



OFFICE OF THE ATTORNEY GENERAL
STATE OF OKLAHOMA

ATTORNEY GENERAL OPINION
2026-17

The Honorable Ronny Johns
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October 22, 2026

The Honorable Ellen Pogemiller
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Dear Representative Johns and Representative Pogemiller:

This office has received your request for an Attorney General Opinion in which you ask, in effect, the following question:

Under Oklahoma law, may the Statewide Charter School Board (“Board”) reconsider or rescind its rejection of the Ben Gamla Jewish Charter School Foundation’s (“Foundation”) revised application (“Revised Application”), or vote on it again, after most recently rejecting it on October 12, 2026?

I.
SUMMARY

It may not. The Board is a creature of statute and has only powers expressly granted by the Legislature or necessarily or fairly implied by those grants; it cannot expand its authority through its own actions. *Marley v. Cannon*, 1980 OK 147, ¶ 10, 618 P.2d 401, 405. Title 70, section 3-134(E) of the Oklahoma Statutes establishes a closed, two-step application process: the Board accepts or rejects an application, then accepts or rejects one timely revised application. It authorizes no third vote, rehearing, reconsideration, or rescission. This omission is deliberate: in 2023, the Legislature restructured the Oklahoma Charter Schools Act (the “Act”), abolished the former Statewide Virtual Charter School Board, and eliminated the administrative appeals that formerly followed a rejection, leaving a rejected applicant one statutory remedy, binding arbitration at the applicant’s expense. 70 O.S.Supp.2024, §§ 3-132.1, 3-134(G). When a statute prescribes agency action but omits a further step, the omission is presumed intentional, and the

Board cannot add that step. *See Fowler v. Stitt*, 2026 OK 68, ¶ 13, ___ P.3d ___, 2026 WL 2920124.

The Board therefore cannot reconsider or rescind its decision or hold another vote on the Revised Application. As explained below, its authority was exhausted when it rejected that application on March 9, 2026. The October 12, 2026, proceeding does not change that result. The federal court’s preliminary injunction enjoined the Board from enforcing the nonsectarian requirement; the court did not direct the Board to vote again, and it could not enlarge the Board’s statutory authority. Whether the injunction obligated the Board to take any further action is a question for the federal court, and this Opinion does not address it. In any event, the motion to approve received only four of the five affirmative votes required for final action, so the application remains rejected. 70 O.S.Supp.2024, § 3-132.1(H). After rejection, the Act permits binding arbitration—not another vote on this application. *Id.* § 3-134(E)(3), (G).

II. BACKGROUND

The Legislature established the Board, effective July 1, 2024, and gave it “the sole authority to sponsor statewide virtual charter schools in this state” and discretionary authority to “sponsor charter schools in this state.” 70 O.S.Supp.2024, § 3-132.1(A). The same enactment abolished the former Statewide Virtual Charter School Board and transferred its authority to the new Board. *Id.* § 3-132.1(I). The Board has nine voting members, and “an affirmative vote of at least five members shall be required for the Board to take any final action.” *Id.* § 3-132.1(H).

The Act sets out the Board’s powers in specific terms. It directs the Board to “establish a procedure for accepting, approving, and disapproving” applications “which meet the procedures set forth in the Oklahoma Charter Schools Act.” *Id.* § 3-132.2(A)(3). The Board’s enumerated powers and duties include “solicit[ing] and evaluat[ing] charter applications”; “[a]pprov[ing] quality charter applications”; “[d]eclin[ing] to approve weak or inadequate charter applications”; “negotiat[ing] and execut[ing] *sound* charter contracts”; monitoring compliance; and determining “whether each charter contract merits renewal, nonrenewal, or revocation.” *Id.* § 3-134(I)(2)–(5), (7)–(8) (emphasis added).

Section 3-134(E) sets out a uniform, two-step process for reviewing applications. For a virtual charter application submitted to the Board, the Board “shall either accept or reject sponsorship” within ninety days. If it 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” within thirty days; and the Board “shall accept or reject the revised application within thirty (30) days of its receipt.” *Id.* § 3-134(E)(3). That is the only “reconsideration” that the Act permits, and it refers to the Board’s consideration of a revised application. After rejecting a revised application, the statute provides only one further avenue: the applicant “may, upon rejection of a revised application, proceed to binding arbitration,” at the applicant’s cost. *Id.* § 3-134(G).

The application at issue followed that process. The Foundation submitted its initial application (“Initial Application”) on December 30, 2025. On February 9, 2026, the Board voted 8–0 to reject

the Initial Application. Its February 13, 2026, letter set forth ten reasons for the rejection, nine of which did not implicate the Constitution.¹

The Foundation submitted the Revised Application on February 17, 2026. The Board rejected that application on March 9, 2026. By letter dated March 10, 2026, it identified a single ground—the nonsectarian requirement of title 70, section 3-136(A)(2) (Supp.2024)—although other independent, nonconstitutional grounds had been developed on the record at its March 9, 2026, meeting.²

On September 24, 2026, a federal court preliminarily enjoined the Board “from enforcing the nonsectarian requirement or otherwise excluding [the Foundation] from participating in the charter school program on account of their religious character.” *See Nat’l Ben Gamla Jewish Charter Sch. Found., Inc. v. Shellem*, No. CIV-26-582-R (W.D. Okla. Sept. 24, 2026) (Doc. 121).³ On October 12, 2026, the Board took up the Revised Application again in light of that order. Four members voted to approve, and three voted against; one member was absent, and one seat was vacant.⁴ Because “an affirmative vote of at least five members shall be required for the Board to take any final action,” the motion to approve failed, leaving the Revised Application rejected. 70 O.S.Supp.2024, § 3-132.1(H). Because the Board was enjoined from applying the nonsectarian

¹ The constitutional basis identified in the February 13 correspondence was title 70, section 3-136(A)(2) (Supp.2024), which provides: “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.” The Oklahoma Supreme Court issued an opinion in 2024, *Drummond v. Okla. Statewide Virtual Charter Sch. Bd.*, 2024 OK 53, 558 P.3d 1, holding, “Under Oklahoma law, a charter school is a public school. As such, a charter school must be nonsectarian.” *Id.* ¶ 45, 558 P.3d at 15. Finally, the U.S. Supreme Court, in consolidated cases Nos. 24-394 and 24-396, affirmed the judgment of the Supreme Court of Oklahoma by an equally divided Court. *Okla. Statewide Charter Sch. Bd. v. Drummond*, 605 U.S. 165, 166 (2025) (per curiam).

² The nonconstitutional grounds identified at the March 9 meeting included the following: (1) enrollment discrepancies between the Foundation’s letter of intent and the Initial Application, and even enrollment discrepancies within the Initial Application; and (2) lack of support within the community. Additionally, the minutes of the March 9 meeting, which the Board approved at its April 13, 2026, meeting, state that the Board denied the Revised Application “based on the reasons stated on the record by board staff, the mandamus order from the courts, and the secular clause contained within Title 70, state law for schools.” <https://oklahoma.gov/scsb/about-us/board-meetings.html> (emphasis added).

³ The Attorney General was named as a defendant in the federal action and was dismissed from it on June 9, 2026. Order (Doc. 90). Separately, on March 11, 2026, the Attorney General petitioned the District Court of Oklahoma County for a writ of mandamus directing the Board to state all of the grounds for its March 9, 2026, rejection. *Drummond v. Okla. Statewide Charter Sch. Bd.*, No. CV-2026-649 (Okla. Cnty. Dist. Ct. filed Mar. 11, 2026). He dismissed that petition without prejudice on October 15, 2026, after the October 12 vote left the Revised Application rejected. Neither action bears on the question addressed here, which concerns only the Board’s authority under the Act.

⁴ OKLAHOMA STATEWIDE CHARTER SCHOOL BOARD, *OKSCSB Meeting: 10/12/2026* (YouTube, Oct. 12, 2026), <https://www.youtube.com/watch?v=Z3whZ2HIofs> (on file with the Oklahoma Office of the Attorney General).

requirement, the October 12 vote could not lawfully have rested on it.⁵ In light of these events, you ask whether the Board may now reconsider, rescind, or vote again on that Revised Application.

III. DISCUSSION

A. The Board May Exercise Only Those Powers the Legislature Has Granted Expressly or by Necessary Implication.

The governing principle is settled: boards may exercise only powers granted to them by the Legislature. More specifically,

an officer or agency has, by implication and in addition to the powers expressly given by statute, such powers as are necessary for the due and efficient exercise of the powers expressly granted, or such as may be fairly implied from the statute granting the express powers. However, an agency created by statute may only exercise the powers granted by statute and it cannot expand those powers by its own authority.

Marley, 1980 OK 147, ¶ 10, 618 P.2d at 405.

Implied authority is narrow. An unexpressed power “must be necessarily implied from the nature of the duty given.” *Okla. Pub. Emps. Ass’n v. Okla. Dep’t of Cent. Servs.*, 2002 OK 71, ¶ 36, 55 P.3d 1072, 1087. Implied powers extend only to what is required to exercise and discharge expressly conferred powers and duties effectively; necessity, not convenience or past custom, sets the limit. *Id.* ¶ 38, 55 P.3d at 1087–88. When the Legislature enumerates an agency’s duties, the agency cannot add duties the Legislature omitted. An agency is “without statutory authority” to act on a subject beyond the reach of its enabling act, *Farmacy, LLC v. Kirkpatrick*, 2017 OK 37, ¶ 20, 394 P.3d 1256, 1261, and that authority “cannot be fairly implied.” *Marley*, 1980 OK 147, ¶ 13, 618 P.2d at 406.

B. Section 3-134 Establishes a Closed, Two-Step Sequence and Authorizes No Third Board Vote.

Section 3-134 identifies only two occasions on which the Board acts on a charter application: it accepts or rejects the application, then accepts or rejects one revised application. 70 O.S.Supp.2024, § 3-134(E)(3). The statute prescribes in detail how and when each decision must be made and stops there. It contains no provision for a third vote, a rehearing, reconsideration of a completed decision, or rescission of a vote already cast. *Id.* The Legislature is presumed to have deliberately omitted the power to vote again from a statute that otherwise comprehensively prescribes how the Board acts on an application. *See Fowler*, 2026 OK 68, ¶ 13 (“[W]hen a statute

⁵ See Nuria Martinez-Keel, *Oklahoma State Board Again Rejects Jewish Charter School in ‘Shocking’ Vote*, OKLAHOMA VOICE (Oct. 12, 2026), <https://oklahomavoices.com/2026/10/12/oklahoma-state-board-again-rejects-jewish-charter-school-in-shocking-vote/> (quoting Board Member William Pearson, who voted against approval: “We saw none of that [parent support] with the Ben Gamla issue, and that’s what played mostly in my mind”).

prescribes the mode of doing a particular thing, other modes are excluded. . . . We presume that statutory omissions are intentional, and we do not ‘fill the gap.’”).

The Act’s structure confirms that this omission is deliberate. The Legislature knew how to provide further review and chose not to. Indeed, until 2023, the Act permitted a rejected applicant, including an applicant denied twice by the Statewide Virtual Charter School Board, to appeal to the State Board of Education. 70 O.S.Supp.2022, § 3-134(E); 70 O.S.2021, § 3-145.3(K). In 2023, the Legislature eliminated those appeals. *See* Senate Bill 516, 2023 Okla. Sess. Laws ch. 323, §§ 6, 22. The Legislature also knows how to authorize reconsideration when it wishes to. *See, e.g.*, 75 O.S.2021, § 317(A) (rehearing of a final agency order on an aggrieved party’s application within ten days); 70 O.S.Supp.2024, § 3-134(E)(3) (one revised application “for reconsideration”). Here, it provided for one revised application and nothing more.

Another vote also cannot be justified as a necessary implication of the Board’s express powers. A renewed vote is not necessary to exercise and discharge effectively the Board’s duties to approve quality applications and decline inadequate ones. The Board fulfills those duties by acting once on the application and once on the revised application, as the statute directs. 70 O.S.Supp.2024, § 3-134(I)(3)–(4); *see also Okla. Pub. Emps. Ass’n*, 2002 OK 71, ¶ 27, 55 P.3d at 1084. Nor does the Board’s authority to “[e]stablish a procedure for accepting, approving, and disapproving” applications supply that power because the authority is expressly limited to procedures “which meet the procedures set forth in the Oklahoma Charter Schools Act.” 70 O.S.Supp.2024, § 3-132.2(A)(3). A reconsideration procedure that the Act does not authorize would not “meet” the Act’s procedures; it would add to them, which is precisely what an agency “cannot” do “by its own authority.” *Marley*, 1980 OK 147, ¶¶ 10, 13, 618 P.2d at 405–06.

The Legislature has since made the same point in express terms. Effective November 1, 2026, an agency may promulgate rules “only to the extent that the agency has been specifically and explicitly granted rulemaking authority by state law,” and general statements of authority, such as authority to act “as necessary and proper,” do not suffice. H.B. 4319, §§ 1(A)–(B), 4, 60th Leg., 2d Reg. Sess. (Okla. 2026) (to be codified at 75 O.S. § 250.2a(A)–(B)). *See also* 2023 OK AG 3, ¶¶ 5–7 (rule promulgated without a specific grant of authority is invalid; an agency “may not under the guise of its rule making power exceed the scope of its authority and act contrary to the statute which is the source of its authority” (quoting *Adams v. Pro. Pracs. Comm’n*, 1974 OK 88, ¶ 11, 524 P.2d 932, 934)).

The Board’s own rules confirm the point. The Act separately requires every sponsor, including the Board, to “establish a procedure for accepting, approving, and disapproving charter school applications in accordance with subsection E of this section.” 70 O.S.Supp.2024, § 3-134(J). The reference to subsection E is a direct tie to the two-step sequence of accepting or rejecting the Initial Application and accepting or rejecting the Revised Application. *Id.* § 3-134(E)(3), (J). The Board satisfied the Act’s mandate by promulgating administrative rules governing sponsorship applications. OKLA. ADMIN. CODE § 777:10-3-3(a). Those rules provide that the Board “will render a decision on the application”; that, if the application is rejected, the applicant may submit an amended application within thirty days; that the Board will decide the amended application within

thirty days; and that, if the amended application is rejected, “the application may proceed according to statute.” *Id.* § 777:10-3-3(a)(8)(B)–(G).⁶

The events of October 12, 2026, illustrate the issue. The Board rejected the Initial Application on February 9, 2026, and sent written notice of the rejection to the Foundation on February 13, 2026. The Board then rejected the Revised Application on March 9, 2026. Accordingly, the Board completed the statutory process to accept or reject the application seven months before October 12. 70 O.S.Supp.2024, § 3-134(E)(3).

The Board convened again in response to the federal court’s preliminary injunction, which enjoined it from enforcing the nonsectarian requirement “or otherwise excluding [the Foundation] from participating in the charter school program on account of their religious character.” *Nat’l Ben Gamla Jewish Charter Sch. Found.*, No. CIV-26-582-R, Order at 30 (Doc. 121). The injunction did not direct the Board to vote again. A federal injunction may forbid the Board to act on a particular ground; it does not confer a power the Legislature withheld. Whether the injunction required the Board to take any further action is a question for the federal court, and this Opinion does not address it. The Board’s decision to convene again does not establish its authority to do so because “[a]dministrative construction of a statute will not override the plain statutory language,” and “[n]o longstanding agency practice can alter the statute’s plain text or effectively rewrite what the Legislature enacted.” *Fowler*, 2026 OK 68, ¶ 23 (quoting *Shellem v. Gruneweld*, 2023 OK 26, ¶ 20, 535 P.3d 1208, 1214); *see also* 75 O.S.Supp.2025, § 318(E) (in reviewing agency action, a court “shall not defer to the interpretation of a state agency and shall interpret the meaning and effect de novo,” and shall resolve “any remaining doubt in favor of a reasonable interpretation which limits agency power”). Either way, the Board may not vote on this Revised Application a third time.

The Legislature also prescribed the only step that follows the rejection of a revised application: the applicant “may, upon rejection of a revised application, proceed to binding arbitration.” 70 O.S.Supp.2024, § 3-134(G). That choice confirms that the Board’s own role ends with its vote on the revised application. Had the Legislature intended the Board to have the option of revisiting its decision, it would have said so, as it did for the revised application. Instead, it placed the further decision in other hands.

The arbitration remedy in subsection G does not imply a power to reconsider. It might be argued that a body that can be required to arbitrate must have authority to resolve the arbitration by agreement, and that a Board able to approve an application in settlement of an arbitration could as easily approve it by a third vote. The argument fails on its own terms. Subsection G confers a remedy on the applicant, not a power on the Board. Arbitration under subsection G occurs only if the rejected applicant invokes it, and the Foundation has not requested arbitration here. Whatever authority the Board may have to resolve a proceeding the applicant commences is an incident of that proceeding and does not exist before it. This Opinion does not address the conduct or resolution of an arbitration that has not been requested.

⁶ The phrase “may proceed according to statute” refers to the option for the applicant to proceed to binding arbitration under the American Arbitration Association’s commercial rules.

C. The Administrative Procedures Act (“APA”) Supplies No Independent Reconsideration Authority.

The APA does not fill the gap. It is a statute of general application that supplements an agency’s enabling act and yields to the specific procedures the Legislature has prescribed there. *See Okla. State Bd. of Equalization v. Craig*, 1988 OK 7, ¶ 5, 749 P.2d 1132, 1133 (section 318 of the APA is “a general statute” that yields to a specific statutory avenue of review); *Brown v. Banking Bd.*, 1973 OK 76, ¶ 3, 512 P.2d 166, 168 (agency governed by the APA “where the same is not in express conflict with” its own code); 1979 OK AG 3, ¶¶ 1–3 (agency with general rulemaking power could not alter by rule a fee its enabling act fixed). The APA’s provisions governing individual proceedings, including the rehearing provision in section 317, apply to the issuance or denial of a license only when some other law requires an individual proceeding: “Except as otherwise specifically provided by law, the issuance or denial of a new license shall not require an individual proceeding.” 75 O.S.2021, § 314(A). A charter is a “license” under the APA, 75 O.S.Supp.2025, § 250.3(11), but the APA itself does not require an individual proceeding to issue or deny one.

Construing the predecessor of section 314(A), the Oklahoma Supreme Court held that the APA “was not itself a mandate” for individual proceedings on license applications; such proceedings are required “if, and only if, another source of law” requires that the decision be preceded by notice and an opportunity for hearing. *Stewart v. Rood*, 1990 OK 69, ¶¶ 10, 14, 796 P.2d 321, 327–28. The 1992 amendment made the point explicit, and the courts have applied the current text the same way. *Boyer v. State Bd. of Exam’rs of Psychologists*, 1992 OK CIV APP 80, ¶ 5, 834 P.2d 450, 452 (“§ 314 does not require an individual proceeding until some independent authority requires such a hearing.”); *Bird v. Willis*, 1996 OK 116, ¶ 4, 927 P.2d 547, 547–48; *Cavett v. State ex rel. State Bd. of Exam’rs of Psychologists*, 2013 OK CIV APP 11, ¶ 6, 295 P.3d 610, 612.

Nothing in the Act requires an individual proceeding on an application. Section 3-134(E)(3) prescribes what the Board must do: vote within ninety days, state its reasons in writing if it rejects an application, receive one revised application, and vote on that application within thirty days. It does not call for notice and a trial-type hearing, findings of fact and conclusions of law, or a final order. The contrast with the Act’s treatment of existing charters is telling. Before a charter contract may be revoked or nonrenewed, the Act requires timely notice of the reasons, an opportunity to respond, “a public hearing” at which the school may submit documents and give testimony, representation by counsel, a record, and a written final determination. 70 O.S.Supp.2024, § 3-137(J). The Board’s rules draw the same line. OKLA. ADMIN. CODE § 777:1-1-9 governs individual proceedings before the Board—requiring petitions, notice complying with 75 O.S.2021, § 309, hearings, and final orders complying with 75 O.S.2021, § 312, while OKLA. ADMIN. CODE § 777:10-3-3 governs sponsorship applications and contains none of those features.

The Court of Civil Appeals has rejected the argument that a board’s decision to take an application up again converts the matter into an individual proceeding. In *Cavett*, the applicant argued that the licensing board had converted his request for reconsideration into an individual proceeding by agreeing to reconsider his application. The court disagreed. As the court recounted, the board had issued no notice of an individual proceeding, held no trial-type hearing, made no findings of fact or conclusions of law, and entered no final order; the application “was only set as an agenda item

at regular meetings.” 2013 OK CIV APP 11, ¶¶ 4–7, 295 P.3d at 611–12. Therefore, the applicant had no individual proceeding and no right to judicial review. *Id.* ¶ 7, 295 P.3d at 612. Neither *Boyer* nor *Cavett* addressed whether the licensing board had authority to reconsider; the question in each case was judicial review, and the licensing statutes there, unlike section 3-134(E)(3), prescribed no procedure for the board’s action on an application.

The same is true here of the Board’s action on the Revised Application. Its March 10, 2026, letter stated a reason for rejection, as section 3-134(E)(3) requires; it is not a final agency order containing findings of fact and conclusions of law under section 312, and the Board’s decision to place the application on its October 12 agenda did not convert the matter into an individual proceeding. This office reached the same conclusion under section 314 more than forty years ago, advising that where the licensing statute did not require a hearing before a license was denied, the APA’s provisions “dealing with individual proceedings, including appeal from those proceedings, do not apply.” 1982 OK AG 74, ¶ 10.

The APA’s definitions confirm the point. The APA defines a “final agency order” as an order that includes findings of fact and conclusions of law under section 312 and disposes of an individual proceeding. 75 O.S.Supp.2025, § 250.3(6). It defines an “individual proceeding” as “the formal process employed by an agency having jurisdiction by law to resolve issues of law or fact between parties and which results in the exercise of discretion of a judicial nature[.]” *Id.* § 250.3(9). A vote to accept or reject an application is not that kind of adjudicative, adversarial process. The Legislature has recognized that agencies take actions and make decisions outside individual proceedings, which Article II does not cover. 75 O.S.2021, § 308a. When “the process out of which the final order is made is not an individual proceeding,” the APA’s review provisions do not apply. *Double LL Contractors, Inc. v. State ex rel. Okla. Dep’t of Transp.*, 1996 OK 30, ¶ 5, 918 P.2d 34, 37. Because the Board’s action on the Revised Application was not a final agency order in an individual proceeding, section 317 does not apply to it. 75 O.S.2021, § 317(A).

Section 317 would not supply the authority even if it applied. Rehearing, reopening, or reconsideration under that section is available only on the application of “any party aggrieved by the final agency order,” made “within ten (10) days from the date of the entry of such final agency order,” and only on one of five enumerated grounds. 75 O.S.2021, § 317(A). The Board is not a party aggrieved by its own decision; the ten-day period following the March 9, 2026, rejection expired in March; and the section confers no authority on an agency to reopen a decision on its own motion. This office has advised that, absent specific authority in an agency’s own statutes, the ten-day period marks the limit of the agency’s power to reconsider a final order, 1998 OK AG 39, ¶¶ 5, 9, and that an official who has denied an application may not simply reverse course but must follow the reconsideration procedure the Legislature prescribed, 2019 OK AG 2, ¶¶ 10–12. The Oklahoma Supreme Court has likewise held that an agency rule purporting to permit modification of an order outside the statutory period is “unauthorized by law.” *Turpen v. Okla. Corp. Comm’n*, 1988 OK 126, ¶ 20, 769 P.2d 1309, 1318–19. Section 317(C) preserves reconsideration “in accordance with other statutory provisions applicable to such agency,” but the only such provision here, section 3-134(E)(3), provides for one revised application and nothing more.

Nor does the absence of an individual proceeding leave the Board free to revisit its decision at will. This office has observed that when an agency's action is "something less than final agency action" under the APA, "there are a few apparent limitations on an agency's power to modify an interim or interlocutory order, or to correct a ministerial error in the recording of a member's credited service." 1988 OK AG 112, ¶ 5. That opinion addressed a retirement system's certification of service credit under statutes that prescribed no procedure for the certification, and it recognized that the agency's discretion remained bounded by section 317 and by the agency's own statutes. *Id.* ¶¶ 8, 12. The question here is different. It is not whether the Board may correct a clerical error in an interlocutory order, but whether it may take a vote that the Act does not provide for. When the Legislature prescribes the mode of agency action, other modes are excluded, *Fowler*, 2026 OK 68, ¶ 13, and an agency that wishes to reconsider a decision "must proceed in the manner authorized by statute." *Civil Aeronautics Bd. v. Delta Air Lines, Inc.*, 367 U.S. 316, 329 (1961) (quoted in 1998 OK AG 39, ¶ 7).

D. Internal Procedure and Past Practice Cannot Enlarge the Board's Authority.

Even if the Board had adopted internal parliamentary procedures, they could not supply authority withheld by statute.⁷ A motion to reconsider under general parliamentary rules governs internal order. It cannot enlarge the Board's statutory powers, which the Board "cannot expand . . . by its own authority." *Marley*, 1980 OK 147, ¶ 10, 618 P.2d at 405; see *Oldham v. Drummond Bd. of Educ.*, 1975 OK 147, ¶ 7, 542 P.2d 1309, 1311 (statute governing a school board's vote "makes no mention of Robert's Rules of Order and is not controlled thereby"). Nor could a practice of revoting override the statute. Administrative construction and longstanding practice cannot rewrite plain statutory text. *Fowler*, 2026 OK 68, ¶ 23. Oklahoma recognizes no inherent authority in an administrative body beyond that granted or necessarily implied by law. *Okla. Pub. Emps. Ass'n*, 2002 OK 71, ¶ 27, 55 P.3d at 1084. Accordingly, the Board is prohibited from voting a third or fourth time on an application that the Act permits it to decide once in its original form and once as revised. 70 O.S.Supp.2024, § 3-134(E)(3).⁸

⁷ For instance, unlike the State Board of Education, the Board has not adopted rules providing that its parliamentary procedures will follow Robert's Rules of Order. See OKLA. ADMIN. CODE § 777:1-1-3; cf. OKLA. ADMIN. CODE § 210:1-1-6.

⁸ This Opinion addresses only the Revised Application; it does not address an application submitted in a future application cycle under the Act and the Board's rules. See OKLA. ADMIN. CODE § 777:10-3-3(a)(6). After rejection of a revised application, the Legislature authorizes a rejected applicant, except an applicant rejected by a school district, to proceed to binding arbitration under the commercial rules of the American Arbitration Association. 70 O.S.Supp.2024, § 3-134(G). This Opinion does not address the enforceability of that provision. Cf. *Pentagon Acad., Inc. v. Indep. Sch. Dist. No. 1 of Tulsa Cnty.*, 2003 OK 98, ¶¶ 17–18, 82 P.3d 587, 591 (holding that binding arbitration under an earlier version of section 3-134, which incorporated the Dispute Resolution Act, was "legally impossible" because no arbitration rules had been promulgated under that Act). The Legislature replaced that language in 2015 with a reference to the commercial rules of the American Arbitration Association, 2015 Okla. Sess. Laws ch. 170, § 2, and in 2023 extended the remedy to applicants rejected by the Board and placed its cost on the applicant, 2023 Okla. Sess. Laws ch. 323, § 6.

It is, therefore, the official Opinion of the Attorney General that:⁹

- 1. The Statewide Charter School Board may exercise only those powers the Legislature has conferred expressly or by necessary implication, and it cannot enlarge its authority by its own act. *Marley v. Cannon*, 1980 OK 147, ¶ 10, 618 P.2d 401, 405.**
- 2. Title 70, section 3-134 of the Oklahoma Statutes prescribes a closed, two-step sequence—acceptance or rejection of a charter application, followed by acceptance or rejection of one revised application—and confers no authority to reconsider, rescind, rehear, or hold a further vote on a revised application the Board has acted upon. The Legislature’s omission of any further step is deliberate; in 2023 it eliminated the administrative appeals that formerly followed a rejection and left applicant-funded binding arbitration as the only further step. *Fowler v. Stitt*, 2026 OK 68, ¶ 13; 70 O.S.Supp.2024, § 3-134(E)(3), (G).**
- 3. The Board accordingly lacks statutory authority to reconsider, rescind, or hold a further vote on the Ben Gamla Jewish Charter School Foundation’s revised application. Its authority over that application ended with its decision on the revised application, and the October 12, 2026, proceeding, whatever its procedural footing, left the application rejected when the motion to approve failed to secure the five votes required for final action. 70 O.S.Supp.2024, § 3-132.1(H); 70 O.S.Supp.2024, § 3-134(E)(3).**
- 4. Nothing in this Opinion relieves the Board of its continuing statutory duties to state the reasons for its rejection and to decline weak or inadequate applications, or precludes an application submitted in a future application cycle under the Act and the Board’s rules. 70 O.S.Supp.2024, § 3-134(E)(3), (I)(4).**

⁹ The Attorney General is the State’s chief law officer and is charged with advising public officers on questions of law relating to their official duties. 74 O.S.Supp.2025, § 18b(A)(5). This Opinion construes the Oklahoma Charter Schools Act and the Administrative Procedures Act. It does not address the constitutionality of any statute, and nothing in it depends on the resolution of the constitutional question pending in the federal action. It is therefore not advisory. *Cf. State ex rel. York v. Turpen*, 1984 OK 26, ¶¶ 10–12, 681 P.2d 763, 766–67 (an opinion that a statute is unconstitutional is advisory because that determination belongs to the courts). Opinions of this office are binding on the state officers they affect, who must follow them unless and until judicially relieved of compliance. *Id.* ¶ 5, 681 P.2d at 765; *Hendrick v. Walters*, 1993 OK 162, ¶ 20, 865 P.2d 1232, 1243; *Rasure v. Sparks*, 1919 OK 231, ¶ 7, 183 P. 495, 498. The Statewide Charter School Board is a state agency created by statute, 70 O.S.Supp.2024, § 3-132.1(A), and this Opinion binds the Board and its members. A public officer who acts in conformity with an opinion of this office is protected from civil liability and from forfeiture of office. *Rasure*, 1919 OK 231, ¶ 7, 183 P. at 498. *See also* 2023 OK AG 3, ¶ 7 (except where it declares a statute unconstitutional, an opinion of this office “is binding upon the state official affected by it”).



GENTNER DRUMMOND
ATTORNEY GENERAL



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