explained; and
- (F) Any other topics deemed necessary by the Statewide Virtual Charter School Board to assess the applicant's capability to administer and operate the charter school in compliance



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with all applicable provisions of federal and state laws and regulations to which charter schools are required to comply.

- (2) Each applicant shall:
  - (A) Articulate the vision and purpose of the school.
  - (B) Articulate the mission of the school, specifying how the school will embrace and accomplish its vision and purpose.
  - (C) Describe the key design elements and performance indicators of the school program that align with and support the school's mission and will be implemented to ensure student success.
  - (D) Describe how the school will ensure education access and equity for all eligible students.
  - (E) Describe how the governing body and governing documents ensure that a functioning organization with competent governance will be sustained, including:
    - (i) lines of authority;
    - (ii) leadership roles and responsibilities;
    - (iii) proposed governing by-laws;
    - (iv) meeting schedules for governing body;
    - (v) a list of advisory bodies;
    - (vi) external organizations applicable to school management;

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- (vii) make-up of governing body, including proof of Oklahoma residency for a majority of Board members.
  - (viii) start-up plan including a detailed listing and reporting frequency of academic, operational, and financial measures;
  - (ix) recruitment, hiring and personnel policies, professional and staff development and training, technology capacity, system accessibility, student records and data management, student recruitment policies and procedures, admission and enrollment policies and procedures (including minimum and maximum enrollment for each contract year and proposed school calendar and sample daily schedule), promotion and graduation policies and procedures, attendance policies and procedures, student conduct and discipline plan, school safety and emergency response plan, parent and family education and engagement plan;
  - (x) school effectiveness measurement criteria; and
  - (xi) location and description of school facilities.
- (F) Describe how the governing body will ensure a sound and stable financial condition for the school, including:
- (i) description of the roles and responsibilities of the treasurer and financial officers, and how each has demonstrated

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- experience in school finance or the equivalent thereof;
- (ii) financial policies, including financial controls, and compliance with audit requirements;
  - (iii) financial plan for the first five years of operation including, but not limited to, any financial support from a third-party including loans, deficit protection, and other financial leverage;
  - (iv) start-up and five-year budgets and cash flow projections. The documents provided must account for the school's anticipated enrollment, as well as, a budget if the school only realizes a portion of the school's anticipated enrollment;
  - (v) anticipated fundraising plan, if applicable;
  - (vi) insurance coverage/plan; and
  - (vii) verifiable proof of secured funds for each source of revenue, and documentation to support any agreement, donation, or loan that supports the budget.
- (G) Describe how the governing body will ensure the delivery of a high-quality education program that meets academic performance for grade level and subject matter growth and proficiency, graduation, and college career readiness, including, but not limited to:
- (i) grade levels served;

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- (ii) plan for program delivery and program evaluation;
- (iii) curriculum and instructional model, including learning environment, curriculum overview, curriculum materials, instructional strategies, equipment and technology requirements, alignment with Oklahoma academic standards, which must include historical data and evaluation of the selected curriculum and instructional model, accreditations earned, and NCAA course certification status;
- (iv) student assessment, including plan to measure and report student progress, and benchmarks for student learning, district/school assessments, Oklahoma School Testing Program;
- (v) plan for support structures (e.g. online tutoring, home mentors, and technical support services in place 24x7) in addition to teacher support;
- (vi) plan for support of diverse learners, (students at-risk for poor learning outcomes, academically behind learners, English Language Learners (ELL), and other students identified through testing and assessments requiring targeted remediation, intervention, and/or support);
- (vii) co-curricular and extracurricular activities;

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- (viii) student performance; and
  - (ix) school culture.
- (H) Include a concise plan that details expected school growth and how the school will evolve to meet the needs of school growth.
- (I) Demonstrate the applicant's experience in pre-kindergarten through 12th grade school operation.
- (3) Each applicant shall provide documentation of its school's ability to meet each of the following requirements specific to the virtual delivery of education services:
- (A) That each statewide virtual charter school is adequately prepared to deliver services to all enrolled students on the school's first day of operation and for all required instructional hours for every school year through a stable virtual platform;
  - (B) That each statewide virtual charter school has consistent lawful procedures in place governing admission, transfers, enrollment, and withdrawal of students;
  - (C) That each statewide virtual charter school has consistent lawful procedures in place governing admission, child find responsibilities, evaluation, and re-evaluation of students with disabilities, as well as applicable procedural safeguards and policies and procedures to ensure provision of free appropriate online and other educational and related services, supplementary aids and services, modifications, accommodations,

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supports for personnel, and other technical supports provided in the least restrictive environment to students with disabilities and/or other special needs in compliance with applicable federal and state laws and regulations, including:

- (i) Students who require or may require individualized education programs pursuant to the Individuals with Disabilities Education Act (IDEA); and
  - (ii) Students who require or may require accommodations, regular or special education and related aids, or other services under a plan developed in accordance with the requirements of Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act;
- (D) That each statewide virtual charter school has consistent procedures in place governing the admission, identification, evaluation, re-evaluation, parental notification, and provision of educational programs and services in compliance with applicable federal and state laws and regulations to students with special needs or unique abilities, including, but not limited to:
- (i) Students who are English Language Learners/Limited English Proficient and who require services as necessary to overcome language barriers and ensure that they can participate meaningfully in the district's education programs; and

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- (ii) Students who meet the definition of “gifted and talented children” set forth in 70 O.S. § 1210.301;
- (E) That each statewide virtual charter school complies with state and federal law in protection and handling of student records and data, including, but not limited to, protocols for secure storage and transmission of student records and data, parent/legal guardian access to student records and data and privacy of student records and data in compliance with all provisions of the Family Education Rights and Privacy Act of 1974 (FERPA) and the Individuals with Disabilities Education Act (IDEA), and ensures student records and data are exclusively the property of the school and the state of Oklahoma;
- (F) That each statewide virtual charter school has consistent procedures and technology in place necessary to monitor and report student attendance, student participation in online school activities, and any necessary instruction in accordance with the requirements of state law;
- (G) That each statewide virtual charter school has fair and consistent procedures in place to implement necessary and appropriate practices to promote and enforce student discipline that include sufficient due process protections for students facing accusations of conduct which may result in suspension and/or expulsion of a student;

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- (H) That each statewide virtual charter school has consistent procedures and technology in place to ensure delivery of services and that each virtual charter school provider has an adequate plan in place for communicating emergency procedures to students in the event of technical failures of equipment and/or loss of connectivity;
  - (I) That each statewide virtual charter school has consistent procedures and technology in place to ensure consistent and adequate communication with parents/guardians of students and provide student progress and academic reports to parents/guardians of students; and
  - (J) That each statewide virtual charter school has provided a full description and explanation of the grade levels in which the provider intends to provide instruction and, for each charter school that offers secondary level coursework for grades nine (9) through twelve (12), whether the charter school will offer coursework as necessary to comply with the graduation requirements of 70 O.S. § 11-103.6 and accompanying regulations.
- (4) Each applicant shall provide a written plan for compliance with all state and federal financial recording and reporting requirements for state and federal funds that are applicable to public school districts, including, but not limited to, compliance with:
- (A) The School District Transparency Act at 70 O.S. § 5-135.4 et seq.;



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- (B) The Oklahoma Public School Audit Law at 70 O.S. §22-101 et seq.;
  - (C) Annual itemized expenditure budget and request for appropriated funds and estimate of revenues required by 70 O.S. § 5-128.1; and
  - (D) Statutes and regulations pertaining to the Oklahoma Cost Accounting System (OCAS).
- (5) Each application shall include a contact name, mailing address of record, phone number, and email address of the governing body at which all written notices required by 70 O.S. § 3-134 shall be served. In the event that a change in contact information occurs during the application process, the governing body shall provide the Board with updated contact information in writing within five (5) business days of the date that the change occurs.

**(c) Filing, review, approval, and denial of charter school applications for sponsorship.** All applications for sponsorship shall be submitted by the governing body of the prospective charter school to the Statewide Virtual Charter School Board by filing an original and ten (10) copies, as well as an electronic version of the application with the Statewide Virtual Charter School Board. Upon receipt of an application for sponsorship, the Board shall stamp the application to record the date of receipt, and shall promptly submit written confirmation of the receipt of the application to the contact name and address of record of the governing body listed on the application.

- (1) Application format.**
- (A) The text and attachments shall use standard one-inch margins, be clearly paginated, and use a readable font not smaller in type than 11 point.
  - (B) A cover page shall be labeled *Application for Initial Authorization* and include the following information:
    - (i) Name of proposed school;
    - (ii) Address of proposed school;
    - (iii) Contact information: name, title, phone, email address;
    - (iv) Application submission date; and
    - (v) Name of applicant(s) and requested sponsor.
  - (C) A cover letter not to exceed two (2) pages shall provide a brief overview of the proposed school.
  - (D) A clearly labeled table of contents shall be included setting forth all major sections (Foundation for the School Charter, Organizational Capacity, Financial Management, Education Program and Performance, Growth Plan), appendices, and page numbers.
  - (E) Tables, graphs, and other data provided in the application shall be clearly presented and explained and shall be relevant to the text.
  - (F) The application shall include signed and notarized statements from the Head of the

School and the governing body members, as applicable, showing their agreement to fully comply as an Oklahoma public charter school with all statute, regulations, and requirements of the United States of America, State of Oklahoma, Statewide Virtual Charter School Board, and Oklahoma Department of Education. Specifically cite agreement to abide by the Oklahoma Open Meeting Act and the Oklahoma Open Records Act, and to guarantee access to education and equity for all eligible students regardless of their race, ethnicity, economic status, academic ability, or other factors as established by law. In addition, the head of school and governing body members, as applicable, will guarantee to establish the components necessary to begin school operations in the State of Oklahoma on July 1 of the first year, including a public administration facility, state-approved school financial system, state-approved student information system, and secured applicable connections to state reporting systems.

- (G) The application shall include documentation of applicant's completion of charter school training.

**(2) Initial review and recommendation.**

Prior to consideration of the application by the Statewide Virtual Charter School Board, a review panel may be formed by the Executive Director for the purpose of developing a recommendation on the application to the Board for consideration. The panel, chaired by the Executive Director, may include representatives with expertise in the

area of accountability, online education, school governance, accreditation, education services, technology, school finance, federal programs, education law, curriculum, instruction, special education, and student information.

**(3) Application review and criteria.** In reviewing an application for sponsorship of a statewide virtual charter school, the Statewide Virtual Charter School Board shall determine whether the applicant's proposal for sponsorship complies with the provisions of 70 O.S. § 3-134 and other applicable provisions of the Oklahoma Charter Schools Act. In addition, the Board may consider any other factors demonstrating the applicant's capacity to successfully comply with the goals set forth in its vision and mission statements and applicable state, federal, tribal, and/or local statutes and regulations. Such factors may include, but are not limited to the following:

- (A) Whether the applicant can demonstrate previous experience in operation of one or more successful virtual charter schools;
  - (i) If the applicant cannot demonstrate previous experience in operation of one or more successful virtual charter schools, whether applicant has sufficient resources in place to ensure compliance with applicable state, federal, tribal, and/or local statutes and regulations.
  - (ii) If the applicant can demonstrate previous experience in operation of one or more successful virtual charter schools,

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whether applicant has a history of non-compliance with applicable state, federal, tribal, and/or local statutes and regulations either in the State of Oklahoma or in other jurisdictions.

- (B) Whether the applicant has provided evidence demonstrating financial stability in the prelaunch and operational years of the proposed school;
- (C) Whether the criteria designed to measure the effectiveness of the charter school proposed by the applicant is reasonably calculated to provide accurate benchmarks for evaluation of teacher effectiveness and student learning; and
- (D) Whether the charter school has adequate human resources, facilities, systems, and structures in place as necessary to evaluate the needs of and provide effective services to students with disabilities, English Language Learners, and gifted and talented students.

**(4) Acceptance or denial of sponsorship applications.** The Statewide Virtual Charter School Board shall review and consider the application in accordance with the timeline established pursuant to (a) of this Section, provided that a final decision on the application shall be made no later than ninety (90) calendar days from the date of receipt of the application by the Statewide Virtual Charter School Board. The Board shall promptly submit written notification of the decision of the Board, including reasons for rejection of the application, if applicable, to the applicant

via certified mail, return receipt requested, to the address of record of the governing body designated on the application.

**(5) Reconsideration of sponsorship applications.** In the event of a denial of an application for sponsorship, the applicant may submit a revised application for reconsideration in accordance with the following procedures:

- (A) The revised application for reconsideration shall be filed with the Board within thirty (30) calendar days after the date of receiving notification of the rejection. The revised application shall meet all of the application requirements set forth in this Section. In the event that delivery of written notification required by paragraph two (2) of this subsection is refused by the applicant or returned as undeliverable due to the applicant's failure to update the contact of record in accordance with the requirements of (b)(4) of this Section, the date of receipt of notification of the rejection shall be considered the date of the meeting at which the Board took action on the proposed application.
- (B) Within five (5) business days of the date of receipt of the application for reconsideration, the Board shall promptly set the application for consideration at a meeting of the Board and submit notification of the date, time, and place of the meeting to the applicant to the contact of record. The meeting to consider the application shall occur within thirty (30) calendar days of the date of receipt of the application.

(C) The Statewide Virtual Charter School Board shall take action to accept or reject the revised application within thirty (30) calendar days of its receipt by the Board.

**(6) Appeal of denial of sponsorship applications.** The procedures for filing appeals to the State Board of Education shall be governed by 70 O.S. § 3-145.3 and the policies and rules adopted by the State Board of Education, with a copy of the appeal mailed to the Statewide Virtual Charter School Board.

**(d) Requirements of the sponsorship contract.** Contracts for sponsorship between the Statewide Virtual Charter School Board and the governing body of a statewide virtual charter school shall include terms that meet all of the following requirements:

(1) The contract shall incorporate the provisions of the charter of the school in accordance with the requirements of 70 O.S. § 3-135, and the charter shall comply with the provisions of 70 O.S. § 3-136.

(2) The contract shall contain terms addressing all of the requirements set forth in 70 O.S. § 3-135.

(3) The contract shall contain terms setting forth measurable goals and objectives for student performance.

(4) The contract shall contain terms specifying standards for fiscal accounting and management that ensure the compliance of the charter school with all applicable provisions of state and federal statutes and regulations pertaining to requests for appropriations and recording and reporting

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receipt and expenditures of public funds, including, but not limited to:

- (A) Terms providing that the charter school shall conduct annual financial audits in accordance with the requirements of the Oklahoma Public School Audit Law;
- (B) Terms providing that the charter school shall comply with all State Department of Education deadlines necessary for budgeting, calculation of appropriations, and/or disbursements of state aid, and/or federal aid;
- (C) Terms providing that the charter school shall comply with all deadlines for recording and reporting of state aid revenue and expenditures;
- (D) Terms providing that the charter school shall comply with all requirements of the Oklahoma Cost Accounting System (OCAS);
- (E) Terms providing that the charter school shall comply with all provisions of the School District Transparency Act at 70 O.S. § 5-135.4 et seq;
- (F) Terms providing that the charter school will provide any and all records of the school including, but not limited to, financial records upon request by the sponsor;
- (G) Terms providing that the charter school will provide any and all school records including, but not limited to, financial records of educational management organization upon request by the sponsor;



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- (H) Terms providing that the charter school shall comply with Constitutional appropriation requirements, including but not limited to, including a non-appropriation clause in multi-year contracts with vendors conditioning such agreements upon continued legislative appropriations;
  - (I) Terms providing that the school is subject to requests for audit by the State Auditor's office;
  - (J) Terms providing that the charter school and its governing board shall be subject to the same conflict of interest requirements as members of local school boards including, but not limited to, Sections 5-113 and 5-124 of Title 70 of the Oklahoma Statutes. No governing board member, school staff member, or contractor/vendor shall receive pecuniary gain, incidentally or otherwise, from the earnings of the educational management organization or school.
- (5) The policies and procedures governing administration and operation of the statewide virtual charter school shall be incorporated into the terms of the contract.
- (6) The term of the initial contract shall be effective for five (5) years from the first day of operation in accordance with the provisions of 70 O.S. § 3-137.
- (7) The term of the contract shall designate at least one contact name and address of record of the governing body of the charter school to which all notices required by the terms of the contract

and/or this Section shall be served, including the name, title, mailing address, email address, and phone number of all individual(s) authorized to receive service of notices required by this Section and pursuant to the terms of the contract.

(8) The contract shall contain any other terms necessary to ensure compliance with applicable provisions of state and/or federal law.

**(e) Renewals of contracts for sponsorship of statewide virtual charter schools.** Renewal of a contract with a statewide virtual charter school sponsored by the Statewide Virtual Charter School Board shall be conducted in accordance with the requirements of the Oklahoma Charter Schools Act.

**(1) Requests for renewal of contract for sponsorship.** Requests for renewal of the contract for sponsorship shall be submitted by the governing body of the charter school in accordance with the following procedures:

(A) At least one (1) year prior to expiration of the initial contract term, but no earlier than eighteen (18) months prior to the date of expiration of the contract; the governing body of the charter school may submit a proposal for renewal of the contract to the Statewide Virtual Charter School Board by filing an original and seven (7) copies, as well as an electronic version of the proposal with the Board.

(B) The Board shall schedule the request for renewal as an item on the agenda for the next regular meeting of the Board, or at a subsequent meeting if the proposal for

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renewal is not received until after the agenda for the next meeting has already been set. The Board shall timely submit written notice of the date, time, and location of the meeting at which the proposal for renewal will be considered and/or heard by regular mail to the governing body of the charter school at the address of record set forth in the sponsorship contract. In addition, the Board may send a courtesy copy of the notice by facsimile, and/or email. If the Board will act on the proposal for renewal at a subsequent meeting of the Board, similar notice of such meeting shall be sent to the governing body of the charter school.

- (C) The Board shall review the proposal for renewal and take action on the request for renewal no later than eight (8) months prior to the date of expiration of the contract.
  - (D) The Board may base its decision to deny the charter school governing body's request for renewal upon any of the grounds for non-renewal or termination set forth in 70 O.S. § 3-137 and/or (f)(1) of this Section.
- (2) Format for renewal application.** The renewal application shall include:
- (A) Text and attachments using standard one-inch margins, clearly paginated, and using a readable font not smaller in type than 11 point.
  - (B) A cover page labeled *Application for Reauthorization*, including the following information:

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- (i) Name of school;
  - (ii) Address of school;
  - (iii) Contact information: name, title, phone, email address;
  - (iv) Date application approved by governing body; and
  - (v) Application submission date.
- (C) A cover letter no more than two (2) pages in length providing a brief overview of the school's mission, key school design elements, performance indicators and related data, and major challenges and accomplishments over the term of the current contract.
- (D) A clearly labeled table of contents setting forth all major sections, appendices, and page numbers.
- (E) Clearly labeled attachments provided in the appendix.
- (F) Clearly labeled tables, graphs, and other data provided in this application in addition to an explanation of their relevance to the text.
- (G) A signed and notarized statement from the Head of the School and the governing body members, as applicable, showing their consideration and approval of the reauthorization application and their agreement to fully comply, as an Oklahoma public charter school with all statute, regulations, and requirements of the United States of America, State of Oklahoma, Statewide Virtual Charter School

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Board, and Oklahoma Department of Education. Specifically cite agreement to abide by the Oklahoma Open Meeting Act and the Oklahoma Open Records Act, and to guarantee access to education and equity for all eligible students regardless of their race, ethnicity, economic status, academic ability, or other factors.

- (H) A single page entitled *Introduction to the School* containing, at a minimum, the following list of information:
- (i) Name of school;
  - (ii) Location of school;
  - (iii) Year opened;
  - (iv) Year renewed, if applicable;
  - (v) Maximum enrollment;
  - (vi) Current enrollment;
  - (vii) Grade span;
  - (viii) Most recent accountability report information from the State of Oklahoma;
  - (ix) Attendance rate;
  - (x) Graduation rate;
  - (xi) Recurrent enrollment;
  - (xii) Dropout rate;
  - (xiii) Percentage of at-risk students enrolled;  
and
  - (xiv) Any other information the school deems necessary to include.

**(3) Information in renewal request.**

- (A) In addition to the information found in the performance report, and the school's response to the performance report, if any, this re-authorization application is the school's opportunity to address each of the following components highlighting what the school believes is most important in each area:
- (i) Faithfulness to the foundation of the charter;
  - (ii) Organizational capacity;
  - (iii) Financial management;
  - (iv) Education program and performance;
  - (v) Strategic planning; and
  - (vi) Corrective Action Plan (if required).
- (B) Appendices. Provide documents and related information for the term of the contract beyond those provided in the performance report and response, including examples of community and parent support of the school.

**(4) Performance report and site visit.** The sponsor of the school will issue a school performance report in accordance with State statute. The school shall have forty-five (45) calendar days to respond to the performance report and submit any corrections or clarifications for the report. In evaluating a school's renewal request, the Board may consider the performance report, results of a site visit, and evidence provided in the school's presentation to the Board.

**(5) Notice of intent of non-renewal of contract for sponsorship.** Notwithstanding the provisions of paragraph one (1) of this subsection, the Statewide Virtual Charter School Board may elect to not renew a contract for sponsorship in accordance with the following procedures:

- (A) No later than eight (8) months prior to the date of expiration of the contract. The Statewide Virtual Charter School Board shall submit written notice of its intent of non-renewal via certified mail, return receipt requested to the governing body of the charter school at the address of record set forth in the contract. The notice shall include:
  - (i) A statement of any and all factual and legal grounds upon which the Board's intent to non-renew the contract is based; and
  - (ii) A statement of the date, time, and location of the meeting at which the Board intends to take action on the proposed non-renewal, which shall be held no earlier than thirty (30) calendar days from the date of the notice of intent to non-renew the contract is sent to the charter school.
- (B) The Board may base its decision to non-renew the contract for sponsorship upon any of the grounds for nonrenewal or termination set forth in 70 O.S. § 3-137 and/or (f)(1) of this Section.
- (C) The procedures for filing appeals to the State Board of Education shall be governed by 70

O.S. § 3-145.3 and the policies and rules adopted by the State Board of Education, with a copy of the appeal mailed to the Statewide Virtual Charter School Board.

**(f) Terminations of contracts for sponsorship of statewide virtual charter schools.** The Statewide Virtual Charter School Board may terminate the contract with a statewide virtual charter school in accordance with the following procedures:

**(1) Grounds for termination of a contract for sponsorship:** At any time during the term of the contract, the Statewide Virtual Charter School Board may terminate the contract on one or more of the following grounds:

- (A) Failure to meet the requirements for student performance set forth in the terms of the contract;
- (B) Failure to meet the standards of fiscal accounting and management set forth in the terms of the contract;
- (C) Violations of applicable state, federal, tribal, or local laws, statutes, and/or regulations;
- (D) Other good cause as established by the Board, which may include, but shall not be limited to:
  - (i) Failure by the governing body of the charter school, its charter school administrators, charter school personnel, and/or charter school contractors to meet reporting deadlines necessary for compliance with state or federal statutes or regulations;



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- (ii) Failure by the governing body of the charter school, its charter school administrators, charter school personnel, and/or charter school contractors to accurately report student enrollment counts;
- (iii) Failure by the governing body of the charter school, its charter school administrators, charter school personnel, and/or charter school contractors to accurately report and/or classify student accountability data;
- (iv) Identification and/or designation of the charter school by the State Board of Education as consistently in need of improvement in accordance with subsection (g)(6) of Section 1003 of Title I of the Elementary and Secondary Education Act of 1965 (ESEA), pursuant to 70 O.S. § 1210.544;
- (v) Any material breach of the terms set forth in the contract for sponsorship; and
- (vi) Any action or failure to act by the governing body of the charter school, its charter school administrators, charter school personnel, and/or charter school contractors that presents or results in an immediate and serious danger to the health, safety, and welfare of its students.

**(2) Notice of intent to terminate contract.**

At least ninety (90) calendar days prior to termination of a contract for sponsorship of a statewide virtual charter school, the Statewide Virtual Charter School Board shall submit written

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notice of its intent to terminate the contract via certified mail, return receipt requested to the governing board of the charter school at the address of record set forth in the contract. The notice shall include:

- (A) A statement of any and all factual and legal grounds upon which the Board's intent to terminate the contract is based;
- (B) A statement of the date, time, and location of the meeting at which the Board intends to take final action on the proposed termination, which shall be held no earlier than forty-five (45) calendar days from the date the notice of intent to terminate is mailed to the charter school; and
- (C) A statement that the governing board of the school may request a hearing before the Board to present evidence in opposition to the proposed termination by delivering a written request to the Board within fourteen (14) calendar days of receipt of notice of the intent to terminate the contract that includes:
  - (i) A response to the factual and legal grounds for termination set forth in the notice; and
  - (ii) A summary of evidence that the school intends to submit in support of its response.
- (D) Within ten (10) calendar days of the date of receipt of the request for hearing, the Board shall schedule a hearing and submit written notice of the date, time, and location of the

hearing by regular mail to the charter school's address of record set forth in the sponsorship contract. The Board may send a courtesy copy of the notice by facsimile, and/or email.

**(3) Hearing on termination.** In the event that a hearing is requested pursuant to the provisions of (2)(C) of this subsection, the Board shall promptly schedule a hearing at which the statewide virtual charter school may present argument and/or evidence in opposition to the proposed termination. The Board shall prescribe the time allotted for oral argument and presentation of evidence. Upon completion of the hearing, the Board may consider the merits of the argument and presentation of evidence and take action on the proposed termination, or it may schedule action on the proposed termination for a subsequent board meeting to provide the board with further opportunity for deliberation.

**(4) Appeals of termination.** The procedures for filing appeals to the State Board of Education shall be governed by 70 O.S. § 3-145.3 and the policies and rules adopted by the State Board of Education, with a copy of the appeal mailed to the Statewide Virtual Charter School Board.

**(g) Negotiation and execution of contracts for sponsorship.** To facilitate and/or expedite negotiations for new contracts for sponsorship, the Statewide Virtual Charter School Board may adopt a model contract for sponsorship of a statewide virtual charter school for use by the Board and potential statewide virtual charter schools sponsored by the Board. Adoption of a model contract shall not prohibit the

Board from further negotiation of contract terms or addition of terms to the contract for sponsorship prior to execution of the contract so long as such terms are in compliance with applicable state, federal, local, and/or tribal law and the provisions of this Section.

**(h) Execution of the contract.** The final contract for sponsorship shall not be executed until approved by the Statewide Virtual Charter School Board at a regular or special meeting. The Board may delegate authority to the Chairman to execute the approved contract for sponsorship on behalf of the Board.

**777:10-3-4. Oversight and evaluation of virtual charter schools by the Statewide Virtual Charter School Board**

**(a) Tiered school oversight process.** The performance framework sets forth the performance indicators for authorization of virtual charter schools in the State. Schools shall meet or show evidence of significant progress toward meeting the required standard accountability indicators as a condition of continued authorization.

(1) The Statewide Virtual Charter School Board provides a tiered school oversight process that includes a system of monitoring and oversight functions to ensure the school's compliance with all applicable laws, regulations, rules, and terms of the charter contract.

(2) The tiered school oversight process shall provide for review, notices, warnings, probation, and closure of schools that fail to meet the standard accountability indicators. If a school does

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not take action to comply, the Statewide Virtual Charter School Board may proceed with steps at an appropriate level of concern.

(3) The tiered school oversight process is designed to allow the Statewide Virtual Charter School Board to take appropriate action at any level based on each unique situation that may be identified through the performance framework or identified through another process.

- (A) The Statewide Virtual Charter School Board shall perform an annual review and evaluation of the performance of all virtual charter schools. The performance framework includes the indicators assessed and required in statute, rules, and the charter contract. The performance framework is presented annually to the Statewide Virtual Charter School Board and the school's governing board in an open meeting. These indicators may identify potential concerns for further review and research.
- (B) Using the results of the performance framework, Statewide Virtual Charter School Board staff reviews and research identified potential concerns to determine the nature and severity of the concern and possible corrective actions. The school is expected to take action to remedy identified deficiency(ies).
- (C) Unresolved deficiency(ies) identified in the review and research stage of the tiered school oversight process will

generate a notice of concern, issued by Statewide Virtual Charter School Board staff and sent to members of the Statewide Virtual Charter School Board and the school's governing board. Terms and timeline to resolve deficiency(ies) will be included in the notice of concern. The Statewide Virtual Charter School Board may offer support and resources.

- (D) A formal warning action to address unresolved deficiency(ies) or other serious concern(s) may be taken by the Statewide Virtual Charter School Board in an open meeting. The warning shall include deficiency(ies), terms and timeline for resolution and requires the school to take action. Support and resources may be made available and/or required.
- (E) Probation is a formal action taken by the Statewide Virtual Charter School Board in an open meeting and as a final opportunity for a school to resolve a deficiency(ies). A final plan from the virtual charter school is required.
- (F) Closure is a formal action taken by the Statewide Virtual Charter School Board in open meeting on school who fails to resolve a deficiency(ies). It is a final action and requires the Statewide Virtual Charter School Board and the school's governing board to follow the Closure Plan.

**(b) Oversight and annual performance review.** The Statewide Virtual Charter School Board will provide ongoing oversight of the charter schools through data and evidence collection, site visits, attendance of governing board meetings, compliance checks, and school performance reviews. At the end of each year, schools will be subject to an annual performance review consisting of a compilation of performance ratings and findings based on the performance framework standards. Results will be shared with key stakeholders.

The charter school will have forty-five (45) calendar to respond to the annual performance review in writing and such response will become part of the public record.

**(c) Performance framework.** The performance framework for designated virtual charter schools establishes accountability criteria and assesses schools in the areas of academic, financial, and organizational capacities.

(1) Oklahoma performance measures will be used to assess the school's academic performance, including overall achievement, overall growth, subgroup achievement, subgroup growth, and post-secondary readiness. Academic performance accountability indicators and measurements in each category and grade level are listed below. Sub-group measures will only be applicable if the school has a minimum of ten (10) students in the sub-group.

(A) Are students achieving proficiency on state-wide assessments in Reading/English Langu-

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age Arts? Meets standard accountability indicator(s):

- (i) The percentage of students scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
  - (ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (B) Are students achieving proficiency on state-wide assessments in Math? Meets standard accountability indicator(s):
- (i) The percentage of students scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
  - (ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (C) Are students enrolled in the school for two (2) or more consecutive academic years achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):



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- (i) The percentage of students scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
  - (ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (D) Are students enrolled in the school for two (2) or more consecutive academic years achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):
- (i) The percentage of students scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
  - (ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (E) Are students enrolled in the school for four (4) or more consecutive academic years achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):

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- (i) The percentage of students scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
  - (ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (F) Are students enrolled in the school for four (4) or more consecutive academic years achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):
- (i) The percentage of students scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
  - (ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (G) Are students in the special education subgroup achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):

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- (i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
  - (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (H) Are students in the special education subgroup achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):
- (i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
  - (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (I) Are students in the special education subgroup enrolled for two (2) or more consecutive academic years achieving proficiency on

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statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):

- (i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
  - (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (J) Are students in the special education subgroup enrolled for two (2) or more consecutive academic years achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):
- (i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
  - (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the

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prior school year of the charter contract term.

- (K) Are students in the special education subgroup enrolled for four (4) or more consecutive academic years achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):
  - (i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
  - (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school of the charter contract term.
  
- (L) Are students in the special education subgroup enrolled for four (4) or more consecutive academic years achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):
  - (i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or

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- (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (M) Are students in the economically disadvantaged subgroup achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):
- (i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
  - (ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (N) Are students in the economically disadvantaged subgroup achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):
- (i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade

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level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or

- (ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (O) Are students in the economically disadvantaged subgroup enrolled for two (2) or more consecutive academic years achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):
- (i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
  - (ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (P) Are students in the economically disadvantaged subgroup enrolled for two (2) or more

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consecutive academic years achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):

- (i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
- (ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(Q) Are students in the economically disadvantaged subgroup enrolled for four (4) or more consecutive academic years achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):

- (i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
- (ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade



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level on OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

- (R) Are students in the economically disadvantaged subgroup enrolled for four (4) or more consecutive academic years achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):
- (i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) state assessments is equal to or above the state level of proficiency; or
  - (ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (S) Based on state expectations for student graduation within four years, does the school meet the expectations for student graduation? Meets standard accountability indicator(s):
- (i) The school's most recent graduation rate is equal to or greater than the most recent graduation rate for the State of Oklahoma; or

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- (ii) The school's most recent graduation rate as reported by the State Department of Education, increased twenty percent (20%) or more of the difference between the graduation rate of the baseline year and 100% over the past two (2) years.
- (T) Based on the extended-year adjusted graduation rate, does the school meet the expectations for student graduation? Meets standard accountability indicator(s): Evidence supports a majority of extended-year students graduating.
- (U) Did the school meet the expectation for graduating eligible seniors (students within six (6) credits of graduation) during the most recent year? Meets standard accountability indicator(s): The percent of eligible seniors, students within six (6) credits of graduation, enrolled on the first day of the school year and graduating in the current school year is equal to or greater than the current graduation rate for the State of Oklahoma.
- (V) Do the school's students demonstrate College and Career Readiness? Meets standard accountability indicator(s):
  - (i) College:
    - (I) Achieved minimum required test score for entry without taking remediation:
      - a. High School Transcript of a 2.0 (C average) or higher; or

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- b. American College Testing (ACT);  
or
  - c. Scholastic Aptitude Test (SAT);  
or
  - d. Other recognized college entrance exams such as Accuplacer or the Classical Learning Test; and
- (II) Acceptance to a college or university; and
  - (III) Successful completion and submission of a college FAFSA form.
- (ii) Career:
- (I) Accepted to the Military; or
  - (II) Evidence of sustainable employment; or
  - (III) Completed an authorizer or state approved Career and Technical Education Certificate.
- (W) Is the school's college remediation rate equal to or less than the state remediation rate?  
Meets standard accountability indicator(s):  
The three-year average remediation rate of high school graduating classes indicates the school's college remediation rate is equal to or less than the state remediation rate.
- (2) Oklahoma performance measures will be used to assess the school's fiscal viability, including audit findings, quarterly financials, regulatory reporting, and compliance with all applicable statutes, laws and regulations. Financial perfor-

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mance accountability indicators and measurements in each category are listed below.

- (A) Did the school's most recent annual financial statement audit have findings? Meets standard accountability indicator(s): There were no findings of significant deficiencies, material noncompliance, or known fraud on the school's most recent independent financial audit.
- (B) Did the most recent annual report on internal control over financial reporting disclose any significant or material deficiencies? Meets standard accountability indicator(s): There were no findings of significant deficiencies, material weaknesses or instances of non-compliance on the most recent annual report on internal control over financial reporting.
- (C) Did the school consistently submit appropriate quarterly financial reports to the State-wide Virtual Charter School Board over the most recent year? Meets standard accountability indicator(s): Appropriate reports were submitted in the Oklahoma Cost Accounting System (OCAS) format, verified by the school treasurer, on time, and indicating financial stability of the school.
- (D) Was the school subject to an audit by the State Auditor and Inspector and, if so, were there any findings? Meets standard accountability indicator(s): There were no findings of significant deficiencies, material noncompliance or known fraud on the school's most recent audit by the State Auditor and Inspector.

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- (E) Did the school consistently meet financial reporting expectations over the most recent year, as required by the State Department of Education and confirmed by the Office of Financial Accounting, and Oklahoma Cost Accounting System (OCAS)? Meets standard accountability indicator(s): The State Department of Education confirms financial reporting expectations were fulfilled over the most recent year.
- (F) Was the school's most recent fiscal year OCAS data submitted to the State Department of Education, properly certified by the school leader, and accepted by the State Department of Education? Meets standard accountability indicator(s): The school submitted OCAS data for the most recent fiscal year to the State Department of Education, certified by the school leader, and accepted State Department of Education.
- (G) Did the school submit timely the most recent annual financial statement audit to the State Department of Education? Meets standard accountability indicator(s): The school submitted timely the most recent financial statement audit to the State Department of Education.
- (H) Did the State Department of Education require a corrective action plan as part of their followup to the financial statement audit submission? Meets standard accountability indicator(s): No corrective action plan was required in the response from the State

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Department of Education to the most recently submitted annual financial statement audit.

- (I) If a corrective action plan was required by the State Department of Education, did the plan sufficiently address the issues and was the plan accepted by the State Department of Education? Meets standard accountability indicator(s): The corrective action plan required by the State Department of Education sufficiently addressed the issues and was accepted by the State Department of Education.
- (J) If a corrective action plan was required by the State Department of Education for the prior fiscal year, can it be confirmed that the corrective action measures were followed in the most recent fiscal year? Meets standard accountability indicator(s): The corrective action plan required by the State Department of Education for the prior fiscal year was followed by the school in the most recent fiscal year.
- (K) Did the school have a negative fund balance at the end of the most recent fiscal year? Meets standard accountability indicator(s): The school did not have a negative general fund balance as of the end of the prior fiscal year.
- (L) Did the Days Cash on Hand ratio fall below thirty (30) days during the fiscal year? Meets standard accountability indicator(s): Evidence supports that the school maintained a Days

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Cash on Hand ratio of thirty (30) days or more at the end of each fiscal quarter.

- (M) Did the school fail to pay any commitments, warrants, or debts? Meets standard accountability indicator(s): Evidence supports the school paid all commitments, warrants, and debts.
- (N) Did the school maintain a fund balance of greater than ten percent (10%) of the prior fiscal year's total expenditures? Meets standard accountability indicator(s): Evidence supports that the school maintained a fund balance greater than ten percent (10%) of the prior fiscal year's total expenditures measured at the end of each fiscal quarter.
- (O) Is the school's enrollment (average daily membership) for the first nine (9) weeks greater than or equal to eighty-five percent (85%) of last year's enrollment? Meets standard accountability indicator(s): The first quarter statistical report indicates enrollment did not decline by more than fifteen percent (15%) in comparison to the end of year enrollment from the prior year.
- (P) Does the school's governing board review periodic financial statements including a statement of financial position (balance sheet), statement of activities (income statement), and statement of cash flows? Meets standard accountability indicator(s): Evidence supports that the governing board reviews the school's periodic financial statements at the public governing board meetings.

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- (Q) Does the school's governing board review and approve changes to the budget as significant changes to revenues and expenditures occur? Meets standard accountability indicator(s): Evidence supports that the school's governing board reviews and approves changes to the budget at the public governing board meetings throughout the year as revenues and expenditures change significantly.
  - (R) Does the school's governing board review financial forecasting models prior to annual budget adoption? Meets standard accountability indicator(s): Evidence supports that the school's governing board participates in annual review of financial forecasting prior to budget adoption during a public governing board meeting.
  - (S) Does the school's governing board review the audited financial statements and address all findings? Meets standard accountability indicator(s): Evidence supports that the school's governing board reviews the audited financial statements and addresses all findings in a public governing board meeting.
- (3) Oklahoma performance measures will be used to assess the school's organizational performance including organizational structure, governance, record of compliance, attendance, recurrent enrollment, accreditation, and student support. Organizational performance accountability indicators and measurements in each category are listed below.
- (A) Is the school faithful to its mission and implementing key design elements and per-



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formance metrics within the approved charter contract? Meets standard accountability indicator(s): Evidence supports faithfulness to the school's mission and implementation of key design elements of school.

- (B) Does the school follow appropriate procedures to ensure all students have equitable access to services and opportunities for success? Meets standard accountability indicator(s): Data confirms appropriate procedures to ensure student access and equity.
- (C) Does the school have approved and appropriate policies and procedures that ensure student and staff safety and success, and does the school communicate those policies and procedures to students/families and staff? Meets standard accountability indicator(s): Evidence supports approved and appropriate policies and procedures are implemented and communicated.
- (D) Does the school adhere to applicable state and federal laws and regulations? Meets standard accountability indicator(s): Evidence supports the school adheres to state and federal laws and regulations.
- (E) Does the school adhere to the terms of the charter contract? Meets standard accountability indicator(s): Evidence supports the school adheres to the charter contract.
- (F) Does a stable governing board exist? Meets standard accountability indicator(s): Evidence supports history of board stability exists.

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- (G) Does the governing board recruit, select, orient, and train members with skills and expertise to enable them to govern the school appropriately? Meets standard accountability indicator(s): Board agendas and minutes document board member activities.
- (H) Does the charter school comply with the Open Meeting Act and Open Records Act? Meets standard accountability indicator(s): Evidence supports the charter school consistently complies with requirements of the Open Meeting Act and Open Records Act.
- (I) Does the charter school provide transparency through Statewide Virtual Charter School Board access to school records? Meets standard accountability indicator(s): The charter school has provided the Statewide Virtual Charter School Board with all requested school records.
- (J) Does the educational management organization provide transparency through Statewide Virtual Charter School Board access to school records? Meets standard accountability indicator(s): The educational management organization has provided the Statewide Virtual Charter School Board with all requested school records.
- (K) Did the school consistently meet the reporting expectations as required by the State Department of Education? Meets standard accountability indicator(s): The State Department of Education confirms reporting expectations fulfilled.

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- (L) Did the school consistently meet the reporting expectations as required by the Statewide Virtual Charter School Board? Meets standard accountability indicator(s): Reporting expectations fulfilled as required – ninety percent (90%) or above in both on-time and accuracy categories.
- (M) Does the school website meet the standards for transparency and documentation as mandated by the Oklahoma School District Transparency Act and requested by the Statewide Virtual Charter School Board? Meets standard accountability indicator(s): The school has consistently met requirements for school website as mandated by the Oklahoma School District Transparency Act and requested by the Statewide Virtual Charter School Board.
- (N) Did the school receive accreditation from the State Department of Education? Meets standard accountability indicator(s): The school received accreditation with no deficiencies noted from the State Department of Education.
- (O) Does the school meet the expectations for student attendance? Meets standard accountability indicator(s): Evidence supports the school met State expectations for student attendance.
- (P) Does recurrent enrollment of students meet expectations? Meets standard accountability indicator(s): The school's student recurrent enrollment rate meets the expectations

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indicated by the methodology used for public schools in Oklahoma.

- (Q) Does the school provide support structures for students and families that are accessible twenty-four (24) hours per day and seven (7) days per week, such as teacher support, individualized learning plans, guidance/counseling program, online tutoring, and technical support? Meets standard accountability indicator(s): Students and families have access to multiple support structures twenty-four (24) hours per day and seven (7) days per week.
  - (R) Does the school and governing board engage in strategic planning that results in establishment of school goals and verifiable school improvement? Meets standard accountability indicator(s): Evidence supports that the school and governing board engage in strategic planning resulting in establishment of school goals and verifiable school improvement.
- (4) A Performance Framework Index will be calculated based on the following categories:
- (A) Academic (A) Calculation - (Score) \* (Weight) = A with a weight of 40%.
  - (B) Financial (F) Calculation - (Score) \* (Weight) = F with a weight of 35%.
  - (C) Organizational (O) Calculation - (Score) \* (Weight) = O with a weight of 25%.

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- (D) As set forth in 70 O.S. § 3-137, Performance Framework scores will guide reauthorization procedures.
- (i) A Performance Framework Index (PFI) score of 75% or higher calculated over the course of the charter contract term will result in renewal of authorization for a five (5) year term should the governing board of the charter school choose to submit a letter requesting reauthorization.
  - (ii) A Performance Framework Index (PFI) score of 60-74% or higher calculated over the course of the charter contract term is expected. However, an application for renewal of authorization is required for consideration by the Statewide Virtual Charter School Board.
  - (iii) A Performance Framework Index (PFI) score of less than 60% calculated over the course of the charter contract term places the charter school at risk of non-approval of the renewal for authorization. An application for reauthorization is required for consideration by the Statewide Virtual Charter School Board.
- (E) In the event data is not available, the Statewide Virtual Charter School Board will designate corresponding score with “Not Applicable”.

**(d) Performance framework for designated alternative education sites.** The performance framework for designated virtual charter school

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alternative education sites establishes accountability criteria and assesses schools in the areas of academic, financial, and organizational capacities. Designated alternative education sites are those that conform to the program requirements set forth in 70 O.S. § 1210-568 and are designated as alternative education sites by the State Board of Education.

(1) Oklahoma performance measures will be used to assess the school's academic performance, including overall achievement, overall growth, subgroup achievement, subgroup growth, and post-secondary readiness. Academic performance accountability indicators and measurements in each category and grade level are listed below. Sub-group measures will only be applicable if the school has a minimum of ten (10) students in the sub-group.

(A) Are students achieving proficiency on state-wide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):

(i) The percentage of students scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or

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- (ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (B) Are students achieving proficiency on state-wide assessments in Math? Meets standard accountability indicator(s):
  - (i) The percentage of students scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
  - (ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (C) Are students enrolled in the school for two (2) or more consecutive academic years achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):
  - (i) The percentage of students scoring proficient or above at each grade level on

the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or

- (ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(D) Are students enrolled in the school for two (2) or more consecutive academic years achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):

- (i) The percentage of students scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
- (ii) The percentage of students scoring proficient or above at each grade level on



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the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

- (E) Are students enrolled in the school for three (3) or more consecutive academic years achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):
  - (i) The percentage of students scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
  - (ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
  
- (F) Are students enrolled in the school for three (3) or more consecutive academic years achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):
  - (i) The percentage of students scoring proficient or above at each grade level on

the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or

- (ii) The percentage of students scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(G) Are students in the special education subgroup achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):

- (i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or

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- (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (H) Are students in the special education subgroup achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):
  - (i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
  - (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (I) Are students in the special education subgroup enrolled for two (2) or more consecutive academic years achieving proficiency on

statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):

- (i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
  - (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (J) Are students in the special education subgroup enrolled for two (2) or more consecutive academic years achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):
- (i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative

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education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or

- (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

(K) Are students in the special education subgroup enrolled for three (3) or more consecutive academic years achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):

- (i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
- (ii) The percentage of students in the special education subgroup scoring proficient or

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above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.

- (L) Are students in the special education subgroup enrolled for three (3) or more consecutive academic years achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):
  - (i) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
  - (ii) The percentage of students in the special education subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (M) Are students in the economically disadvantaged subgroup achieving proficiency on statewide assessments in Reading/English

Language Arts? Meets standard accountability indicator(s):

- (i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
  - (ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (N) Are students in the economically disadvantaged subgroup achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):
- (i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's

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percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or

- (ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (O) Are students in the economically disadvantaged subgroup enrolled for two (2) or more consecutive academic years achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):
- (i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
  - (ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessments is



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improved five percent (5%) or greater compared to the prior school year of the charter contract term.

- (P) Are students in the economically disadvantaged subgroup enrolled for two (2) or more consecutive academic years achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):
- (i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
  - (ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (Q) Are students in the economically disadvantaged subgroup enrolled for three (3) or more consecutive academic years achieving proficiency on statewide assessments in Reading/English Language Arts? Meets standard accountability indicator(s):

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- (i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the OSTP state assessments is equal to or above the baseline; or
  - (ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (R) Are students in the economically disadvantaged subgroup enrolled for three (3) or more consecutive academic years achieving proficiency on statewide assessments in Math? Meets standard accountability indicator(s):
- (i) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the Oklahoma School Testing Program (OSTP) totaled and averaged for all state schools designated as alternative education sites will be the baseline for comparison. The school's percentage of students scoring proficient or above at each grade level on the

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OSTP state assessments is equal to or above the baseline; or

- (ii) The percentage of students in the economically disadvantaged subgroup scoring proficient or above at each grade level on the OSTP state assessments is improved five percent (5%) or greater compared to the prior school year of the charter contract term.
- (S) Based on the extended-year adjusted graduation rate, does the school meet the expectations for student graduation? Meets standard accountability indicator(s): Evidence supports a majority of extended-year students graduating.
- (T) Did the school meet the expectation for graduating eligible seniors (students within six (6) credits of graduation) during the most recent year? Meets standard accountability indicator(s): The percent of eligible seniors, students within six (6) credits of graduation, enrolled on the first day of the school year and graduating in the current school year is equal to or greater than the current graduation rate for the State of Oklahoma.
- (U) Do the school's students demonstrate College and Career Readiness? Meets standard accountability indicator(s):
- (i) College:
    - (I) Achieved minimum required test score for entry without taking remediation:

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- a. High School Transcript of a 2.0 (C average) or higher; or
  - b. American College Testing (ACT); or
  - c. Scholastic Aptitude Test (SAT); or
  - d. Other recognized college entrance exams such as Accuplacer or the Classical Learning Test; and
- (II) Acceptance to a college or university; and
  - (III) Successful completion and submission of a college FAFSA form.
- (ii) Career:
    - (I) Accepted to the Military; or
    - (II) Evidence of sustainable employment; or
    - (III) Completed an authorizer or state approved Career and Technical Education Certificate.
- (V) Are students completing courses required for grade advancement each year? Meets standard accountability indicator(s): The percentage of students earning at least six (6) credits per year is equal to or greater than forty percent (40%).
  - (W) Are students benefiting from postsecondary and workforce readiness activities, testing, and enrollment? Meets standard accountability indicator(s): Evidence supports that the

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percent of students participating in one or more postsecondary and/or workforce readiness activity, testing, and/or enrollment is equal to or greater than forty percent (40%).

- (X) Are students demonstrating growth on nationally recognized social emotional standards? Meets standard accountability indicator(s): Evidence supports that the percent of students demonstrating growth on nationally recognized social emotional standards is equal to or greater than forty percent (40%).
- (Y) Are students attending individual, small group, and/or guidance counseling sessions? Meets standard accountability indicator(s): Evidence supports that the percent of students participating in counseling session is equal to or greater than forty percent (40%).
- (Z) Are students participating in displaying, creating, and/or publishing art opportunities? Meets standard accountability indicator(s): Evidence supports that the percent of students participating, creating, and/or publishing art opportunities is equal to or greater than forty percent (40%).
- (AA) Are students participating in extracurricular activities, work study, and/or service learning? Meets standard accountability indicator(s): Evidence supports that the percent of students participating in extracurricular activities, work study, and/or service learning is equal to or greater than forty percent (40%).

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(BB) Are students completing required individual career academic plan (ICAP) activities? Meets standard accountability indicator(s): Evidence supports that the percent of students completing requires ICAP activities is equal to or greater than forty percent (40%).

(CC) Are students participating in life skill activities that extend beyond the curriculum, put relevant life skills into practice, and promote healthy living? Meets standard accountability indicator(s): Evidence supports that the percent of students participating in life skills activities is equal to or greater than forty percent (40%).

(2) Oklahoma performance measures will be used to assess the school's fiscal viability, audit findings, financials, regulatory reporting, and compliance with all applicable statutes, laws and regulations. Financial performance accountability indicators and measurements in each category are listed below.

(A) Did the school's most recent annual financial statement audit have findings? Meets standard accountability indicator(s): There were no findings of significant deficiencies, material noncompliance, or known fraud on the school's most recent independent financial audit.

(B) Did the most recent annual report on internal control over financial reporting disclose any significant or material deficiencies? Meets standard accountability indicator(s): There

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were no findings of significant deficiencies, material weaknesses or instances of noncompliance on the most recent annual report on internal control over financial reporting.

- (C) Did the school consistently submit appropriate quarterly financial reports to the Statewide Virtual Charter School Board over the most recent year? Meets standard accountability indicator(s): Appropriate reports were submitted in the Oklahoma Cost Accounting System (OCAS) format, verified by the school treasurer, on time, and indicating financial stability of the school.
- (D) Was the school subject to an audit by the State Auditor and Inspector and, if so, were there any findings? Meets standard accountability indicator(s): There were no findings of significant deficiencies, material noncompliance or known fraud on the school's most recent audit by the State Auditor and Inspector.
- (E) Did the school consistently meet financial reporting expectations over the most recent year, as required by the State Department of Education and confirmed by the Office of Financial Accounting, and Oklahoma Cost Accounting System (OCAS), Audits? Meets standard accountability indicator(s): The State Department of Education confirms financial reporting expectations were fulfilled over the most recent year.
- (F) Was the school's most recent fiscal year OCAS data submitted to the State Department of

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Education, properly certified by the school leader, and accepted by the State Department of Education? Meets standard accountability indicator(s): The school submitted OCAS data for the most recent fiscal year to the State Department of Education, certified by the school leader, and accepted State Department of Education.

- (G) Did the school submit timely the most recent annual financial statement audit to the State Department of Education? Meets standard accountability indicator(s): The school submitted timely the most recent financial statement audit to the State Department of Education.
- (H) Did the State Department of Education require a corrective action plan as part of their follow-up to the financial statement audit submission? Meets standard accountability indicator(s): No corrective action plan was required in the response from the State Department of Education to the most recently submitted annual financial statement audit.
- (I) If a corrective action plan was required by the State Department of Education, did the plan sufficiently address the issues and was the plan accepted by the State Department of Education? Meets standard accountability indicator(s): The corrective action plan required by the State Department of Education sufficiently addressed the issues and was accepted by the State Department of Education.



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- (J) If a corrective action plan was required by the State Department of Education for the prior fiscal year, can it be confirmed that the corrective action measures were followed in the most recent fiscal year? Meets standard accountability indicator(s): The corrective action plan required by the State Department of Education for the prior fiscal year was followed by the school in the most recent fiscal year.
- (K) Did the school have a negative fund balance at the end of the most recent fiscal year? Meets standard accountability indicator(s): The school did not have a negative general fund balance as of the end of the prior fiscal year.
- (L) Did the Days Cash on Hand ratio fall below thirty (30) days during the fiscal year? Meets standard accountability indicator(s): Evidence supports that the school maintained a Days Cash on Hand ratio of thirty (30) days or more at the end of each fiscal quarter.
- (M) Did the school fail to pay any commitments, warrants, or debts? Meets standard accountability indicator(s): Evidence supports the school paid all commitments, warrants, and debts.
- (N) Did the school maintain a fund balance of greater than ten percent (10%) of the prior fiscal year's total expenditures? Meets standard accountability indicator(s): Evidence supports that the school maintained a fund balance greater than ten percent (10%) of the

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prior fiscal year's total expenditures measured at the end of each fiscal quarter.

- (O) Is the school's enrollment (average daily membership) for the first nine (9) weeks greater than or equal to eighty-five percent (85%) of last year's enrollment? Meets standard accountability indicator(s): The first quarter statistical report indicates enrollment did not decline by more than fifteen percent (15%) in comparison to the end of year enrollment from the prior year.
- (P) Does the school's governing board review periodic financial statements including a statement of financial position (balance sheet), statement of activities (income statement), and statement of cash flows? Meets standard accountability indicator(s): Evidence supports that the governing board reviews the school's periodic financial statements at the public governing board meetings.
- (Q) Does the school's governing board review and approve changes to the budget as significant changes to revenues and expenditures occur? Meets standard accountability indicator(s): Evidence supports that the school's governing board reviews and approves changes to the budget at the public governing board meetings throughout the year as revenues and expenditures change significantly.
- (R) Does the school's governing board review financial forecasting models prior to annual budget adoption? Meets standard accountability indicator(s): Evidence supports that

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the school's governing board participates in annual review of financial forecasting prior to budget adoption during a public governing board meeting.

- (S) Does the school's governing board review the audited financial statements and address all findings? Meets standard accountability indicator(s): Evidence supports that the school's governing board reviews the audited financial statements and addresses all findings in a public governing board meeting.
- (3) Oklahoma performance measures will be used to assess the school's organizational performance including organizational structure, governance, record of compliance, attendance, recurrent enrollment, accreditation, and student support. Organizational performance accountability indicators and measurements in each category are listed below.
- (A) Is the school faithful to its mission and implementing key design elements and performance metrics within the approved charter contract? Meets standard accountability indicator(s): Evidence supports faithfulness to the school's mission and implementation of key design elements of school.
- (B) Does the school follow appropriate procedures to ensure all students have equitable access to services and opportunities for success? Meets standard accountability indicator(s): Data confirms appropriate procedures to ensure student access and equity. Examples of data include, but not limited to, an equity committee; an equity audit of policies,

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procedures, culture, instruction, professional learning, and stakeholder perceptions and goals related to equity, inclusion, anti-racism, and identity safety; and an equity plan and policies.

- (C) Does the school have approved and appropriate policies and procedures that ensure student and staff safety and success, and does the school communicate those policies and procedures to students/families and staff? Meets standard accountability indicator(s): Evidence supports approved and appropriate policies and procedures are implemented and communicated.
- (D) Does the school adhere to applicable state and federal laws and regulations? Meets standard accountability indicator(s): Evidence supports the school adheres to state and federal laws and regulations.
- (E) Does the school adhere to the terms of the charter contract? Meets standard accountability indicator(s): Evidence supports the school adheres to the charter contract.
- (F) Does a stable governing board exist? Meets standard accountability indicator(s): Evidence supports history of board stability exists.
- (G) Does the governing board recruit, select, orient, and train members with skills and expertise to enable them to govern the school appropriately? Meets standard accountability indicator(s): Board agendas and minutes document board member activities.

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- (H) Does the charter school comply with the Open Meeting Act and Open Records Act? Meets standard accountability indicator(s): Evidence supports the charter school consistently complies with requirements of the Open Meeting Act and Open Records Act.
- (I) Does the charter school provide transparency through Statewide Virtual Charter School Board access to school records? Meets standard accountability indicator(s): The charter school has provided the Statewide Virtual Charter School Board with all requested school records.
- (J) Does the educational management organization provide transparency through Statewide Virtual Charter School Board access to school records? Meets standard accountability indicator(s): The educational management organization has provided the Statewide Virtual Charter School Board with all requested school records.
- (K) Did the school consistently meet the reporting expectations as required by the State Department of Education? Meets standard accountability indicator(s): The State Department of Education confirms reporting expectations fulfilled.
- (L) Did the school consistently meet the reporting expectations as required by the Statewide Virtual Charter School Board? Meets standard accountability indicator(s): Reporting expectations fulfilled as required – ninety

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percent (90%) or above in both on-time and accuracy categories.

- (M) Does the school website meet the standards for transparency and documentation as mandated by the Oklahoma School District Transparency Act and requested by the Statewide Virtual Charter School Board? Meets standard accountability indicator(s): The school has consistently met requirements for school website as mandated by the Oklahoma School District Transparency Act and requested by the Statewide Virtual Charter School Board.
- (N) Did the school receive accreditation from the State Department of Education? Meets standard accountability indicator(s): The school received accreditation with no deficiencies noted from the State Department of Education
- (O) Does the school meet the expectations for student attendance? Meets standard accountability indicator(s): Evidence supports the school met State expectations for student attendance.
- (P) Does recurrent enrollment of students meet expectations? Meets standard accountability indicator(s): The school's student recurrent enrollment rate meets the expectations indicated by the methodology used for public schools in Oklahoma.
- (Q) Does the school provide support structures for students and families that are accessible twenty-four (24) hours per day and seven (7) days per week, such as teacher support,

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individualized learning plans, guidance/counseling program, online tutoring, and technical support? Meets standard accountability indicator(s): Students and families have access to multiple support structures twenty-four (24) hours per day and seven (7) days per week.

(R) Does the school and governing board engage in strategic planning that results in establishment of school goals and verifiable school improvement? Meets standard accountability indicator(s): Evidence supports that the school and governing board engage in strategic planning resulting in establishment of school goals and verifiable school improvement.

(4) A Performance Framework Index will be calculated based on the following categories:

(A) Academic (A) Calculation - (Score) \* (Weight) = A with a weight of 40%.

(B) Financial (F) Calculation - (Score) \* (Weight) = F with a weight of 35%.

(C) Organizational (O) Calculation - (Score) \* (Weight) = O with a weight of 25%.

(D) According to 70 O.S. § 3-137, Performance Framework scores will guide reauthorization procedures.

(i) A Performance Framework Index (PFI) score of 75% or higher calculated over the course of the charter contract term will result in renewal of authorization for a five (5) year term should the governing board of the charter school

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choose to submit a letter requesting reauthorization.

- (ii) A Performance Framework Index (PFI) score of 60-74% or higher calculated over the course of the charter contract term is expected. However, an application for renewal of authorization is required for consideration by the Statewide Virtual Charter School Board.
- (iii) A Performance Framework Index (PFI) score of less than 60% calculated over the course of the charter contract term places the charter school at risk of non-approval of the renewal for authorization. An application for reauthorization is required for consideration by the Statewide Virtual Charter School Board.

(E) In the event data is not available, the Statewide Virtual Charter School Board will designate corresponding score with “Not Applicable”.

**(e) Submission of school data.** To aid the Statewide Virtual Charter School Board in assessing whether the schools are meeting the expectations of the performance framework, schools are required to submit school data to the Statewide Virtual Charter School Board through an online data collection system.

(1) Schools must submit the requested documentation according to the instructions for the submission by the due date indicated in the online data collection system:



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- (A) Current charter contract and any amendments;
- (B) Management contracts;
- (C) Lease/purchase agreements;
- (D) Annual budget;
- (E) Audit documents (audit, response, corrective action);
- (F) School performance review report response;
- (G) Annual report on school's mission and key design elements and performance indicator data;
- (H) College and career readiness report, including, but not limited to, individual career academic plans, college preparation coursework, college remediation data, dual (concurrent) college enrollment, military service commitments, internships, and industry certification and career technology programs;
- (I) Annual evaluation of each educational management organization providing services to the governing body or school;
- (J) Senior graduation report;
- (K) Current inventory report;
- (L) Quarterly financial statements;
- (M) Handbooks (student family handbook, employee handbook, other handbooks);
- (N) School calendar;
- (O) Student support documentation;
- (P) Internal assessment plan;

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- (Q) School policies including, but not limited to, attendance, employment, enrollment/lottery, finance and procurement, code of ethics, and conflict of interest;
- (R) Current governing board rosters, including personal contact information;
- (S) Insurance verification;
- (T) Enrollment counts (August 1 for year one (1) schools; first day of school, monthly, and final for all schools);
- (U) Surety bond verification;
- (V) Accreditation application and status;
- (W) First Quarter Statistical Report summary;
- (X) Board meeting calendar;
- (Y) Board meeting agendas and all supporting board meeting documents submitted prior to the board meeting;
- (Z) Board meeting approved minutes;
- (AA) Final state aid and federal allocations;
- (BB) Revenue and Expenditure Report;
- (CC) Four (4) year cohort and extended-year graduation rate documents;
- (DD) Annual Statistical Report summary;
- (EE) Strategic planning documents;
- (FF) Oklahoma School Testing Program (OSTP) documentation;
- (GG) Child counts;
- (HH) Enrollment file;

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- (II) Estimate of Needs (if applicable);
- (JJ) Supplemental Estimate of Needs (if applicable);
- (KK) School, governing board, and/or educational management organization litigation documents;
- (LL) State accountability report;
- (MM) School organizational chart;
- (NN) End of fiscal year student exit status report;
- (OO) Current by-laws;
- (PP) Final Employee Compensation Report;
- (QQ) College remediation data;
- (RR) School District Budgeting Act (SDBA) Budget Summary and Budget Message (if applicable);
- (SS) SDBA public hearing documentation and published notice (if applicable);
- (TT) Shared Services Agreements (if applicable);
- (UU) Monthly and all other state aid funding reports;
- (VV) Final OSTP Participation Report.
- (WW) ACT Profile Report; and
- (XX) Plan for Improvement (if applicable).

(2) In the event submission through the online system is not possible, the school must hand-deliver hard-copy documentation to the office of the Statewide Virtual Charter School Board by the due date.

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(3) Failure to submit the documentation is grounds for termination of the contract if not cured within thirty (30) calendar days of the deadline.

(4) Receipt of document submissions does not necessarily indicate approval of the content of the data.

**(f) School website compliance.** In order to aid in transparency, charter schools sponsored by the Statewide Virtual Charter School Board will be subject to website compliance checks at any time. Each school shall maintain a website in compliance with 70 O.S. § 5-135.4 and 74 O.S. § 24-3106.2 with the following information available:

- (1) Governing board members (board member information, and office held if any);
- (2) Schedule of governing board meetings as submitted to the Oklahoma County Clerk;
- (3) Board meeting agendas;
- (4) Board meeting approved minutes;
- (5) School accountability reports;
- (6) Financial documents or a link to the Oklahoma Cost Accounting System (OCAS), in compliance with Oklahoma statute;
- (7) Total compensation package of the superintendent;
- (8) Virtual charter school Attendance Policy, in compliance with Oklahoma statute;
- (9) Most recent audit in compliance with Oklahoma statute; and

(10) Enrollment capacity

**(g) School orientation.** Each statewide virtual charter school shall develop a student orientation that must be completed by each student prior to final enrollment in the school. The school shall maintain a record of completion of orientation by each student. The orientation shall contain, at a minimum, the following components:

- (1) Enrollment requirements;
- (2) Daily schedule and work expectations;
- (3) School policies, including student engagement and attendance requirements;
- (4) Student and Family Handbooks;
- (5) Communication streams (website, school and teacher connection, school administration and governing board contact);
- (6) Academic expectations;
- (7) Assessment requirements;
- (8) Social expectations;
- (9) Technology management;
- (10) Academic program management;
- (11) Student support programs and services; and
- (12) Programs specific to the school.

**(h) Annual audits.** The virtual charter schools shall change audit firms, at a minimum, every three (3) years to ensure annual audits are completed by at least two (2) different firms over the term of the charter contract. If the term of the charter contract is less than five (5) years, the school shall change audit

firms at least every two (2) years, or otherwise, to ensure annual audits are completed by two (2) different firms over the term of the charter contract.

**(i) Compliance audits.** In addition to the annual financial audits, the virtual charter schools authorized by the SVCSB shall be subject to compliance audits conducted by the SVCSB at any time during the charter contract term.

**777:10-3-5. Full-time virtual charter schools – succession of contractual rights and reversion of property to Statewide Virtual Charter School Board**

**(a) School Closure Process.** Final school closure determination may be made as the result of voluntary or involuntary school closure decisions. This includes a decision of the charter school governing board to close the school, nonrenewal of a charter contract, or termination of a charter contract. In the event of a voluntary closure by the school, the final closure determination occurs as of the date the charter school governing board votes to close the school. In the event of an involuntary closure of the school, the final closure determination occurs as of the date the final order is issued by the SVCSB. Once a final closure determination is made the SVCSB will appoint a Closing Officer to provide oversight of school closure. Oversight responsibilities include management of the operational process of charter school closure and ensured continuation of appropriate educational services and transfer process for students and families, and ensure the governing board of the charter school continues to meet as necessary to take actions needed to wind down school operations, manage school finances, allocate

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resources and facilitate all aspects of closure. Under the oversight and with the support of the Closing Officer, the charter school is responsible for completing the tasks required for the closing of the school in a legal and orderly manner while continuing to operate the school and provide academic and other services to students and families. With the exception of the cost of the SVCSB Closing Officer, all expenses of school closure will be provided for through charter school funds. These include, but are not limited to, the expense of contracted expertise such as accountants and auditor, general supplies and postage, and auction costs. The following School Closure Protocol will be implemented ten (10) business days after the final order is issued, and may be stayed by the Statewide Virtual Charter School Board in the event of a request for reconsideration or rehearing:

- (1) Within fourteen (14) calendar days:
  - (A) The Closing Officer meets with the school's Chief Administrative officer and the Governing Board President to provide information regarding the school closure process and expectations.
  - (B) A special meeting of the charter school governing board will be called for to establish a Transition Team composed of school staff, applicant staff, and others designated by the applicant who will attend to the tasks and responsibilities of school closure on behalf of the school.
  - (C) The SVCSB issues a media release appropriate for public notification of charter school closure.

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- (D) A temporary hold will be placed on all state and federal funding.
  - (E) Notification of school closure determination is submitted to the Oklahoma State Department of Education (OSDE) including name of school, date of action, effective date of closure, criteria for closure determination, closure process information, and location of student and personnel records. Request name and contact information for OSDE representative for communication purposes and for assistance with closure. Similar notification also sent to the Oklahoma Teachers Retirement System (if applicable), State Treasurer, and State Auditor.
  - (F) Notification is made to parents of enrolled students regarding school closure determination including name of school, date of action, effective date of closure, and expected future communication to parents.
  - (G) Notification to school staff regarding school closure determination including name of school, date of action, effective date of closure, and expected future communication to school staff.
- (2) Once a Transition Team is established, the following should occur within thirty (30) days:
- (A) The Closing Officer and Transition Team will establish a written student transfer plan including the steps required for the transfer of students and student records and the security of those records.



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- (B) The Closing Officer and Transition Team will contact Oklahoma school districts regarding charter school closure.
- (C) The Closing Officer and Transition Team will establish a written plan for ongoing communication with families. This plan will include communication through closure process and a final report of school closure to charter school families. A list of all students/families will be generated and maintained to include student name, parent name, address, telephone, email, grade level, and school district of residence.
- (D) The Closing Officer and Transition Team will establish a written plan for ongoing communication with staff. This plan will include the initial communication of school closure, follow-up communication as needed, and a final report of school closure to charter school staff. A list of all staff will be created to include name, position, address, telephone, email. Notification includes information regarding closure determination, closure date, personnel records, and benefits.
- (E) The Closing Officer and Transition Team will secure all financial and personnel records. In addition, Closing Officer and Transition Team will identify all agencies, employees, insurers, contractors, creditors, debtors, grantors, and management organizations. The statewide virtual charter school shall provide the Statewide Virtual Charter School Board with executed copies of all of the following documents:

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- (i) A detailed list of all real and/or personal property and other assets procured by the charter school during the term of the contract that includes identification of all sources of funds used to procure the property. All items procured all or in part with state, local or federal funds shall be clearly identified.
- (ii) Title documents, deeds, and/or leases for all real or personal property or other assets procured all or in part with state or federal funds.
- (iii) Copies of all executory contracts to which the charter school or its governing body is a party.
- (iv) All documentation relating to debt, liabilities, encumbrances, or other obligations incurred by the charter school and/or the governing body of the charter school during the term of the sponsorship contract.
- (v) The Closing Officer and Transition Team Chair will ensure a complete financial accounting. A financial plan for school closure will be established. The Closing Officer may include other financial experts on behalf of the SVCSB to assist with the process. Financial Plan must ensure only essential invoices and regular salaries paid, all vendor refunds received, and the immediate collection of all credit cards and closing of accounts.

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- (vi) All assets will be inventoried. Inventory shall include name of asset, quantity, estimated value, and location of property. Assets include, but are not limited to, property, furnishings, technology, books, supplies, and equipment.
  - (vii) All assets will be confirmed by the Closing Officer and Transition Team. Within forty-five (45) business days of a final closure determination date, the charter school assets may be liquidated and funds used to satisfy remaining school debt. Otherwise the sponsor may dispose of remaining school property as deemed appropriate and retaining any remaining funds.
- (3) Prior to final closeout, the charter school shall complete all federal, state, and local obligations on behalf of school employees as governed by Federal and State Statute and regulations; including, but not limited to, the following:
- (A) File all final federal, state, and local employer payroll tax returns and issue final W-2s and Form 1099s by the statutory deadlines.
  - (B) File the Federal Notice of Discontinuance with the Department of Treasury.
  - (C) Make final federal tax payments.
  - (D) File the final withholding tax return.
  - (E) File the final return with the IRS.
  - (F) Complete all tax requirements of the State of Oklahoma.

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(G) Provide employees with notices and pamphlets required under applicable state and federal law.

(4) Within thirty (30) business days of school closure, all school records, including, but not limited to, student, personnel and financial records are received and secured by the SVCSB or the State Department of Education (SDE).

(5) Within forty-five (45) business days of school closure, a final school closure audit will be conducted and provided to the SVCSB. A copy of the audit will be presented to the State Superintendent of Public Instruction, and all fiscal balances of the charter school will be retained by the charter school authorizer.

(6) The Statewide Virtual Charter School Board shall have forty-five (45) calendar days after the date of delivery of all of the documents set forth in (3) of this subsection to request any additional documentation from the charter school the Board deems necessary to determine the assets and liabilities of the statewide virtual charter school.

(7) The Closing Officer will report school closure progress to the SVCSB at each regular meeting through the school closing transition period.

(8) Upon completion of school closure, a final report from the Closing Officer will be presented to the Statewide Virtual Charter School Board.

(9) All personal property of the charter school reverting to the Statewide Virtual Charter School Board in accordance with the provisions of 70 O.S. 3-136 and this Section shall be delivered to

the Board no later than sixty (60) calendar days after the School Closure Date in the manner and to the location(s) directed by the Board.

(10) The Chairman of the Statewide Virtual Charter School Board is authorized to execute conveyances and documents on behalf of the Board as necessary to fulfill the requirements of this subsection.

**(b) School district contracts for sponsorship of full-time virtual charter schools.** In accordance with the provisions of 70 O.S. 3-145.5, the following provisions shall apply to school district contracts for sponsorship of charter schools who provide full-time virtual education: Contracts for sponsorship of a full-time virtual charter school. Beginning July 1, 2014, no school district shall:

(1) Offer full-time virtual education to any student whose legal residence, as determined in accordance with the provisions of 70 O.S. § 1-113, is located outside of the boundaries of the school district; or

(2) Enter a contract to provide full-time virtual education to any student whose legal residence, as determined in accordance with the provisions of 70 O.S. § 1-113, is located outside of the boundaries of the school district.

**(c) Termination or nonrenewal for good cause.** Failure by any charter school to comply with the provisions of this Section shall constitute good cause for:

(1) Termination or nonrenewal of a contract for sponsorship with the Statewide Virtual Charter School Board; and/or

(2) Denial of any application for sponsorship subsequently submitted by the charter school and/or authorized representatives of the charter school, including, but not limited to, the governing body of a charter school.

## **SUBCHAPTER 5. STATEWIDE VIRTUAL CHARTER SCHOOL FACILITIES**

### **777:10-5-3. Statewide virtual charter school sites**

**Face-to-face instruction.** No statewide virtual charter school or employee of the statewide virtual charter school shall provide face-to-face instruction to any charter school student unless the instruction occurs at:

(1) The legal residence of a student or the parent/legal guardian of a student;

(2) A site as defined in 777:10-1-2

(3) A public facility that complies with all federal and state statutes and regulations governing safety that are applicable to public school facilities.

## **CHAPTER 15.**

### **HORIZON: DIGITALLY ENHANCED CAMPUS**

#### **SUBCHAPTER 1. OKLAHOMA SUPPLEMENTAL ONLINE COURSE CERTIFICATION**

##### **777:15-1-1. Purpose**

The Statewide Virtual Charter School Board (SVCSB) makes publicly available a list of supplemental online courses which it has reviewed and/or certified to ensure that the courses are high quality options and are aligned with the subject matter standards approved by the State of Oklahoma. In conjunction with the Office of Management and Enterprise Services (OMES), the SVCSB negotiates with online course providers to offer a state rate price to school districts for supplemental online courses. These rules have been adopted for the purpose of implementing policy and procedures pursuant to Oklahoma Statute Title 70, Section 3-145.3.

#### **777:15-1-2. Definitions**

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

**“Course provider”** means an entity that meets eligibility requirements and provides an online course to Oklahoma school districts.

**“Course review”** means the process conducted by content and pedagogical experts to ensure courses recommended for certification by the SVCSB meet the established standards.

**“Oklahoma Online Course Catalog”** means a publicly available listing of courses certified (or pending review) by the SVCSB available through approved Course Providers.

**“Online course”** means an educational course in which instruction and content are delivered primarily over the Internet. A student and teacher are in different locations for a majority of the

student's instructional period, most instructional activities take place in an online environment, the online instructional activities are integral to the academic program, consistent communication between a student and a teacher and among students is emphasized, and a student is not required to be located on the physical premises of a public school district. An online course is the equivalent of what would typically be taught in one semester.

**“Receiver district”** means an Oklahoma public school district that has students enrolled in the district who take one or more online courses.

**“Receiver district ally”** means an individual(s) in the receiving district who monitors student progress in the Horizon Online Platform and serves as a liaison between Horizon faculty and staff, the student, and other stakeholders, including parents.

### **777:15-1-3. Application for course certification**

(a) To have a course(s) listed in the Oklahoma Online Course Catalog (OCC), Course Providers must first be approved as vendors through the Oklahoma Management and Enterprise System (OMES) and enter into a contract with the state.

(b) Once the online provider is registered as a state vendor, OMES and the SVCSB will negotiate and enter into a contract with the approved vendor to provide online courses at a state rate.



**777:15-1-4. Pricing**

Each course offered through the Oklahoma Online Course Catalog must be offered at a price that does not exceed the lowest price at which the course is offered for use or sale to any state, public school, or school district in the United States. The price of any course or item or service for the course must automatically be reduced to the extent that, and at the same time as, the price is reduced or offered for a lesser fee elsewhere in the United States. A course or item or service for the course must be provided free of charge or at a price discount to the same extent that it is provided to any state, public school, or school district anywhere in the United States.

**777:15-1-5. Course review requirements**

(a) Online Course Providers must supply the following to have courses listed in the OCCC:

- (1) The name of the institution or organization providing the online content;
- (2) Course title and subject code (using appropriate course title and subject code as established by the Oklahoma State Department of Education's approved Subject Codes for the appropriate academic year);
- (3) Brief course description;
- (4) Grade level(s);
- (5) Subject area;
- (6) Unit(s) of credit;
- (7) Course cost;

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- (8) Course designations (e.g., dual-credit, AP, NCAA-eligible, Quality Matters certified);
- (9) Course prerequisites; and
- (10) Instructor credential and qualifications.

(b) At the time of the course review, guest access to the course will be required for the reviewers. If substantive changes are made to a course since its last certification, it must be submitted for review regardless of its current status in the review cycle. Substantive changes would include altering the intended course outcomes, significantly changing instructional strategies or assessment protocols used in the course as a whole, or any revision that impacts standards alignment. Only courses certified (or pending review) by the Statewide Virtual Charter School Board will be accepted into the Oklahoma Online Course Catalog.

(c) Course Providers whose courses have undergone review and approval by a recognized third-party entity must provide the results of those reviews. Depending on the results of the external review, a course may be recommended for state certification with no additional review or with a modified review process (e.g., review only for alignment to state standards).

(d) Course Providers of Advanced Placement (AP) courses must provide the results of their College Board AP Course Audit and Authorization. No other course evaluation will be conducted for AP Courses. If a course is authorized by the College Board as an AP course, it is automatically listed as “state-certified” in the Oklahoma Online Course Catalog. Online Providers must provide evidence annually of AP Authorization Renewal.

**777:15-1-6. Course review and certification process**

(a) All approved vendors will have the online courses they submitted published in the Oklahoma Online Course Catalog and reviewed according to the schedule adopted by the SVCSB.

(b) Course reviews will be conducted by content experts and pedagogical experts selected by the SVCSB. Courses will be evaluated using rubrics to determine alignment with the current academic standards approved by the State of Oklahoma (or nationally/internationally accepted content standards set for courses whose content is not included in state standards) and national standards for quality in online course design. Course Providers whose courses have undergone review and approval by a recognized third-party entity must provide the results of those reviews. Depending on the results of the external review, a course may be recommended for state certification with no additional review or with a modified review process (e.g., review only for alignment to state standards). Online Course Providers of Advanced Placement (AP) courses must provide the results of the AP Course Audit and Authorization. No other course evaluation will be conducted for AP Courses. Online Providers must provide evidence annually of AP Authorization Renewal.

(c) If results of the initial review suggest that a course will not be recommended for certification, the Course Provider will be contacted with the review results and will have fifteen (15) calendar days to revise material or provide additional information pertinent to the review. These revisions will be examined by the course reviewers and, if appropriate, the rubric scores

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will be modified. Once the course review is complete, results of the evaluation will be presented to the Statewide Virtual Charter School Board (SVCSB). The SVCSB will consider the evidence and vote whether to certify or not certify the course. The decision will be made on a simple majority vote. If the SVCSB votes to not certify a course, the course will be removed from the Oklahoma Online Course Catalog and the Course Provider will be notified of the reasons the course was not certified. The Course Provider may revise the course and resubmit for additional Course Review and certification consideration. Resubmitted courses will be reviewed after all submitted courses have undergone an initial review. Courses approved will be certified for a five-year period. After which, Course Providers must apply for renewal. Certified courses will be identified as such and have their course review ratings published in the Oklahoma Online Course Catalog. Courses pending review will be identified as such in the Oklahoma Online Course Catalog.

### **777:15-1-7. Certified courses remaining in good standing**

(a) To remain in good standing and have a course(s) continuously listed in the Oklahoma Online Course Catalog through the entirety of the approval period, Course Providers agree to:

- (1) Maintain their vendor status.
- (2) Notify the SVCSB of any additions, deletions or changes to certified courses.

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(3) Serve all enrolled students, regardless of number enrolled in a section so that Receiver Districts have reliable course options for students.

(4) Provide online instructors who are 1) certified in Oklahoma or another state to teach in the content area of the course offered; or 2) a faculty member at an accredited institution of higher education, possessing the specific content expertise necessary to teach the course. Additionally, the Course Provider shall supply certification or applicable credentialing documentation to the SVCSB as part of the course review process and within ten (10) working days upon the hire of any new instructors for any certified course. The Course Provider shall be responsible for such obligation regardless of whether instructors are employees of the Course Provider, independent contractors, or employees of a third-party course vendor. Course Providers shall take all steps necessary to verify the qualifications of non-employee instructors.

(5) Notify SVCSB in writing within ten (10) working days if for any reason an online instructor no longer meets the requirements to teach a course offered. The name and credentials of the replacement instructor must also be provided at that time.

(6) Refer only to courses currently certified and listed in the Oklahoma Online Course Catalog as “Statewide Virtual Charter School Board approved.”

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- (7) Own, secure, and/or maintain licensure and copyright for all courses offered in the Oklahoma Online Course Catalog.
- (8) Course Providers of Advanced Placement (AP) courses must provide evidence annually of AP Authorization Renewal.
- (9) Refrain from significantly modifying or changing courses without prior notice and approval from the SVCSB. Course Providers shall provide written notice of any planned modification in sufficient detail for SVCSB Course Reviewers to determine whether the course continues to satisfy all requirements. Failure to obtain written approval may result in removal of the course from the approved catalog.
- (10) Ensure that each certified course is maintained throughout the duration that the course is offered and continues to meet the current academic standards approved by the State of Oklahoma; national standards for quality in online course design; and Oklahoma's Information Technology Accessibility Standards.
- (11) Employ the appropriate course title and subject code as established by the Oklahoma State Department of Education's approved Subject Codes for the appropriate academic year for the purpose of data collection.
- (12) Report aggregate student success data to the SVCSB in the requested format and by the timeline set. The SVCSB does not collect individual student information. By August 1 of each year, the Course Provider will report the following aggregate student success data to the SVCSB:

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- (A) Total number of unique Oklahoma students;
- (B) Total number of courses taken by Oklahoma students;
- (C) Number of students in each course (both overall number and Oklahoma students); and
- (D) Successful completion rate (number and percent) of each course (i.e.,  $X\#/60\%$  of students enrolled in X successfully completed the course). Include both overall rates and Oklahoma-specific rates.

(b) Course providers will be notified if a course(s) is found to be noncompliant and will have fifteen (15) business days after notification to bring the course(s) into compliance. If the course(s) is still noncompliant at the end of this period, the course certification will be revoked and the course will be removed from the Oklahoma Online Course Catalog.

### **777:15-1-8. Process for course certification renewal**

Courses that remain in good standing are certified for a period of five years. Course Providers may apply for renewal of their course certification six months prior to the completion of the course approval period. Course Providers will notify the SVCSB of their intent to apply for renewal by submitting all documents listed in the Course Review Requirements. Course Providers who have maintained their “good standing” status throughout the course approval period will have their courses reviewed and considered for certification following a similar procedure as their initial Course Review and Certification Process. Aggregate student success data will be considered in renewal decisions.

Additionally, the SVCSB may survey districts to collect satisfaction data and those data may also be considered in renewal decisions. Course Providers who have not maintained a “good standing” status must provide documentation explaining the lapse in “good standing” status and the protocols that are in place to prevent such a lapse in the future.

### **777:15-1-9. SVCSB responsibilities**

The SVCSB shall:

- (1) Ensure that all courses listed in the Oklahoma Online Course Catalog are reviewed according to the stated requirements.
- (2) Notify the Course Providers of changes in current academic standards approved by the State of Oklahoma; national standards for quality in online course design; and Oklahoma’s Information Technology Accessibility Standards, or other standards that prompt the need for course revisions. Such notification is a courtesy and does not negate the responsibility of the Course Providers to maintain currency with regard to these standards.
- (3) Maintain accurate information in the Oklahoma Online Course Catalog.

## **SUBCHAPTER 3. HORIZON ONLINE LEARNING PLATFORM AND COURSES**

### **777:15-3-1. Purpose**

The Statewide Virtual Charter School Board shall manage the Horizon: Digitally Enhanced Campus (Horizon) online learning platform to provide high quality online learning opportunities for Oklahoma



students that are aligned with the subject matter standards adopted by the State Board of Education pursuant to Section 11-103.6 of Title 70 of the Oklahoma Statutes. The Board shall implement online courses, with an emphasis on science, technology, engineering, and math (STEM) courses, foreign language courses and advanced placement courses. The online platform shall be available to all Oklahoma school districts.

**777:15-3-2. Online courses**

(a) Courses made available through the Horizon online learning platform may include, but not be limited to the following:

- (1) Online courses developed by the Statewide Virtual Charter School Board;
- (2) Online courses developed by Oklahoma public school districts;
- (3) Courses provided by online vendors; and
- (4) Concurrent enrollment courses provided through partnerships with Oklahoma institutions of higher education.

(b) Courses made available through Horizon: Digitally Enhanced Campus have the following criteria:

- (1) Courses made available through Horizon: Digitally Enhanced Campus shall be published in the Oklahoma Online Course Catalog (OCC) as defined in 70 O.S. § 3-145.3;
- (2) Courses made available through Horizon: Digitally Enhanced Campus shall be reviewed to ensure quality and alignment to adopted state standards as defined in 70 O.S. § 3-145.3;

- (3) Unless otherwise noted at the time of enrollment, all curricular materials (i.e., textbooks are embedded within the online course; and
- (4) Courses will explicitly state communication protocols to include:
  - (A) How to contact the instructor via phone, email, or online messaging tools;
  - (B) How to contact technical support via email, or online messaging tools;
  - (C) How to contact Horizon administration via phone or email;
  - (D) Expectations for student communication beyond asynchronous participation (e.g., periodic video sessions, attendance at virtual office hours).

**777:15-3-3. Receiver district roles and responsibilities**

**(a) Student Transcripts.** Students who participate in online courses through the Horizon platform remain full-time students in the receiving district. Horizon provides the instruction and communicates student progress and final grades to the receiving district, which is solely responsible for transcribing the course to the student's transcript.

**(b) Enrollment Protocols.** Districts will follow the established Horizon protocols to enroll students in Horizon online courses. Contact information for district allies, parents, and students must be verified through the Horizon online learning platform by the third week of the school year to prevent students from being dropped from their Horizon courses. Information

to be provided at the time of enrollment includes, but it is not limited to:

- (1) Student legal name;
- (2) Student e-mail;
- (3) Student grade level;
- (4) IEP/504 status;
- (5) Parent contact information; and
- (6) Receiving district ally(ies).

**(c) Advanced Placement (AP) Courses.** Horizon provides teachers-of-record for Advanced Placement courses but does not administer the AP exams. Districts are responsible for AP exam registration and test site provision. Additionally, districts are required to link their school to the designated Horizon AP course within the College Board portal. This must be completed by the third week of the school year for students to remain enrolled in the Horizon AP course.

**(d) Payment.** Districts may drop students within the first 15 days of instruction without incurring any fees. Horizon will invoice districts after the 15-day grace period. Payment shall be made within 45 days of invoice.

**(e) Academic Calendar.** Courses with Horizon teachers-of-record will follow the Horizon: Digitally Enhanced Campus academic calendar.

**(f) Policies and Procedures.** Districts agree to abide by guidelines set forth in the Horizon: Digitally Enhanced Campus Guidelines for Districts document and direct students to adhere to the policies in the

Horizon: Digitally Enhanced Campus Student Handbook, including the student Code of Conduct.

**777:15-3-4. Online instructor responsibilities**

**(a) Qualifications.** Teachers-of-record for instructor-embedded courses shall be:

- (1) certified in Oklahoma or another state to teach in the content area of the course offered; or
- (2) a faculty member at an accredited institution of higher education, possessing the specific content expertise necessary to teach the course.

**(b) Professional Development in Online Instruction.** Horizon faculty will undergo annual training to develop and maintain instructional effectiveness in an online environment. Horizon: Digitally Enhanced Campus will provide this training to Horizon faculty and those who serve as teachers-of-record within the Receiving District.

**(c) Communication.** Horizon faculty will communicate directly with parents and school allies through the communication tools embedded within the Horizon online learning platform. At a minimum, faculty will reach out to these constituents monthly. Should concerns arise, these will be conveyed immediately and consistently. On dates school is in session, Horizon faculty will respond within 24 hours to all messages received.

**(d) Virtual Office Hours and Synchronous Video Sessions.** Horizon faculty will maintain at least one virtual office hour each week. A minimum of one synchronous video learning session each quarter with learner participation is also expected.

**(e) Progress Monitoring.** Horizon faculty will monitor activity in the online course platform daily and provide detailed and meaningful feedback to students on a timely basis. Progress reports will be prepared and submitted each nine weeks and upon request by Horizon or by the receiving district. Faculty will submit formal grades at end-of-semester and end-of-year for each student for transcription purposes.

**(f) Confidentiality.** Horizon faculty shall maintain strict security of all student data and records, in accordance with applicable federal and State laws, rules, regulations and policies.

**(g) Policies and Procedures.** Horizon faculty agree to adhere to the policies stated in the Horizon: Digitally Enhanced Campus Faculty Handbook.

## **SUBCHAPTER 5. HORIZON CONSORTIUM**

### **777:15-5-1. Purpose**

The Horizon Consortium is a network of school districts who provide access to online content and professional development through license agreements sponsored by Horizon. Title 70, Section 1210.704 of the Oklahoma Statutes mandates the provision of a statewide online learning platform to provide high quality online learning opportunities for Oklahoma students that are aligned with the subject matter standards adopted by the State Board of Education. Additionally, Title 70, Section 3-145.3 of the Oklahoma Statutes mandates state negotiation with online vendors to provide a state rate price to school districts for supplemental online courses. Further, Oklahoma Administrative Code 777:15-1-4 requires that the price offered does not exceed the lowest price at which

the course is offered by use or sale to any state, public school, or school district in the United States.

**777:15-5-2. Horizon responsibilities**

(a) **Contract Negotiation.** Horizon will negotiate contracts with online vendors and purchase for consortium member districts all licenses. Horizon will invoice member districts the negotiated consortium state rate according to the License Commitment Form submitted by the member district.

(b) **Consortium Discounts.** Horizon may deduct an additional percentage for each license purchased by consortium member districts.

(c) **Professional Development.** Horizon will collaborate with member districts to coordinate professional development opportunities provided by Horizon and the online vendors. The accompanying professional development fees will be paid by Horizon.

(d) **Data Access.** Horizon maintains the right to access district and student usage and success reporting data including the following: course access, student usage, course completion rates, student course disabled data, and progress by time. This data will only be used for comparative analysis and to validate modifications made throughout the school year. Individual student names will not be used in any reporting.

**777:15-5-3. District responsibilities**

(a) **Access to Curriculum.** Student access to curriculum content will be provided to all consortium member schools through a licensing agreement with contracted vendors or through Horizon-owned courses. Member districts will determine the individual

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students, their ages, and curriculum needs in providing access to virtual online content.

**(b) Compliance.** Compliance with all state/federal mandates will be the responsibility of member districts.

**(c) Technology Provisions.** Member districts must provide, at their expense, any required servers, equipment, and computers to be used by students when accessing content on-site.

**(d) Software Access and Training.** Horizon assumes no responsibility for the use of software access as applied by member districts. Professional Development and training are provided to member districts by Horizon and online vendors. Member districts will ensure participation by appropriate personnel.

**(e) Student Transcripts.** Member districts are responsible for transcription of online course credits for its students. Horizon is not responsible for awarding credits.

**(f) Communication.** Member districts will provide a primary and secondary point-of-contact for all communications with Horizon.

**(g) Payment.** Member districts will place initial orders by June 30. Horizon will invoice member districts by July 15. Payment shall be made within 45 days of the invoice date. Additional licenses can be purchased throughout the contract period upon written request of member districts via submission of an additional License Commitment Form. Payment for additional licenses shall be made within 45 days of invoice date.

**INTERVENOR ST. ISIDORE OF SEVILLE  
CATHOLIC VIRTUAL SCHOOL'S BRIEF  
IN RESPONSE TO PETITIONER'S  
APPLICATION AND PETITION  
(NOVEMBER 21, 2023)**

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IN THE SUPREME COURT  
OF THE STATE OF OKLAHOMA

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GENTNER DRUMMOND, Attorney General for the  
State of Oklahoma, ex rel. STATE OF OKLAHOMA,

*Petitioner,*

v.

OKLAHOMA STATEWIDE VIRTUAL CHARTER  
SCHOOL BOARD; ROBERT FRANKLIN, Chairman  
of the Oklahoma Statewide Virtual Charter School  
Board for the First Congressional District; WILLIAM  
PEARSON, Member of the Oklahoma Statewide  
Charter School Board for the Second Congressional  
District; NELLIE TAYLOE SANDERS, Member of  
the Oklahoma Statewide Charter School Board for  
the Third Congressional District; BRIAN BOBEK,  
Member of the Oklahoma Statewide Charter School  
Board for the Fourth Congressional District; and  
SCOTT STRAWN, Member of the Oklahoma State-  
wide Charter School Board for the Fifth  
Congressional District,

*Respondents,*

ST. ISIDORE OF SEVILLE  
CATHOLIC VIRTUAL SCHOOL,

*Intervenor.*



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Case No. MA-121694

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## INTRODUCTION

In 1999, the Oklahoma legislature enacted the Oklahoma Charter Schools Act (the “Act”), inviting both public and private organizations to operate charter schools to “promote a diversity of educational choices” for Oklahoma families. 70 O.S. § 3-134(I)(3). Oklahoma partners with these organizations to “[i]ncrease learning opportunities for students”; “[e]ncourage the use of different and innovative teaching methods”; and “[p]rovide additional academic choices for parents and schools.” 70 O.S. § 3-131(A). To free up educators to achieve these goals, the Act affords them substantial flexibility to craft curricula and run their schools. 70 O.S. § 3-136(A)(3), (5). The Act has fostered a diverse array of charter school options for families—from schools that focus on science, engineering, and math to those that promote fine arts or language immersion. Yet while the Act invites and encourages this abundance of educational models within charter schools, it purports to exclude *any and every* school that is religious. 70 O.S. § 3-136(A)(2). That exclusion is unlawful under both state and federal law and this Court must not accept Petitioner’s invitation to enforce it.

First, the Oklahoma Constitution does not require any such exclusion, and Oklahoma law forbids it. As this Court has twice held, Article II, Section 5 prohibits the State from distributing *gratuitous* benefits to religious entities. But it does not prohibit the State

from disbursing funds to private religious entities who in turn provide a substantial benefit to the State, such as a new charter-school opportunity for families in Oklahoma. And the Oklahoma Religious Freedom Act (“ORFA”) affirmatively *prohibits* the State from depriving any entity of an otherwise available benefit solely because it is religious. *See* 70 O.S. § 254(B), (D).

Second, the First Amendment to the U.S. Constitution bars the State from enforcing any such discriminatory exclusion, regardless. Just last year, the U.S. Supreme Court held for the third time in the past decade that the First Amendment’s Free Exercise Clause prohibits a state from denying a generally available public benefit to a school solely because it is religious. *Carson v. Makin*, 142 S. Ct. 1987, 2002 (2022). As former Attorney General John O’Connor explained, these cases make clear that “[t]he State cannot outsource operation of entire schools to private entities with ‘critical cultural, organizational, and institutional characteristics’ that the State desires to see reproduced . . . and then retain the ability to discriminate against private entities who wish to exercise their religious faith.” PA447 (citations omitted).<sup>1</sup>

Exercising that fundamental freedom, the Archdiocese of Oklahoma City and the Diocese of Tulsa applied to the Oklahoma Statewide Virtual Charter Board (“the Board”) to operate St. Isidore of Seville Catholic Virtual School (“St. Isidore”), a school “dedicated to academic excellence” that would “educate the entire child: soul, heart, intellect, and body,” for interested families across Oklahoma. PA078. In June, the Board exercised the authority granted to it by the

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<sup>1</sup> “PA” refers to Petitioner’s Appendix.

State to approve the application. And, on October 16, the Board and St. Isidore executed the contract under which St. Isidore will operate. PA001-20. Petitioner now asks this Court to contort Oklahoma law, ignore the First Amendment, and nullify that contract.

The Petition is plainly wrong on the merits. St. Isidore is eligible to operate its virtual charter school under Oklahoma law and the U.S. Constitution. Text and precedent make plain that neither the Oklahoma Constitution nor the federal Establishment Clause bars St. Isidore from operating. And both ORFA and the U.S. Constitution's Free Exercise Clause prohibit Oklahoma law from excluding a private religious entity like St. Isidore from the generally available program created by the Act. Rather than eliminate this innovative educational opportunity for families, this Court should accept original jurisdiction, reject Petitioner's attack on St. Isidore's free exercise of religion, and dismiss the Petition.

## **BACKGROUND**

In January 2023, the Archbishop of the Archdiocese of Oklahoma City and the Bishop of the Diocese of Tulsa incorporated St. Isidore as an Oklahoma nonprofit corporation. PA310. Shortly thereafter, St. Isidore submitted an application to the Board for it to sponsor St. Isidore as a charter school, and then a revised application on May 25, 2023. The application explained that St. Isidore would “empower[] and prepare[] students for a world of opportunity and a lifetime of learning” through “an interactive learning environment that is rooted in virtue, rigor and innovation,” in accordance with the school's Catholic faith. PA078, 092-93. It made clear that St. Isidore would

offer this opportunity to “any and all students” who choose to attend, including “those of different faiths or no faith.” PA113. On October 16, 2023, the parties executed a charter contract. The contract will commence on July 1, 2024. PA004.

Days later, the Attorney General filed this Petition against the Board. He seeks a judgment declaring the existence of a school like St. Isidore illegal under 70 O.S. § 3-136(A)(2) and a writ of mandamus ordering the Board to rescind the contract. According to the Attorney General, the Act and the Oklahoma Constitution bar St. Isidore from receiving state funds merely because it is religious. Moreover, he contends that St. Isidore is a state entity, or at least a private entity whose acts are attributable to the State, and therefore the Board’s approval is barred by the federal Establishment Clause. Although St. Isidore was not initially named in this Court, this Court granted St. Isidore’s motion to intervene on November 14, 2023.

## **ARGUMENTS AND AUTHORITIES**

### **I. ST. ISIDORE’S CONTRACT IS VALID UNDER OKLAHOMA LAW**

The Petition fails on the merits. Nothing in the Oklahoma Constitution prohibits the State from contracting with a religious school to provide new educational opportunities. And any state law purporting to do so would violate ORFA and the First Amendment.

#### **A. Oklahoma’s Constitution Permits Funding For Religious Charter Schools**

Petitioner asserts that funding St. Isidore would violate the Oklahoma Constitution. But this Court’s

precedents show that the State may fund a privately operated religious school so long as the school provides a substantial service to the State—as St. Isidore will do here.

**1. Article II, Section 5 does not prohibit funding St. Isidore**

Petitioner relies on Article II, Section 5, which states that Oklahoma will not appropriate, apply, donate, or use “public money” for the “use, benefit, or support of any sect, church, denomination, or system of religion” or “any priest, preacher, minister, or other religious teacher or dignitary, or sectarian institution . . . .” Petitioner alleges that this bars the State from sponsoring or funding St. Isidore, “indirect[ly] or otherwise.” Petr’s Br. at 2-10.

That is incorrect. As former Attorney General John O’Connor has explained, Petitioner misunderstands Article II, Section 5. *See* PA434-48. This Court has long held that the provision only bars the State from providing gratuitous aid “for which no corresponding value was received.” *Murrow Indian Orphans Home v. Childers*, 1946 OK 187, ¶ 5, 171 P.2d 600, 602. And this Court has twice held that Article II, Section 5 allows the State to disburse funds to a religious entity that provides substantial service in return. In *Murrow*, the Court held that the State was permitted to disburse funds to a Baptist orphanage “so long as [the terms of the contract] involve the element of substantial return,” such as serving “needy children.” 1946 OK 187, ¶ 9, 171 P.2d at 603. More recently, in *Oliver v. Hofmeister*, this Court reaffirmed *Murrow* while deciding that Article II, Section 5 allowed the State to provide tuition

scholarships to private religious schools teaching students with disabilities. 2015 OK 15, ¶¶ 19-27, 368 P.3d 1270, 1271-72. Though it looked to several factors, this Court found it “determinative” that the funds were exchanged for a “substantial return”—the “special educational services” that the schools provided. *Id.*

The Board’s approval of St. Isidore falls squarely within these precedents. The State has a strong interest in—and receives substantial benefit from—the development of diverse educational options. The State may contract with a religious entity to further that goal, just as the State contracted with the religious orphanage in *Murrow*. St. Isidore, like other charter schools, will provide a new learning opportunity for families across Oklahoma, and the State will “receive[] [that] substantial benefit” in exchange for its funds. *Oliver*, 2015 OK 15, ¶ 24, 368 P.3d at 1276. Meanwhile, other schools—of any religion, or none—will be free to participate in the charter program as well. Families can choose freely among the array of schools, based on the unique needs of their children. This religiously neutral program—which creates opportunities driven by the private choice of parents and families—passes muster under Article II, Section 5. There is nothing unusual about Oklahoma cooperating with religious entities to provide services like these—and both *Murrow* and *Oliver* confirm that, for over 80 years, this Court has held that such endeavors are permitted under the Oklahoma Constitution.<sup>2</sup>

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<sup>2</sup> Petitioner himself recognizes this, acknowledging that there “are already numerous public funds St. Isidore is eligible to receive—directly or indirectly—as a Catholic private school.” Petr’s Br. at 15. He does not even try to reconcile his facile

Ignoring these precedents, Petitioner relies on two inapposite decisions instead. *First*, Petitioner cites *Gurney v. Ferguson*, 1941 OK 397, 122 P.2d 1002, which held that Article II, Section 5 prohibits religious schools from receiving gratuitous transportation funds. *Id.* at ¶¶ 1-18, 1003-05. But he neglects to mention that this Court soon explicitly limited *Gurney's* holding to cases in which “[the] public money was being spent to furnish a service to a parochial school for which no corresponding value was received.” *Murrow*, 1946 OK 187, ¶ 5, 171 P.2d at 602. By contrast, Article II, Section 5 does not prohibit the State from, as here, “contracting with some third party, sectarian or secular, to perform [a] service.” *Id.* The two scenarios are in “complete distinction,” *id.*, as this Court reaffirmed in *Oliver*, 2015 OK 15, ¶¶ 20-24, 368 P.3d at 1276.

*Second*, Petitioner cites, extensively, Justice Taylor’s concurrence in *Prescott v. Capitol Preservation Comm’n*, 2015 OK 54, 373 P.3d 1032, 1036 (Taylor, J. concurring). In *Prescott*, this Court held that Article II, Section 5 prohibited the State from displaying a privately gifted Ten Commandments statue on the grounds of the State Capitol. But both the controlling *per curiam* opinion and Justice Taylor’s concurrence explain that *Prescott* merely reiterates the same point as *Gurney*. See *id.* at ¶¶ 10-12, 1038-39. In *Prescott*, the State gratuitously donated public space upon which to display the statue, while there was “not even a hint . . . that Oklahoma received any benefit for allowing the use of state property for this monument.” *Id.* at ¶ 12, 1039 (Taylor, J., concurring). Thus,

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reading of Article II, Section 5 with these existing programs.

*Murrow* “ha[d] no application” and *Gurney* controlled. *Id.* at ¶¶ 12, 1039. In sharp contrast, St. Isidore *will* provide a significant benefit. *See supra.* *Murrow* and *Oliver* apply—and *Prescott* and *Gurney* do not.<sup>3</sup>

## **2. This Court should avoid a collision with the First Amendment**

If any doubt remained (and it does not), the Court has a duty to interpret Article II, Section 5 to avoid contradicting the First Amendment. Out of respect for the legislature that passed the law, Oklahoma courts “interpret statutes so as to avoid constitutional issues.” *O’Connor v. Okla. St. Conf of NAACP*, 2022 OK CR 21, ¶ 5, 516 P.3d 1164,1166. This Court should accord the same respect to the People of Oklahoma who ratified Oklahoma’s Constitution, as at least one other State Supreme Court has done, *see Moses v. Ruzkowski*, 2019-NMSC-003, ¶ 45, 458 P.3d 406, 420 (N.M. 2019), by applying its precedents to hold that St. Isidore may join in the State’s charter school program. The Petition’s contrary view would place this State’s Constitution on a collision course with the U.S. Constitution.

First, Petitioner suggests that “a state can always restrict its government’s powers beyond the limits imposed on state action by the federal constitution,”

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<sup>3</sup> Petitioner further suggests that Article I, Section 5, which mandates that Oklahoma establish and maintain “a system of public schools . . . open to all children of the state and free from sectarian control,” applies to St. Isidore. But that provision merely places a responsibility on the State to maintain a general system of public education, and the State’s choice to contract with St. Isidore does not undermine that responsibility. 70 O.S. §§ 3-131, 3-134.



*Prescott*, 2015 OK 54, ¶ 22, 373 P.3d at 1041, and thus Article II, Section 5 may bar the State from distributing funds to a religious entity even when the federal Establishment Clause does not. Petr’s Br. at 6-9. He is wrong. St. Isidore has a free exercise right to receive state benefits, which the State can deny only if necessary to fulfill a compelling interest. *See Carson v. Makin*, 142 S. Ct. 1987, 1996-97 (2022); *infra* Section II. The U.S. Supreme Court has three times rejected any suggestion that a state may override that right by imposing limitations beyond the federal Establishment Clause. Indeed, “an interest in separating church and state ‘more fiercely’ than the Federal Constitution . . . *cannot qualify* as a compelling in the face of the infringement of free exercise.” *Carson*, 142 S. Ct. at 1998 (emphasis added, cleaned up) (collecting cases). The Court rejected exactly Petitioner’s argument when raised by the dissent in *Carson*. *See id.* at 2002 (Breyer, J., dissenting) (arguing that a “play in the joints” between Free Exercise and Establishment Clauses gave Maine “some degree of legislative leeway . . . to further antiestablishment interests by withholding aid from religious institutions”). Simply, the State may not deny benefits to a religious entity through a constitutional provision that sweeps more broadly than the Establishment Clause. *Infra* Section II.

Second, the Attorney General’s outmoded view would transform Article II, Section 5 into the pernicious Blaine Amendment that members of this Court have stressed that it is not. In 1875, motivated by “pervasive hostility to the Catholic Church,” Speaker James Blaine unsuccessfully tried to amend the U.S. Constitution to prohibit “any aid” to “sectarian” schools.

*Espinoza v. Mont. Dep't of Rev.*, 140 S. Ct. 2246, 2268 (2020) (Alito, J., concurring) (cleaned up); *Mitchell v. Helms*, 530 U.S. 793, 828 (2000) (plurality op.) (“[I]t was an open secret that ‘sectarian’ was code for ‘Catholic.’”). When Blaine’s effort failed, several states amended their constitutions with facsimiles aimed at the same end—cutting Catholic schools off from state funds *because* they were Catholic. *Espinoza*, 140 S. Ct. at 2268-70 (Alito, J., concurring). While Article II, Section 5 shares the textual hallmarks of the invidious Blaine movement, several members of this Court have opined that it is *not* a true Blaine Amendment. See *Prescott*, 2015 OK 54, ¶¶ 17-20, 373 P.3d at 1040-41 (Taylor, J., concurring); *id.* at ¶¶ 15-27, 1050-53 (Gurich, J., concurring); *id.* at ¶¶ 11-12, 1057 (Combs, V.C.J., dissenting).

Ignoring that history, the Attorney General now asks this Court to wield Article II, Section 5 to discriminate against and suppress disfavored religious groups. He argues that “a reckoning will follow” if this Court does not nullify St. Isidore’s charter contract because, in his view, the State would also have to “permit extreme sects of the Muslim faith to establish a taxpayer funded public charter school teaching Sharia Law.” Petr’s Brief at 1. His animus against religion is so strong that he invites this Court to enforce Article II, Section 5 against *all* religious entities to stop the practice of the one he disfavors. Not only has this Court rejected that discriminatory view of Oklahoma law, but the U.S. Supreme Court has held that this approach is incompatible with the U.S. Constitution. See, e.g., *Espinoza*, 140 S. Ct. at 2259. Rather than wield Article II, Section 5 as an unconstitutional Blaine Amendment, this Court must

adhere to *Murrow* and *Oliver* and hold that St. Isidore may charter with the State.

### **B. ORFA Precludes The State From Excluding Religious Charter Schools**

Petitioner alternatively relies on the Oklahoma Charter Schools Act purporting to limit funding to “nonsectarian” schools. 70 O.S. § 3-136(A)(2). But the exclusion violates ORFA. That law mandates that no Oklahoma governmental entity—including the Board—shall “substantially burden a person’s free exercise of religion,” even through a “rule of general applicability.” 51 O.S. § 253(A); *see also Beach v. Okla. Dept. Pub. Safety*, 2017 OK 40, ¶ 12, 398 P.3d 1, 5. ORFA’s sweep is both broad and powerful. Under it, the government may not “inhibit or curtail” any “religiously motivated practice.” 51 O.S. § 252(7). Like its federal counterpart, the Religious Freedom Restoration Act (RFRA),<sup>4</sup> ORFA prohibits the government from denying an entity generally available benefits simply because it is religious. *See Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 693-94, 695 n.3 (2014). Indeed, as recently amended, ORFA explicitly says that the state may not “exclude any . . . entity from participation in or receipt of governmental funds, benefits, programs, or exemptions based solely on [its] religious character or affiliation.” 51 O.S. § 253(D).

ORFA bars this Court from enforcing the Charter School Act’s prohibition of religious charter schools.

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<sup>4</sup> Cases interpreting RFRA and the Religious Land Use and Institutionalized Persons Act inform the interpretation of ORFA, which “contain[s] almost identical language.” *Beach*, 2017 OK 40, ¶ 14 n.20, 398 P.3d at 6 n.20.

See 51 O.S. § 253(B), (D). And, to the extent these statutes are in conflict, the provisions requiring charter schools to be “nonsectarian” must yield to ORFA, as the overriding rule and most recently enacted law. *City of Sand Springs v. Dep’t of Pub. Welfare*, 1980 OK 36, ¶ 28, 608 P.2d 1139, 1151-52; see also *Bostock v. Clayton Cnty., Ga.*, 140 S. Ct. 1731, 1754 (2020) (federal RFRA is a “super statute” that “displac[es]” other laws).

## **II. ST. ISIDORE’S CONTRACT IS VALID UNDER THE U.S. CONSTITUTION**

Even if the Petition did not fail under state law, it would fail under the U.S. Constitution. “The Free Exercise Clause . . . , applicable to the States under the Fourteenth Amendment, provides that ‘Congress shall make no law . . . prohibiting the free exercise’ of religion.” *Fulton v. City of Phila.*, 141 S. Ct. 1868, 1876 (2021). St. Isidore is a private religious entity with First Amendment rights. If construed as Petitioner demands, both the Oklahoma Constitution and the Charter Schools Act would violate those rights.

### **A. The Free Exercise Clause Bars Oklahoma From Excluding St. Isidore.**

“The Free Exercise Clause of the First Amendment protects against ‘indirect coercion or penalties on the free exercise of religion, not just outright prohibitions.’” *Carson*, 142 S. Ct. at 1996 (quotation omitted). As a result, the Supreme Court has “repeatedly held that a State violates the Free Exercise Clause when it excludes religious observers from otherwise available public benefits.” *Id.* (citing cases). Such religious disfavor “can be justified only by a state interest

of the highest order.” *Trinity Lutheran Church of Columbia, Inc. v. Corner*, 582 U.S. 449, 458 (2017) (quotation marks omitted). A State can rarely satisfy that “stringent standard”—and it can *never* do so on based on any interest in separating church and State more than the federal Constitution requires. *Espinoza*, 140 S. Ct. at 2260 (citation omitted).

Three recent decisions illustrate the point. *First*, in *Trinity Lutheran*, the Supreme Court held that Missouri could not require a church-owned preschool “to renounce its religious character in order to participate in an otherwise generally available public benefit program” for playground resurfacing. 582 U.S. at 466. That bare hostility toward religion, the Court explained, “is odious to our Constitution.” *Id.* at 467. And the Court rejected Missouri’s suggestion that a state’s preference for “skating as far as possible from religious establishment concerns” could justify such discrimination against religious schools. *Id.* at 466.

*Second*, in *Espinoza*, the Court held that the Free Exercise Clause barred exactly the kind of claim that Petitioner raises here. Like Oklahoma, Montana had established a program to help parents enroll their children in schools of their choice (there, through a system of tax-credit-funded scholarships rather than charter schools). *See* 140 S. Ct. at 2251. And, like here, Montana’s decision to allow religious schools to participate in the program was challenged under a state constitutional provision that prohibited the state from funding “sectarian” schools. *See* Mont. Const. art. X § 6(1). In response, the Montana Supreme Court did essentially what the Petitioner asks of this Court, invalidating the school-choice program under that state constitutional provision. *Espinoza*, 140 S. Ct. at

2251-52. On review, the U.S. Supreme Court made clear that the First Amendment does not tolerate such a result.

Echoing *Trinity Lutheran*, the Court reiterated that whenever a state denies a generally available benefit “because of [an organization’s] religious character,” it “imposes a penalty on the free exercise of religion that triggers the most exacting scrutiny.” *Id.* at 2255. Montana’s use of the “no-aid” provision “to discriminate against [religious] schools” therefore could be justified only by “interests of the highest order.” *Id.* at 2255-57, 2260. Montana failed that test. The Court rejected a plethora of justifications Montana offered to support its denial of funding to religious schools—justifications which mirror those asserted by Petitioner here. Specifically, the Court rejected arguments that Montana had “an interest in separating church and State more fiercely than the Federal Constitution,” that the no-aid provision “actually *promotes* religious freedom” by keeping taxpayer money from religious organizations, and that the provision “advances Montana’s interests in public education.” *Id.* at 2260-61 (emphasis in original). None of those interests could justify the burden the exclusion imposed on “religious schools” and “the families whose children . . . hope[d] to attend them.” *Id.* at 2261.

*Third*, in *Carson v. Makin*, 142 S. Ct. 1987 (2022), the Supreme Court held that states cannot exclude religious schools from programs like these, even if they “promote[] a particular faith” or “present[] academic material through the lens of that faith.” *Id.* at 2001. Maine offered private-school tuition assistance to families without access to public secondary schools, provided that these funds were expended at “non-

sectarian” schools. *Id.* at 1993-94. In defending this requirement, Maine sought to recharacterize the “public benefit” it offered “as the rough equivalent of a Maine public school education, an education that cannot include sectarian instruction.” *Id.* at 1998 (cleaned up). The Court rejected that argument, holding that a State cannot avoid strict scrutiny under the Free Exercise Clause by reconceptualizing its public benefit as an exclusively “secular” one. *Id.* at 1999. The Court also rejected Maine’s attempt to defend its program because it did not exclude institutions based on their “religious ‘status,’” but instead avoided “religious ‘uses’ of public funds”—namely, the use of public money to deliver a religiously grounded education. *Id.* (citation omitted). Excluding religious “uses” of public funds like these is just as “offensive to the Free Exercise Clause.” *Id.*

*Carson, Espinoza, and Trinity Lutheran* make clear that any “nonsectarian” provision of the Charter Schools Act, and any “nonsectarian” provision of the Oklahoma Constitution, cannot be applied to bar St. Isidore from participating in Oklahoma’s charter school program. Oklahoma’s program invites any qualified “private college or university, private person, or private organization” to operate a charter school. 70 O.S. § 3-134(C). Oklahoma cannot deny this benefit to applicants like St. Isidore “solely because they are religious,” *Carson*, 142 S. Ct. at 1997 (quotation omitted); it cannot require St. Isidore to “disavow its religious character” as a condition of receipt, *Trinity Lutheran*, 582 U.S. at 46; and it cannot justify any exclusion on the basis of St. Isidore’s “anticipated religious use of the benefits,” *Carson*, 142 S. Ct. at 2002.

## **B. St. Isidore Is Not a “State Actor” For Purposes Of The U.S. Constitution**

The dictates of these cases are clear: when a state funds students attending schools operated by private organizations, it cannot refuse to extend these funds to religious schools like St. Isidore. *Espinoza*, 140 S. Ct. at 2261. Petitioner attempts to elude St. Isidore’s basic constitutional rights by suggesting that the school *has no rights*, but is instead part of the government itself. He is ambivalent as to exactly *how* St. Isidore is a state actor, suggesting that the school is either a religious government entity that the federal Establishment Clause prohibits, Petr’s Br. at 10, or instead a private entity acting on behalf of the State to fulfill “constitutional obligations” that the State “outsourced” to it, *id.* at 11. Neither is correct.

*First*, St. Isidore is self-evidently not a public entity. Contrary to Petitioner’s claim, Petr’s Brief at 12-13, St. Isidore is not “state created.” It is a private, not-for-profit corporation that “falls under the umbrella of the Oklahoma Catholic Conference comprised of the Archdiocese of Oklahoma City and the Diocese of Tulsa.” PA177 (application); 309-27 (bylaws). It “is operated by a board of directors, none of whom are public officials or are chosen by public officials.” *Rendell-Baker v. Kohn*, 457 U.S. 830, 832 (1982); *see* 70 O.S. §§ 3-136(A)(8), 3-145.3(F). And St. Isidore’s members—the Archbishop of the Archdiocese of Oklahoma City and the Bishop of the Diocese of Tulsa—undoubtedly are private actors. The Oklahoma Charter Schools Act gives “private person[s]” like them the right to “contract with a sponsor to establish a charter school.” 70 O.S. § 3-134(C). Indeed, the contract between St. Isidore and



the State explicitly recognizes that the school “is a privately operated religious non-profit organization entitled to” constitutional rights. Contract ¶ 1.5; see *also id.* ¶ 2.9.

Petitioner’s only response is to observe that Oklahoma law refers to charter schools as “public schools.” Petr’s Br. at 11-12 (citing 70 O.S. § 3-132(D)). But federal rights do not turn on “state law labels.” *Bd. of Cnty. Comm’rs, Wabanusee Cnty., Kan. v. Umbehr*, 518 U.S. 668, 679 (1996). The Supreme Court has squarely rejected the notion that labeling an entity “public” makes it a state actor. See, e.g., *Jackson v. Metro. Edison Co.*, 419 U.S. 345, 350 n.7, 352-54 (1974) (public utility). And the “substance of free exercise protections” does not turn “on the presence or absence of magic words.” *Carson*, 142 S. Ct. at 2000.5

*Second*, the operation of St. Isidore or any other charter school is not “state action” that is attributable to the government. The Constitution generally “applies to acts of the [government], not to acts of private persons.” *Rendell-Baker*, 457 U.S. at 831-36 (1982). Conduct by a private entity will be treated as that of the State “only if[] there is such a close nexus”

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<sup>5</sup> Cases in which courts have found allegedly private entities to be public are inapposite, and relate to laws that directly created or empowered the *specific entity*. E.g., *Lebron v. Nat’l R.R Passenger Corp.*, 513 U.S. 374, 383-85 (1995) (law creating Amtrak); *NCAA v. Tarkanian*, 488 U.S. 179, 192 (1988) (state university); *United States v. Ackerman*, 831 F.3d 1292 (10th Cir. 2016) (empowering National Center for Missing & Exploited Children to exercise police powers). The Act did not specifically create or empower St. Isidore; it authorized the State to contract with private groups to run new schools. St. Isidore did not become a public entity by accepting that offer. See *Rendell-Baker*, 457 U.S. at 840-41.

between the State and the private party's actions so that "seemingly private behavior may be fairly treated as that of the State itself." *Brentwood Acad. v. Tenn. Secondary Sch. Athletic Ass'n*, 531 U.S. 288, 295 (2001). The question here is how a charter school is run and who designs and delivers the learning environment it offers—private groups or the government itself? The answer is clearly the former.

Petitioner points to nothing that shows that the design or operation of St. Isidore shares such a nexus with the State. Certainly, the fact that the State will "fund[]" and "regulate[]" St. Isidore is not enough. Petr's Brief at 12-13. In *Rendell-Baker*, the U.S. Supreme Court held that a private school that received 99% of its funding from the State and was subject to "detailed regulations concerning" everything from "recordkeeping to student-teacher ratios" to "personnel policies" did not qualify as a state actor. 457 U.S. at 831-36. Indeed, the "[a]cts of such private contractors do not become acts of the government by reason of their significant *or even total* engagement in performing public contracts." *Id.* at 841 (emphasis added); see *Blum v. Yaretsky*, 457 U.S. 991, 1011 (1982). This remains true even if the contractor "is subject to extensive state regulation." *Jackson*, 419 U.S. at 350.

The same is true here. Like the school in *Rendell-Baker*, St. Isidore "was founded as a private institution" and is "operated by a board of directors, none of whom are public officials or chosen by public officials." *Id.* at 832; see PA310-27 (describing St. Isidore's bylaws). As in *Rendell-Baker*, the State authorized its agents to contract with entities like St. Isidore to provide educational opportunities pursuant

to certain regulations. But St. Isidore’s actions are not “compelled” by or “fairly attributable to the state”—and it did not surrender its constitutional rights—merely by agreeing to that contract. *Rendell-Baker*, 457 U.S. at 840-41; *see also Brentwood Acad.*, 531 U.S. at 295; *Caviness v. Horizon Cmty. Learning Ctr., Inc.*, 590 F.3d 806, 815 (9th Cir. 2010) (charter school not a state actor). Indeed, the U.S. Supreme Court has held that a government may not “discriminate against religion when acting in its managerial role” or overseeing a contractor. *Fulton*, 141 S. Ct. at 1878.

More to the point, the entire Charter School Act is constructed *not* to create a close nexus between the design and operation of a charter school and the State. The Act empowers and encourages privately operated schools to implement their own curricula with minimal interference. To be sure, charter schools are subject to various regulations—as are all government contractors. But charter schools are “exempt from all statutes and rules relating to schools, boards of education, and school districts.” 70 O.S. § 3-136(A)(5). They are free to design a school “which emphasizes a specific learning philosophy or style or certain subject areas” ranging from math to fine arts. *Id.* § 3-136(A)(3). They are not constrained by the State’s “Teacher and Leader Effectiveness standards” and need not hire teachers with state teaching certificates. Okla. Dep’t of Educ., *Oklahoma Charter Schools Program*, <https://sde.ok.gov/faqs/oklahoma-charter-schools-program> (last visited Nov. 20, 2023). They can even contract with outside organizations to handle administration. OAC § 777:10-1-4. And they craft their own codes of student conduct. 70 O.S. § 3-136(A)(12). In short, although the State regulates charter schools to some

degree, the entire system is designed to avoid “entwinement of public institutions and public officials in [the school’s] composition and workings” in the manner required for state action. *Brentwood Acad.*, 531 U.S. at 298.

Nor does it matter that the State partners with charter schools to perform a service that is “aimed at a proper public objective” or “confer[s] a public benefit.” *Id.* at 302-03. States routinely work with private organizations to serve the public; that does not render those organizations “part of the government. The answer is no different simply because Oklahoma has a duty to provide for schools. *See* Petr’s Br. at 11 (State cannot “outsource” governmental prerogatives). To be sure, the State’s delegation of a function that is *solely* the government’s to perform can signal state action. *See, e.g., Flagg Bros., Inc. v. Brooks*, 436 U.S. 149, 158 (1978) (administration of elections). But that question is not whether a private actor supports “a proper public objective”; it is whether the actor has been deputized to do something “exclusively and traditionally public.” *Brentwood*, 531 U.S. at 302-03. “[V]ery few [functions] have been exclusively reserved” to the government. *Flagg Bros.*, 436 U.S. at 158 (quotation omitted). Certainly, “education is not and never has been.” *Logiodice v. Trs. of Me. Cent. Inst.*, 296 F.3d 22, 26 (1st Cir. 2002) (citing *Pierce v. Soc y of Sisters*, 268 U.S. 510 (1925)); *see Rendell-Baker*, 457 U.S. at 842; *Robert S. v. Stetson Sch., Inc.*, 256 F.3d 159, 166 (3d Cir. 2001) (Alito, J.). “[F]rom the outset of this country’s history,” private entities have “regularly and widely” taught students. *Logiodice*, 296 F.3d at 26-27; *see Sch. Dist. of Abington Twp., Pa. v. Schempp*, 374 U.S. 203, 239 n.7 (1963) (Brennan, J., concurring)

(into 19th century “education was almost without exception” private).

This Court should ignore Petitioner’s attempt to evade this realty by “gerrymander[ing] a category of free, public education that it calls a traditional state function.” *Peltier v. Charter Day Sch., Inc.*, 37 F.4th 104, 154 (4th Cir. 2022) (Wilkinson, J., dissenting) (decrying circular characterization . . . assuming” the result). “There is no indication that the Supreme Court had this kind of tailoring by adjectives in mind when it spoke of functions ‘exclusively’ provided by the government.” *Logiodice*, 296 F.3d at 27. Rather, courts must assess what function the private entity actually performed, then decide whether it is traditionally exclusive to the State. *See Rendell-Baker*, 457 U.S. at 842 (educating children); *see also, e.g., Johnson v. Pinkerton Acad.*, 861 F.2d 335, 338 (1st Cir. 1988) (same); *Robert S. v. Stetson Sch., Inc.*, 256 F.3d 159, 165-66 (same). St. Isidore will provide an education to elementary, middle, and high school students. That is not, and never has been, a traditionally exclusive state function.<sup>6</sup>

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<sup>6</sup> Petitioner’s argument proves far too much. Governments bear obligations to provide a tremendous variety of services, from education to healthcare, shelter, foster care, and much more. This does not transform every private organization who helps accomplish these goals into an arm of the state itself. Indeed, in both *Murrow* and *Oliver* this Court upheld the distribution of funds to religious groups who were helping the State fulfill duties like these. *See Oliver*, 2015 OK 15, ¶ 23, 368 P.3d at 1276 (“In *Murrow*, the State was fulfilling its duty to provide care for the needy . . . [and here it is] being relieved of the duty to provide special educational services . . .”).

St. Isidore is a private religious entity. Neither its religious character nor its curriculum is attributable to the State. ORFA and the Free Exercise Clause protect it from any state law that would bar it from receiving a generally available benefit solely because it is religious. To enforce those protections, this Court should deny the Petition.

### CONCLUSION

For the foregoing reasons, this Court should grant original jurisdiction, reject the Petitioner's arguments, and deny the Petition.

Respectfully submitted,

/s/ Michael H. H. McGinley

*pro hac vice*

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Res.App.360a

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Res.App.361a



**DRAFT MINUTES - STATEWIDE CHARTER  
SCHOOL BOARD SPECIAL MEETING  
(AUGUST 12, 2024)**

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**STATEWIDE CHARTER SCHOOL BOARD  
OKLAHOMA HISTORY CENTER**

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The Statewide Charter School Board met in special session at 1:00 p.m. on Monday, August 12, 2024, in the Oklahoma History Center at 800 Nazih Zuhdi Dr., Oklahoma City, Oklahoma.

Members of the Statewide Charter School Board Present:

Brian Shellem  
Angie Thomas  
Kathleen White  
Becky Gooch  
Damon Gardenhire  
Jared Buswell  
Dr. Kitty Campbell, designee for State Auditor and Inspector, Cindy Byrd  
John Tautfest, designee for State Superintendent of Public Instruction, Ryan Walters

Others in Attendance:

Rebecca Wilkinson, Executive Director  
Amy Gibson, Secretary to the Board  
Jaycie Smith, Academic Compliance Officer  
Skyler Lusnia, Financial Compliance Officer  
Lecrecia Schmidt, Operations Officer  
Shelly Hickman, Communications Officer

Other general public:

Jason Meek, OKCPS  
Charles Lindsey Outlaw, LegisOK  
Heather Zacarias, WGES  
Hailey Weger, KWTW  
Nuria Martinez-Keel, Oklahoma Voice  
Jennifer Palmer, Oklahoma Watch  
Jake Ramsey, Oklahoma Watch  
Vicky Montes, WGES  
Rachna May, WGES  
Tara Hall, WGES  
Amelia Hall, WGES  
Amaya Ward, KFOR  
Reverend Stephen Hamilton, St. Monica Church  
Ashley Terry, WGES  
April Haulman, UCO  
Dr. Regina Lopez, UCO  
Sam Montes, WGES  
Valeria Montes, WGES  
Vivian Montes, WGES  
Blair Humphreys, WGES  
Lauren Barshols Hanna, WGES  
David Hoke, Oklahoman  
Juliana Giles, WGES  
Jeanene Barnett, CCOSA  
Alecia Waltey, WGES  
Rebecca James, OKCA  
Melissa Gregory, OKCA  
Bennett Brinkman, Non-Doc  
Andy Webe, KOCO

**1. CALL TO ORDER AND ROLL CALL**

Brian Shellem —	Present
Angie Thomas —	Present
Kathleen White —	Present
Becky Gooch —	Present

Damon Gardenhire —	Present
Jared Buswell —	Present
Ben Lepak —	Absent
Dr. Kitty Campbell —	Present
John Tautfest —	Present

**2. INVOCATION, PLEDGE OF ALLEGIANCE, SALUTE TO THE OKLAHOMA STATE FLAG, AND MOMENT OF SILENCE**

**3. (Action) Discussion and possible action regarding the Oklahoma Supreme Court’s June 25, 2024, ruling in regard to rescission of the St. Isidore of Seville Catholic Virtual Charter School Charter Contract**

Damon Gardenhire made a motion as directed by the Oklahoma Supreme Court in it’s Writ of Mandamus and Declaratory Relief issued on June, 25, 2024, the Statewide Charter School Board hereby rescinds the Charter Contract entered on October 16, 2023, with St. Isidore of Seville Catholic Virtual School with such rescission being effective June 25, 2024, provided that such St. Isidore charter contract will be automatically reinstated and immediate and full effect as of any date on which the Oklahoma Supreme Court or the United States Supreme Court reserves, vacates, or otherwise nullifies the Oklahoma Supreme Court’s June 25, 2024, writ directing rescission. Kitty Campbell seconded the motion. The motion passed with the following votes:

Brian Shellem —	Yes
Jared Buswell —	Yes
Damon Gardenhire —	Yes
Angie Thomas —`	Yes

Kitty Campbell —	Yes
John Tautfest —	Yes
Kathy White —	Yes
Becky Gooch —	Yes

**4. (Action) Presentation, discussion, and possible action on the minutes of the July 8, 2024 and July 30, 2024, Statewide Charter School Board Special Board Meeting**

Jared Buswell made a motion to approve the minutes of the July 8, 2024, and July 30, 2024, Statewide Charter School Board Special Board Meetings. Kathy White seconded the motion. The motion carried with the following votes:

Jared Buswell —	Yes
Damon Gardenhire —	Yes
Angie Thomas —	Yes
Kitty Campbell —	Yes
John Tautfest —	Yes
Kathy White —	Yes
Becky Gooch —	Yes
Brian Shellem —	Yes

**5. OPENING COMMENTS — Chairman Brian Shellem**

Chairman played the JFK's Moonshot Speech clip to be inspirational as the new Board is established. Mr. Shellem commented, "We can inspire, we can make the changes, and we will raise the standard. We will press on even when it is difficult".

**6. ADMINISTRATION**

a. Presentation and possible discussion regarding the Western Gateway Elementary School Application

for Renewal — Western Gateway Elementary School Governing Board, and Leadership.

Dr. Wilkinson introduced Heather Zacarias, Head of School for Western Gateway Elementary. She gave a presentation about the school and introduced board members, teachers, and students of Western Gateway Elementary School.

b. (Action) Presentation, discussion, and possible action regarding the establishment of Statewide Charter School Board advisory committees:

- Communication
- Budget
- Horizon: Digitally Enhanced Campus
- Governance

Damon Gardenhire will chair Communication. Jared Buswell will chair Budget. Becky Gooch will chair Horizon: Digitally Enhanced Campus, and Ben Lepak will chair Governance.

Mr. Gardenhire made a motion to develop the appropriate term for the groups and label those groups in that fashion. Mr. Buswell seconded the motion. The motion carried with the following votes:

Damon Gardenhire —	Yes
Angie Thomas —	Yes
Kitty Campbell —	Yes
John Tautfest —	Yes
Kathy White —	Yes
Becky Gooch —	Yes
Brian Shellem —	Yes
Jared Buswell —	Yes

Damon Gardenhire made a motion to expand Advisory Teams to include, Horizon: Digitally Enhanced

Campus and Governance. The motion carried with the following votes:

Angie Thomas —	Yes
Kitty Campbell —	Yes
John Tautfest —	Yes
Kathy White —	Yes
Becky Gooch —	Yes
Brian Shellem —	Yes
Jared Buswell —	Yes
Damon Gardenhire —	Yes

c. Presentation and possible discussion regarding an overview of the Horizon: Digitally Enhanced Campus program.

Presentation moved to the September meeting.

d. (Action) Discussion and possible action regarding approval of the charter contract amendment allowing Proud to Partner Leadership Academy (PTPLA) to add grades nine and ten beginning with the 2024 — 2025 school year.

Jared Buswell made a motion to amend the charter contract for PTPLA to add grades nine and ten beginning with the 2024 — 2025 school year. John Tautfest seconded the motion. The motion carries with the following votes:

Angie Thomas —	Yes
Kitty Campbell —	Yes
John Tautfest —	Yes
Kathy White —	Yes
Becky Gooch —	Yes
Brian Shellem —	Yes
Jared Buswell —	Yes
Damon Gardenhire —	Yes

**7. ADJOURNMENT**

Becky Gooch made a motion to adjourn. Damon Gardenhire seconded the motion. The motion carried with the following votes:

Kitty Campbell —	Yes
John Tautfest —	Yes
Kathy White —	Yes
Becky Gooch —	Yes
Brian Shellem —	Yes
Jared Buswell —	Yes
Damon Gardenhire —	Yes
Angie Thomas —	Yes

The meeting was adjourned at 2:32 p.m., on August 12, 2024

/s/ Brian Shellem  
Chairman of the Board

/s/ Amy Gibson  
Secretary of the Board

**PETITIONER’S BRIEF IN SUPPORT  
OF APPLICATION TO ASSUME ORIGINAL  
JURISDICTION AND PETITION FOR  
WRIT OF MANDAMUS AND  
DECLARATORY JUDGMENT  
(OCTOBER 20, 2023)**

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IN THE SUPREME COURT OF THE  
STATE OF OKLAHOMA

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GENTNER DRUMMOND, Attorney General for the  
State of Oklahoma, ex rel. STATE OF OKLAHOMA,

*Petitioner,*

v.

OKLAHOMA STATEWIDE VIRTUAL CHARTER  
SCHOOL BOARD; ROBERT FRANKLIN, Chairman  
of the Oklahoma Statewide Virtual Charter School  
Board for the First Congressional District; WILLIAM  
PEARSON, Member of the Oklahoma Statewide  
Charter School Board for the Second Congressional  
District; NELLIE TAYLOE SANDERS, Member of  
the Oklahoma Statewide Charter School Board for  
the Third Congressional District; BRIAN BOBEK,  
Member of the Oklahoma Statewide Charter School  
Board for the Fourth Congressional District; and  
SCOTT STRAWN, Member of the Oklahoma State-  
wide Charter School Board for the Fifth  
Congressional District,

*Respondents,*

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**PETITIONER’S BRIEF IN SUPPORT OF  
APPLICATION TO ASSUME ORIGINAL  
JURISDICTION AND PETITION FOR WRIT  
OF MANDAMUS AND  
DECLARATORY JUDGMENT**

The Oklahoma Attorney General is compelled, as chief law officer of the State, to file this original action to repudiate the Oklahoma Statewide Virtual Charter School Board’s (“the Board”) Members’ intentional violation of their oath of office and disregard for the clear and unambiguous provisions of the Oklahoma Constitution—one of which has been in place since statehood and was soundly reaffirmed by Oklahoma voters in 2016.<sup>1</sup> Specifically, the Attorney General seeks to undo the unlawful sponsorship of St. Isidore of Seville Virtual Charter School (“St. Isidore”). He is duty bound to file this original action to protect religious liberty and prevent the type of state-funded religion that Oklahoma’s constitutional framers and the founders of our country sought to prevent.

Make no mistake, if the Catholic Church were permitted to have a public virtual charter school, a reckoning will follow in which this State will be faced with the unprecedented quandary of processing

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<sup>1</sup> See State Question Number 790, the results of which are publicly available here: <https://www.sos.ok.gov/documents/questions/790.pdf>. Of note, over 57% of Oklahoma voters in 2016 rejected State Question 790 that would have repealed Section 5, Article II of the Oklahoma Constitution, i.e., the constitutional prohibition against directing public money to sectarian institutions. *Id.*

requests to directly fund all petitioning sectarian groups. See *Prescott v. Oklahoma Capitol Pres. Comm'n*, 2015 OK 54, ¶ 3, 373 P.3d 1032, 1045 (Gurich, J., concurring) (in which Justice Gurich acknowledged an onslaught of threatened litigation and applications from groups to erect their own symbols following the installation of the Ten Commandments on Capitol grounds.). For example, this reckoning will require the State to permit extreme sects of the Muslim faith to establish a taxpayer funded public charter school teaching Sharia Law. Consequently, absent the intervention of this Court, the Board members' shortsighted votes in violation of their oath of office and the law will pave the way for a proliferation of the direct public funding of religious schools whose tenets are diametrically opposed by most Oklahomans.

As to the merits, this case is simple: Oklahoma's Constitution disallows sectarian control of its public schools and the support of sectarian practices—indirect or otherwise. It is undeniable that the framers of Oklahoma's Constitution wished to memorialize religious liberty. See OKLA. CONST. art. I, § 2. But it is no coincidence that Section 5 of Articles I and II follow shortly thereafter. Article I, § 5 requires the State “establish[] and maint[ain] . . . a system of public schools, which shall be open to all the children of the state and free from sectarian control . . . .” Just as important, Article II, § 5 demands that [n]o public money . . . shall ever be appropriated . . . or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, or system of religion . . . or sectarian institution . . . .” These constitutional provisions are an inviolable safeguard to ensuring a strong separation of church and state.

The law requiring the Board to establish procedures “for accepting, approving and disapproving statewide virtual charter school applications,” *see* OKLA. STAT. tit. 70, § 3-145.3(A)(2), mandates that those procedures comply with the Oklahoma Charter Schools Act. *Id.* That act, consistent with constitutional directives, prescribes that a “charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations. A sponsor may not authorize a charter school or program that is affiliated with a nonpublic sectarian school or religious institution . . . .” *Id.* at § 3-136(A)(2). These sections of Oklahoma’s Constitution and associated laws decidedly preclude the Board’s challenged action.

In sum, despite the clear and unambiguous language of Oklahoma’s Constitution and statutes, the will of Oklahoma’s voters who soundly rejected amending Oklahoma’s Constitution in 2016 to allow public money to be applied to sectarian organizations, and the legal advice by the chief law officer of this State, the Board members violated their plain legal duty to deny sponsorship of St. Isidore. Accordingly, this Court must remediate the Board’s unlawful action.

## **BACKGROUND**

The Board has the sole authority to authorize and sponsor statewide virtual charter schools in Oklahoma. *See* OKLA. STAT. tit. 70, § 3-145.1(A). The Board is vested with regulatory oversight over the schools it charters, through state laws, administrative regulations, and contracts it executes. *See id.* at 3-145.3. The Board’s oversight of charter schools is broad and com-

prehensive as shown in its nearly 250-page authorization and oversight process manual updated as of July 2023. *See* Pet. App. Vol. II at 454-702. For example, once a charter school is sponsored, the Board “provides ongoing oversight and evaluation of sponsored schools through the following practices: Data and evidence collection []; Site visits; Audits; Attendance at governing board meetings; Performance Framework reports []; and External school performance review(s).” Pet. App. Vol. II at 471.

On June 5, 2023, the Board took the unprecedented action—contrary to the advice of the Oklahoma Attorney General—of approving St. Isidore’s revised application for sponsorship (the “Application”). *See* Pet. App. Vol. II at 452. Following the approved Application, the Board’s sponsorship of St. Isidore was not yet complete until the Board and St. Isidore executed a contract for sponsorship on October 16, 2023. *See* Pet. App. Vol. I at 2-22; *see also* OKLA. ADMIN. CODE 777: 10-3-3(a)(1-8). Thus, on October 16, 2023, St. Isidore became an illegally sponsored public virtual charter school.

St. Isidore, by its own admission, is a sectarian school. It made its intent pointedly clear in its voluminous Application:

To create, establish, and operate the School as a Catholic School. It is from its Catholic identity that the school derives its original characteristics and its structure as a genuine instrument of the Church, a place of real and specific pastoral ministry. The Catholic school participates in the evangelizing mission of the Church and is the privileged environment in which Christian education is

carried out. In this way Catholic schools are at once places of evangelization, of complete formation, of inculturation, of apprenticeship in a lively dialogue between young people of different religions and social backgrounds.

Pet. App. Vol. I at 92 (citation and quotations omitted). In its words, St. Isidore intends to conduct its charter school in the same way the Catholic Church operates its schools and educates its students. The key difference is St. Isidore will have the direct financial backing and authorization of the State as a sponsored public virtual charter school barring this Court's intervention.

The Board's sponsorship of St. Isidore, and the conditions set forth in the contract for sponsorship, solidify the sectarian nature of the school. Section 1.5 of the contract dictates that St. Isidore "is a privately operated religious non-profit organization . . . ." Pet. App. Vol. I at 2. Even more, section 12.2 sets forth St. Isidore's warranty "that it is affiliated with a nonpublic sectarian school or religious institution." *Id.* at 20. If these provisions leave any doubt, section 4.1 authorizes St. Isidore "to implement the program of instruction, curriculum, and other services as specified in the Application [approved as revised on June 5, 2023] . . . ." *Id.* at 4.

A sponsored statewide virtual charter school receives State Aid, among other funding sources. *See e.g.*, OKLA. STAT. tit. 70, §§ 3-145.3(D), 3-142. The contract for sponsorship specifies that it commences on July 1, 2024. Pet. App. Vol. I at 4; § 3.2. Therefore, St. Isidore will begin receiving public money imminently if this Court does not assume original jurisdiction and

compel the Board to follow its plain legal duty and rescind its illegal contract with St. Isidore.<sup>2</sup>

## ARGUMENT AND AUTHORITIES

### I. This Court’s Intervention is Appropriate and Necessary

Original jurisdiction of this Court “shall extend to a general superintending control over all . . . Agencies, Commissions and Boards created by law.” OKLA. CONST. art. VII, § 4. The pressing concerns relevant to this matter—imminent redistribution of public funding to a religious sect based on an unlawful State board action and inter-governmental legal claims—certainly merit this Court’s exercise of its original jurisdiction. *See e.g., Indep. Sch. Dist. # 52 of Okla. Cnty. v. Hofmeister*, 2020 OK 56, ¶ 60, 473 P.3d 475, 500, *as corrected* (July 1, 2020) (finding that a public school funding conflict was one of *public juris* because “[i]t present[ed] for adjudication public law issues relating to the internal conduct of government or the proper functioning of the State as such relates to proper accounting and expenditure of State funds.”) (citations omitted); *Ethics Comm’n of State of Okla. v. Cullison*, 1993 OK 37, ¶ 7, 850 P.2d 1069, 1073-74 (determining it proper and consistent with its precedent to exercise its discretionary superintending jurisdiction and provide declaratory relief to resolve “a

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<sup>2</sup> There is precedent for rescinding unlawful board action relating to charter schools. *See* May 24, 2021, meeting agenda and minutes, respectively, for the State Board of Education. Available at: <https://sde.ok.gov/sites/default/files/Agenda%20May%2024%2C%202021%20Special%20Meeting.pdf>; [haps://sde.ok.gov/sites/default/files/May%2024%2C%202021%20SPECIAL%20Mtg.pdf](https://sde.ok.gov/sites/default/files/May%2024%2C%202021%20SPECIAL%20Mtg.pdf).

claimed intolerable conflict between” a State agency and the legislature). The present conflict is consistent with those in which this Court has determined is a matter of public interest.

This Court has identified a “theme running through most” of the cases that it assumes original jurisdiction, which entails “that the matter must be affected with the public interest and there must be some urgency or pressing need for an early determination of the matter.” *Keating v. Johnson*, 1996 OK 61, ¶ 10, 918 P.2d 51, 56. As is self-evident and established above, issues relating to the accounting and expenditure of public State Aid funds is a matter of public interest—even more so when appropriated public money will directly support a sectarian institution. Moreover, the nature of this claim, involving a dispute between two State agencies, justifies this Court’s exercise of its superintending control. This matter is urgent and pressing because the conflict between the parties persists, and the sponsored public virtual charter school, assuming this Court does not exercise its discretionary jurisdiction, will be the first ever sectarian charter school to be directly funded with public money. Furthermore, without this Court’s intervention, the Board has put at risk the billion plus dollars in federal education funds the State receives on a yearly basis.<sup>3</sup> In sum, it is appropriate for this

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<sup>3</sup> A state that wishes to obtain federal education funds for its public schools must submit a plan to the Secretary of the United States Department of Education, with certain assurances, stating that the state will comply with all applicable laws and regulations. 20 U.S.C. § 6311, 7842. Under the Elementary and Secondary Education Act, a charter school must be “nonsectarian in its programs, admissions policies, employment practices, and all other operations.” 20 U.S.C. § 7221i(2)(E). Additionally, fed-

Court to assume original jurisdiction and necessary to resolve the unprecedented pressure on the separation of church and state.

## **II. Oklahoma’s Constitution, Statutes, and the Board’s Regulations Strictly Prohibit the Sponsorship of a Sectarian Virtual Charter School**

The Board violated Oklahoma law when it approved St. Isidore’s Application on June 5, 2023 and executed a contract for sponsorship with the applicant on October 16, 2023. This Court’s issuance of a writ of mandamus is necessary to compel the Board to rescind its unlawful contract with St. Isidore.<sup>4</sup> The Oklahoma

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eral law authorizes the Secretary of Education to withhold funds or take other enforcement action if a state fails to comply with its approved state plan or any applicable laws and regulations. 20 U.S.C. § 1234c, 6311(a)(7). The State of Oklahoma has elected to participate in covered federal education programs and has an approved plan on file with the United States Department of Education. <https://sde.ok.gov/ok-essa-state-plan>. According to the National Center for Education Statistics—the primary statistical agency within the United States Department of Education—Oklahoma received \$1,130,566,000 in fiscal year 2021. <https://nces.ed.gov/pubs2023/2023301.pdf>.

<sup>4</sup> “Generally, a discretionary writ of mandamus issues to compel the performance of an act by a respondent when a petitioner: has a clear legal right to have the act performed; the act arises from a duty of the respondent arising from an office, trust, or station; the act does not involve the exercise of discretion; the respondent has refused to perform the act; and the writ will provide adequate relief and no other adequate remedy at law exists.” *Kelley v. Kelley*, 2007 OK 100, ¶ 2 n.5, 175 P.3d 400, 403 (citations omitted). The Oklahoma Attorney General, as Petitioner, has a clear legal right to have the act performed because he is “the proper party to maintain litigation to enforce a matter of public interest.” *State ex rel. Howard v. Okla. Comm’n*, 1980 OK 96,



Legislature established the Board and provided it “the sole authority to authorize and sponsor statewide virtual charter schools in the state.” OKLA. STAT. tit. 70, § 3-145.1. Moreover, the Legislature set forth a duty requiring the Board to “[e]stablish a procedure for accepting, approving and disapproving statewide virtual charter school applications . . . .” OKLA. STAT. tit. 70, § 3-145.3. That procedure, set forth in Okla. Admin. Code 777, includes several provisions under which the Board is required to comply with Oklahoma law. *See e.g.*, OKLA. ADMIN. CODE § 10-3-3(b)(1)(F) (requiring that new sponsorship applications include “[a]ny other topics deemed necessary by the [Board] to assess the applicant’s capability to administer and operate the charter school in compliance with all applicable provisions of federal and state laws . . . .”); § 10-3-3(c)(1)(F) (setting forth application format requirements, including that there be “signed and notarized statements from the Head of the School and the governing body members, as applicable, showing their agreement to fully comply as an Oklahoma public charter school with all statute[s], regulations, and requirements of the United States of America, State of Oklahoma . . . .”); § 10-3-3(d)(8) (requiring that contracts for sponsorship “shall contain any other terms necessary to ensure compliance with applicable provisions of state and/or federal law.”); § 10-3-3(g) (setting forth that adoption of a model sponsorship contract “shall not prohibit the Board from further negotiation of contract terms or addition of terms to the contract for sponsorship prior to execution of the contract so long as such terms are in compliance with applicable state, federal, local . . . law . . . .”). The

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¶ 35, 614 P.2d 45, 52.

Board is thus abundantly aware that its formal actions must comply with State law.

State law clearly bans the Board's action of sponsoring a sectarian organization. Sponsorship of St. Isidore—a sectarian school seeking to receive public money—violates the Oklahoma Charter Schools Act. *See* OKLA. STAT. tit. 70, § 3-136(2) (“[a] sponsor may not authorize a charter school or program that is affiliated with a nonpublic sectarian school or religious institution.”). It matters not whether St. Isidore claims it is a private school or how it otherwise chooses to define itself. It is unavoidably a “sectarian school or religious institution,” which unlawfully obtained a charter sponsorship to conduct the business of the State as a public virtual charter school. Thus, the Board has a clear duty to follow the above unambiguous State law, and this Court must compel its action in conformity therewith. *See supra*, n.5. Any argument that the Board acted within its discretion fails because “[t]he discretion must be exercised under the established rules of law . . . .” *State Highway Comm’n v. Green-Boots Const. Co.*, 1947 OK 221, ¶ 21, 187 P.2d 209, 214 (citations omitted). As supported herein, the Board clearly violated its own regulations and Oklahoma law when it voted to sponsor a sectarian institution. It cannot escape this Court’s mandate to compel rescission of the contract for sponsorship by arguing it acted within its discretion.

The wisdom of these statutes and regulations flows from and is anchored in the Oklahoma Constitution. Indeed, Section 5 of Articles I and II of the Oklahoma Constitution, concomitant to the relevant statutes and regulations, forbid the public sponsorship of St. Isidore. Article I, Section 5 unambiguously

requires the provision of “a system of public schools . . . [that] shall be open to all the children of the state and free from sectarian control . . . .” OKLA. CONST. art. I, § 5. Seven sections following, Article II, Section 5 requires that [n]o public money . . . shall ever be appropriated . . . or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, or system of religion, or for the use, benefit, or support of any priest, preacher, minister, or other religious teacher or dignitary, or sectarian institution as such.” OKLA. CONST. art. II, § 5. Years ago, this Court acknowledged that it is “commonly understood that the term ‘sectarian institution’ includes a school or institution of learning which is owned and controlled by a church and which is avowedly maintained and conducted so that the children of parents of that particular faith would be taught in that school the religious tenets of the church.” *Gurney v. Ferguson*, 1941 OK 397, ¶ 7, 122 P.2d 1002, 1003. The Board’s sponsorship of St. Isidore is obviously the type of harm to religious liberty that these sections prohibit. This scenario is not simply one which involves the chartering of a school, but one in which the State of Oklahoma is explicitly granting state authority to a school that proudly touts its intent to teach the “religious tenets of the church.”

These sections do not interfere with religious liberty. On the contrary, the framers of Oklahoma’s Constitution thoughtfully included these safeguards as believers themselves. “The Oklahoma Constitutional Convention members started their proceedings with a prayer and the invocation of God’s guidance and prefaced the Oklahoma Constitution by invoking God’s guidance, all this showing that they were reli-

gious men who believed in God.” *Prescott v. Okla. Capitol Pres. Comm’n*, 2015 OK 54, ¶ 4, 373 P.3d 1032, 1037 (Taylor, J. concurring, with whom Gurich, J. joins)). Justices in *Prescott* noted that the framers “intended [Article II, Section 5] to be one of the safest of our safeguards,” *id* at ¶ 26 and that the “[Oklahoma Constitutional Convention] wrote Article II, Section 5 knowing the history of the union of Church and State in Europe and in New England in Colonial days, and utilized the lessons learned in those situations.” *Id.* at ¶ 4 (quotations and citation omitted). Justices found that the framers’ structure of the relevant safeguards no coincidence, and that, while men of God,

[the framers] were also men who advocated for the toleration of all religious beliefs and complete separation of church and state by going further than the federal constitution. Closely following the preamble is Article I, Section 2 of the Oklahoma Constitution, which is entitled “Religious liberty—Polygamous or plural marriages.” Section 2 secures “[p]erfect toleration of religious sentiment” and provides “no inhabitant of the State shall ever be molested in person or property on account of his or her mode of religious worship . . . .” Okla. Const. Art. I, § 2. Then only three sections later, the Constitutional Convention provided for public schools “free from sectarian control.” Okla. Const. art. I, § 5. Seven sections later, they prohibited the use of state property, directly or indirectly, for the use, benefit, or support of religious group. Okla. Const. art. II, § 5.

While the constitutional framers may have been men of faith, they recognized the necessity of a complete separation of church and state and sought to prevent the ills that would befall a state if they failed to provide for this complete separation in the Oklahoma Constitution.

*Id.* at ¶ 6 (emphasis added). These “ills” Oklahoma’s constitutional framers sought to prevent will certainly befall the State if this Court does not intervene to compel the Board to follow its plain legal duty and rescind the unlawful contract for sponsorship with St. Isidore. *See supra*, n.5.

In an earlier case involving publicly funded busing for a sectarian institution, this Court correctly determined that “there is no doubt that section 5, article 2 [] prohibits the use of public money or property for sectarian or parochial schools.” *Gurney*, 1941 OK 397 at ¶ 8, 122 P.2d at 1003. This principle logically flows from the necessity of churches to remain free from state control. Indeed, this Court acknowledged that:

we must not overlook the fact that if the Legislature may directly or indirectly aid or support sectarian or denominational schools with public funds, then it would be a short step forward at another session to increase such aid, and only another short step to some regulation and at least partial control of such schools by successive legislative enactment.

*Id.* at ¶ 16. Here, St. Isidore specifically petitioned the Board to authorize its sectarian goals. The Board’s Members, in violation of their oath of office, acquiesced

in granting St. Isidore's request and made it a public school with the benefit of public money. This arrangement ensures that the State will have a level of regulatory authority over St. Isidore. Such union of church and state is what the Justices in *Prescott* knew and what this Court must prohibit.

### **III. The Board's Actions Also Violate the Establishment Clause of the First Amendment**

Government spending in direct support of religious education violates the Establishment Clause. See *Everson v. Bd. of Educ. of Ewing Twp.*, 330 U.S. 1 (1947). The Establishment Clause applies to the states by incorporation through the Fourteenth Amendment. *Id.* at 14. St. Isidore, an admittedly sectarian school in its "instruction, curriculum, and other services," Pet. App. Vol. I at 4, § 4.1, unabashedly requested a public virtual school charter from the Board—a legislatively created State board having the sole authority to sponsor Oklahoma's virtual charter schools, OKLA. STAT. tit. 70, § 3-145.1. The Board's authorization is in direct contravention of the Establishment Clause, and as discussed above, Oklahoma's Constitution, statutes, and regulations.

The Board will likely argue that St. Isidore possesses a structural degree of separation from the State—a virtual charter contract held by a private entity—allowing it to ignore the constitutionally required separation of church and state. But the United States Supreme Court has held that a private entity's action is that of the state when the state has authorized that entity to act in the state's place with the state's authority—a concept referred to as "sig-

nificant encouragement.” See *Rendell-Baker v. Kohn*, 457 U.S. 830, 840 (1982) (citation omitted). Such encouragement exists where “the government has outsourced one of its constitutional obligations to a private entity.” *Manhattan Cmty. Access Corp. v. Halleck*, 139 S. Ct. 1921 n.1 (2019). Like in *West v. Atkins*, where the United States Supreme Court held a state’s contractual delegation of its duty to provide prisoners healthcare to a physician rendered that physician a state actor. 487 U.S. 42, 56 (1988).

Similarly, when the function performed by the private organization is one that has been “traditionally the exclusive prerogative” of the state, the private entity performing that function for the state is engaged in state action. *Rendell-Baker v. Kohn*, 457 U.S. 830, 842 (1982) (citation omitted). The *en banc* Fourth Circuit recently utilized this analysis, concluding that a charter school operator was a state actor. See *Peltier v. Charter Day Sch., Inc.*, 37 F.4th 104, 122 (4th Cir. 2022), *cert. denied*, 143 S. Ct. 2657 (2023).

Fortunately, the Oklahoma Legislature made the analysis easy in this case by defining “charter school[s]” as “public school[s].” OKLA. STAT. tit. 70, § 3-132(D). A state’s designation of an entity as a state actor is generally accepted when analyzing the U.S. Constitution. For example, the Fourth Circuit, in addressing whether a public charter school was a state actor, recently held: “It was North Carolina’s sovereign prerogative to determine whether to treat these state-created and state-funded entities as public. Rejecting the state’s designation of such schools as public institutions would infringe on North Carolina’s sovereign prerogative, undermining fundamental principles of federalism.” *Peltier*, 37 F.4th at 121.

Here, Oklahoma chose to define charter schools as public schools. Clearly, the choice to treat charter schools as public schools is valid. *See Wentz v. Thomas*, 1932 OK 636, ¶ 87, 15 P.2d 65, 80 (“[T]he power of the Legislature to enact a law is subject to no restriction, except those imposed by state or Federal Constitution,” thus “a legislative act is valid unless prohibited”). Oklahoma’s Constitution certainly supports the Legislature’s choice. *See* OKLA. CONST. art. I, § 5; art. II, § 5. Consequently, Oklahoma’s sovereign prerogative to designate charter schools as public schools, and thus treat them as state actors, should be accepted.

Moreover, Oklahoma is required under OKLA. CONST. art. I, § 5 to “establish and maintain . . . a system of public schools, which shall be open to all the children of the state and free from sectarian control . . . .” Oklahoma, in part, through the legislative creation of the Oklahoma Charter Schools Act, fulfills that constitutional duty. *See* OKLA. STAT. tit. 70, § 3-130, *et seq.* As already mentioned, the Oklahoma Legislature went a step further and statutorily defined charter schools—state created, funded, and regulated institutions—as public schools. *Id.* at § 3-132(D). Thus, St. Isidore, in fulfilling its object of creating, establishing, and operating its school “as a Catholic School” to participate in the “evangelizing mission of the Church” does so as an exercise of “power possessed by virtue of state law and made possible only because the [school] is clothed with the authority of state law.” *Vest v. Atkins*, 487 U.S. 42, 49 (1988) (citation and internal quotation marks omitted); *see also Coleman v. Utah State Charter Sch. Bd.*, 673 F. App’x 822, 830 (10th Cir. 2016) (unpublished) (stating



“charter schools are public schools using public funds to educate school children” and “charter schools are not free-floating entities unmoored from state governmental oversight and control”).

In addition to the State relying on St. Isidore to fulfill one of the State’s constitutional responsibilities (i.e., establishing a system of free public schools), St. Isidore is *alternatively* considered a state actor because the State provides “significant encouragement [to charter schools] . . . that the choice must in law be deemed that of the state.” *Rendell-Baker*, 457 U.S. at 840. For example, the Supreme Court has treated a private entity as a state actor when it is controlled by an agency of the State and when it is entwined by governmental policies. *Brentwood Acad. v. Tenn. Secondary Sch. Athletic Assoc.*, 531 U.S. 288, 121 S. Ct. 924, 148 L. Ed. 2d 807.<sup>5</sup>

This is established here because the State brought charter schools into existence and exercises extensive oversight of public charter schools. To begin, the accreditation standards document for public charter schools sets forth more requirements for public charter schools than the application for traditional public junior high and middle schools.<sup>6</sup> Charter schools must

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<sup>5</sup> The Tenth Circuit previously determined the Oklahoma Secondary School Activities Association (the “OSSAA”), is a state actor due to its entwinement of public institutions and public officials, namely because its officials are public employees, and certain of its functions are authorized by statute. *Christian Heritage v. Oklahoma Secondary School Activities Ass’n*, 483 F.3d 1025, 1030-31 (10th Cir. 2007); *see also Scott v. Oklahoma Secondary School Activities Ass’n*, 2013 OK 84, 313 P.2d 891.

<sup>6</sup> These are available on the Oklahoma State Department of Education’s official government website. *Compare, e.g.*, 2015-

meet the health, safety, civil rights and insurance requirements that are required of traditional public schools. OKLA. STAT. tit. 70 § 3-136(A)(1). According to the State Department of Education's interpretation, this ranges from the national fingerprint-based criminal history check under OKLA. STAT. tit. 70, § 5-142 to Oklahoma Employees Insurance and Benefits Act under OKLA. STAT. tit. 74, §§ 1301-1323.<sup>7</sup> Charter schools must also report a myriad of student and school performance information to the State. These reports support transparency in the public expenditure of funds and serve as the basis for State-issued school report cards. OKLA. STAT. tit. 70, § 3-136(A)(4), (6), (18); §§ 5-135, 5-135.2; §§ 1210.544-1210.545. Consequently, even if the Board were not relying on St. Isidore to perform one of the State's constitutional responsibilities, St. Isidore would still be a state actor because of the State's extensive oversight of public charter schools.<sup>8</sup>

The Board will likely attempt to distance St. Isidore from what St. Isidore has become through its

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2016 Application for Accreditation: Junior High/Middle School Available at: <https://sde.ok.gov/sites/ok.gov.sde/files/documents/files/Mid-Jr/%20Combined%20%202016-2017.pdf>. *with* 2015-2016 Application for Accreditation: Charter School Available at: <https://sde.ok.gov/sites/ok.gov.sde/files/documents/files/Charter%20Combined%202016-2017.pdf>.

<sup>7</sup> See also Pet. App. Vol. II at 704-15, Oklahoma State Department of Education Accreditation Compliance Review Sheet.

<sup>8</sup> Moreover, the executed contract for sponsorship between the Board and St. Isidore demonstrates additional ways in which the State will be involved in the Catholic School's affairs. See e.g., Pet. App. Vol. I at 7-19; §§ 6.1.6, 6.1.8, 6.4, 7.2, 7.3, 7.9, 7.13, 7.14, 7.16, 7.17, 8.11.5, 9.2, 9.2.1, and 11.7.

contract with the Board—a public school. But this is nothing more than an exercise in word play. This Court should not allow St. Isidore to avail itself of the benefits of being a public school, while it cherry picks rules that apply to it (conveniently not to include the separation of church and state). These types of word play are precisely what Article II, Section 5 prevents: “circumvention based upon mere form and technical distinction.” *Prescott v. Oklahoma Capitol Preservation Commission*, 2015 OK 54, ¶ 5, 373 P.3d 1032.

If this Court were to adopt the Board’s likely position—that a sectarian charter school may maintain its private status, i.e., not become a state actor, even though it is a public school under Oklahoma law—it would leave “[Oklahoma’s] citizens with no means for vindication of [constitutional] rights.” *See West*, 487 U.S. at 56-57 & n.14 (citation omitted). Such an outcome would allow Oklahoma to “outsource its educational obligation[s] to charter school operators, and later ignore blatant, unconstitutional discrimination committed by those schools.” *Peltier*, 37 F.4th 104 at 118. Accordingly, this Court should follow the rule rendering “a private entity a state actor” when the state delegates its responsibility to that entity and prevent the Board from annihilating the Establishment Clause. *Id.* citing *West*, 487 U.S. at 56.

#### **IV. Recent U.S. Supreme Court Cases Do Not Invalidate Oklahoma’s Prohibition Against Sectarian Control of Public Schools, Including Public Charter Schools**

It is also anticipated that the Board will cite to recent U.S. Supreme Court cases such as *Trinity*

*Lutheran Church of Columbia, Inc. v. Comer*, 137 S. Ct. 2012 (2017), *Espinoza v. Montana Dep’t of Revenue*, 140 S. Ct. 2246 (2020), and *Carson v. Makin*, 142 S. Ct. 1987 (2022), for the proposition that the State cannot disqualify religious institutions from operating charter schools. But these cases have no application here. These U.S. Supreme Court cases are about the basic directive that: “A State need not subsidize private education. But once a State decides to do so, it cannot disqualify some private schools solely because they are religious.” *Espinoza*, 140 S. Ct. at 2261 (emphasis added).

Here, St. Isidore is not a “private school.” Under Oklahoma law, it is public school. OKLA. STAT. tit. 70, § 3-132(D). Therefore, these recent U.S. Supreme Court cases have no relevance to this dispute.

Moreover, this case is not about St. Isidore being precluded from receiving a public benefit. There are already numerous public funds St. Isidore is eligible to receive—directly or indirectly—as a Catholic private school. *See e.g.* 70 O.S. §§ 13-101.2 and 28-100-28-103. The problem with the St. Isidore contract is that the State has gone a step further and made St. Isidore a state actor. By way of analogy, if the State decided to allocate public funds for private entities to beef up security, the State would of course be precluded from preventing the Catholic Church and other sectarian organizations from receiving those funds. However, if the State decided to start authorizing private entities to take over operations of the Oklahoma Highway Patrol, it would violate the Establishment Clause for the State to authorize a “Catholic Church Highway Patrol.” Consequently, the issue here is not the public funds going to St. Isidore, it is the fact that the State

has turned the Catholic Church into a state actor. The latter clearly violates the Establishment Clause and must be stopped.

### CONCLUSION

For the foregoing reasons, this Court should grant Petitioner's requested relief to correct the Board's unlawful actions.

Respectfully Submitted,

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