

**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.** The State Department of Education shall provide staff support to the Statewide Virtual Charter School Board until December 31, 2014. Thereafter, 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) **Principal office.** The principal office of the Statewide Virtual Charter School Board shall be the Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City, Oklahoma, 73105.

(d) **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

(a) 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) **Official records.** All files, records, minutes, proceedings, rules, documents, decisions, opinions, written statements of policy, and written materials of any other nature required by law to be maintained by the Statewide Virtual Charter School Board and not otherwise exempt from public disclosure pursuant to the provisions of state and/or federal law shall be made available promptly for public inspection, copying, or mechanical reproduction upon reasonable notice to the records custodian of the office of the Secretary of the Statewide Virtual Charter School Board during regular business hours in accordance with the provisions of the Open Records Act at 51 O.S. § 24A.1 et seq. and the procedures set forth below.

(b) **Records subject to disclosure.** Any document which comes within the definition of a "record" set forth in the Open Records Act at 51 O.S. § 24A.3 and is not required to be kept confidential by Oklahoma law or federal law will be available for inspection and/or copying during regular business hours, except state holidays, at the location where the records are housed, which is generally the Oliver Hodge Education Building, 2500 North Lincoln Boulevard, Oklahoma City.

(c) **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 Secretary of the Statewide Virtual Charter School Board.

(d) **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 request to the Statewide Virtual Charter School Board records custodian, by fax, email, regular mail or in person. In order to provide prompt, reasonable access to records, to ensure that records requests are accurately communicated to the records custodian, and to enable the records custodian to accurately process the request, the Statewide Virtual Charter School Board recommends that all records requests be submitted in writing. In addition, all records requests must comply with all of the following provisions:

(1) All records requests must include:

(A) Identification of the individual and/or entity making the request;

(B) If the Requester is an entity rather than an individual, a name of a contact authorized to communicate with the records custodian on behalf of the Requester;

(C) Sufficient contact information at which the Requester may be contacted by the records custodian to comply with the records request procedures set forth in this Section;

(D) 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;

(E) Whether the Requester seeks copies of any or all of the records requested and if so, whether the Requester seeks certified copies of any or all of the records requested; and

(F) If the Requester claims the public interest exemption from search fees in accordance with the provisions of (f) of this Section, all information necessary for the records custodian to determine the applicability of the exemption.

(2) An Open Records Act request form is provided on the website of the Board or the OSDE and the form may be submitted by email, fax, or regular mail via the addresses stated on the form. The form may also be obtained by writing to the Secretary of the Statewide Virtual Charter School Board, Oliver Hodge Education Building, 2500 N. Lincoln Blvd., Oklahoma City, OK 73105.

(3) Requests submitted to the Statewide Virtual Charter School Board will not be deemed to have been received unless and until the request has been identified as a request properly filed in accordance with the provisions of the Oklahoma Open Records Act at 51 O.S. § 24A.1 et seq. and the procedures set forth in this Section.

(4) 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.

(5) In addition, the records custodian shall promptly notify the Requester of the following:

(A) Whether the request complies with the provisions of this Section and the provisions of the Open Records Act;

(B) Whether records responsive to the request exist, and if so, instruct the Requester to confirm the record custodian's interpretation of the request;

(C) If records responsive to the request exist and require an additional search of data necessary to identify and/or locate individual records of persons, whether the search will incur any fees and costs pursuant to (f) of this Section and if so, an estimate of search fees;

(D) If the Requester asks to be provided copies of the requested records in lieu of or in addition to inspection, an estimate of the costs of copying the records requested as necessary to deliver the responsive records to the Requester;

(E) That processing of the request will not begin until any applicable records search fees and costs of copying have been received by the agency; and

(F) In the event the actual costs of copying and/or certification of records exceed the estimate provided and the amount of payment actually received from the Requester, that payment of any balance due from the Requester may be required prior to delivery of the requested records.

(6) All records requests will be deemed to have been received and processing of the request will begin when one of the following conditions is met:

(A) If payment of search fees or copying costs is required, upon receipt of

(i) The fees and costs due; and

(ii) Receipt of any additional information necessary from the Requester to clarify and/or process the request; or

(B) If payment of search fees or copying costs is not required, upon receipt by the records custodian of:

(i) The Requester's confirmation of the request required by (5)(B) of this subsection; and

(ii) Receipt of any additional information necessary from the Requester to clarify and/or process the request.

(7) Any request not confirmed by receipt of the requisite search fee within thirty (30) calendar days of the written notification set forth in (5) of this subsection shall be deemed to

be abandoned, unless, within the time stated, the Requester can show cause why the confirmation should be delayed or postponed.

(8) 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, any further 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.

(e) **Processing and response times.** The agency will provide prompt, reasonable access to records in accordance with the requirements of 51 O.S. § 25A.5. The period of time considered prompt and reasonable is dependent upon a number of variable factors including, but not limited to:

(1) The scope and complexity of the request;

(2) Whether the workload of the agency or agencies necessary to respond to the request permits a response to the request without excessive disruption of essential services of the agency/agencies;

(3) Whether the records request includes:

(A) A sufficiently detailed description of the request by the requester necessary for the agency to ascertain the existence of records responsive to the request;

(B) Records or portions of records deemed confidential by state and/or federal law which must be removed or redacted in order to permit inspection of the records.

(4) Whether the Requester has requested copies of the records requested in addition to or in lieu of inspection of the records and if so, whether the Requester paid applicable fees and/or costs set forth in (d)(5) and (f) of this Section;

(5) Whether additional steps by the agency must be taken in order to ensure that inspection, copying, and/or response to the records can be provided without jeopardizing the integrity and organization of the records; and

(6) Whether student data is included within the scope of its request, and if so:

(A) Time necessary to de-identify and/or aggregate student data in accordance with the requirements of State and federal laws pertaining to confidentiality of records; or

(B) Time necessary to obtain any necessary approval of the State Board of Education in accordance with the requirements of the Student Data Accessibility, Transparency and Accountability Act of 2013 at 70 O.S. § 3-168 and accompanying regulations.

(f) **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.

(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 the Oliver Hodge Building 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 Secretary of 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 Secretary, the petition will be stamped to show the date of submission, and the Secretary 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 Secretary.

(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 Secretary 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 Secretary of 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.

(2) Upon receipt by the Secretary, the petition will be stamped to show the date of submission, and the Secretary 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 Secretary 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.