

## **Section 43.10. School District Empowerment Program**

A. There is hereby established the School District Empowerment Program which shall be administered by the State Board of Education. The purpose of the program is to empower locally elected school board members to govern school districts and make decisions based on the needs of their students and circumstances.

B. 1. Subject to the provisions of this section, a school district shall be allowed to submit a request to the State Board of Education for an exemption from all statutory requirements and State Board of Education rules from which charter schools are exempt, as provided for in the Oklahoma Charter Schools Act. Any request for exemption shall include a plan which outlines the goals sought to be achieved at a minimum, include the educational and fiscal benefits and the anticipated impacts or outcomes the plan will have in the district.

2. Within ninety (90) days after receiving the request and plan, the State Board shall approve or disapprove the request. If the State Board does not approve the request, it shall provide to the school district a written explanation of the basis for its decision. The school district may resubmit an amended request at any time after the denial. The request shall be approved by the State Board before implementation by the school district. An approved request and plan shall be for no longer than three (3) years. Prior to the beginning of the third year, the school district may apply for renewal of the approved request and plan. The school district shall be required to submit an annual report and the State Board shall annually assess the academic achievement and fiscal status of the school district.

C. Nothing in this section shall prevent a school district board of education from choosing to follow any or all state laws, rules or regulations from which a charter school is exempt. A school district which has been granted approval by the State Board for exemption as set forth in subsection B of this section shall have the option to adopt policies to implement any requirement for the school district that is consistent with any statutory requirement or mandate or State Board rule, but a participating school shall comply with the following requirements:

1. Students who reside in the school district shall be entitled to attend school in the district as set forth in Section 1-114 of Title 70 of the Oklahoma Statutes;

2. School districts shall comply with the requirements of the minimum salary schedule for teachers as set forth in Section 18-114.12 of Title 70 of the Oklahoma Statutes;

3. Employees of school districts shall continue to participate as members of the Teachers' Retirement System of Oklahoma as set forth in Section 17-101 et seq. of Title 70 of the Oklahoma Statutes;

4. School districts shall comply with the requirement to provide a health insurance plan for school district employees as set forth in Section 5-117.5 of Title 70 of the Oklahoma Statutes and to establish or make available to school district employees a cafeteria plan as set forth in Section 26-104 of Title 70 of the Oklahoma Statutes;

5. School districts shall require any person employed by the school district to file with the district board a current Oklahoma criminal history record check from the Oklahoma State Bureau of Investigation as well as a national criminal history record check as defined in Section 150.9 of Title 74 of the Oklahoma Statutes. Each district shall adopt a policy regarding criminal history record checks as set forth in Section 5-142 of Title 70 of the Oklahoma Statutes;

6. School districts shall comply with the requirement to evaluate teachers and to train personnel designated to conduct personnel evaluations as set forth in Sections 6-101.10 and 6-101.11 of Title 70 of the Oklahoma Statutes, the dismissal and due process procedures for administrators as set forth in Sections 6-101.13 through 6-101.15 of Title 70 of the Oklahoma Statutes and the due process procedures for teachers as set forth in Sections 6-101.21 through 6-101.26 of Title 70 of the Oklahoma Statutes;

7. School districts shall comply with the requirement to make payroll deductions for either or both

professional organization dues and political contributions upon the request of an employee as set forth in Section 5-139 of Title 70 of the Oklahoma Statutes;

8. School districts shall comply with the dismissal and due process procedures for education support employees as set forth in Sections 6-101.40 through 6-101.47 of Title 70 of the Oklahoma Statutes;

9. School districts shall employ as teachers, counselors, librarians, school nurses, superintendents, principals, supervisors or any other instructional, supervisory or administrative employee only those persons who are certified or licensed by the State Board of Education in accordance with the Oklahoma Teacher Preparation Act, except for persons exempt from the certification or licensure requirements as otherwise provided by law;

10. School districts shall provide for negotiations between school employees and school districts as set forth in Sections 509.1 through 509.11 of Title 70 of the Oklahoma Statutes;

11. School districts shall be required to offer and students enrolled in the school district shall be required to complete the curriculum requirements as set forth in Section 11-103.6 of Title 70 of the Oklahoma Statutes;

12. Students enrolled in the school district shall be required to demonstrate mastery of the state academic content standards as set forth in Section 1210.523 of Title 70 of the Oklahoma Statutes; and

13. Members of the school district board of education shall be required to satisfy the instruction and continuing education requirements as set forth in Sections 5-110, 5-110.1 and 5-110.2 of Title 70 of the Oklahoma Statutes. **(70-3-129.11)**

**Note:** Enacted by HB 2131 of the 2013 Reg. Sess.

## **Section 44.0. Oklahoma Charter Schools Act.**

This act shall be known and may be cited as the “Oklahoma Charter Schools Act”. **(70-3-130)**

### **Section 44.1. 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. (70-3-131)

## **Section 44.2. Application of 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 a school district with an average daily membership of five thousand (5,000) or more and which all or part of the school district is located in a county having more than five hundred thousand (500,000) population according to the latest Federal Decennial Census;
2. By a school district which has a school site that has been identified as in need of improvement by the State Board of Education pursuant to the Elementary and Secondary Education Act of 1965, as amended or reauthorized;
3. By a technology center school district if the charter school is located in a school district served by the technology center school district and the school district has an average daily membership of five thousand (5,000) or more and which all or part of the school district is located in a county having more than five hundred thousand (500,000) population according to the latest Federal Decennial Census;
4. By a technology center school district if the charter school is located in a school district served by the technology center school district and the school district has a school site that has been identified as in need of improvement by the State Board of Education pursuant to the Elementary and Secondary Education Act of 1965, as amended or reauthorized;
5. 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 an average daily membership of five thousand (5,000) or more and which all or part of the school district is located in a county having more than five hundred thousand (500,000) population according to the latest Federal Decennial Census. In addition, the institution shall have a teacher education program accredited by the Oklahoma Commission for Teacher Preparation and have a branch campus or constituent agency physically located within the school district in which the charter school is located;
6. 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;
7. By a federally recognized Indian tribe, operating a high school under the authority of the Bureau of Indian Affairs as of November 1, 2010, if the charter school is for the purpose of demonstrating native language immersion instruction, and is located within its former reservation or treaty area boundaries. For purposes of this paragraph, native language immersion instruction shall require that educational instruction and other activities conducted at the school site are primarily conducted in the native language; or
8. By the State Board of Education when the applicant of the charter school is the Office of Juvenile Affairs or the applicant has a contract with the Office of Juvenile Affairs to provide a fixed rate level E, D, or D+ group home service and the charter school is for the purpose of providing education

services to youth in the custody or supervision of the state. Not more than two charter schools shall be sponsored by the Board as provided for in this paragraph during the period of time beginning July 1, 2010, through July 1, 2016.

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

C. 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. **(70-3-132)**

**Note:** Amended by HB 1385 and SB 267 of the 2013 Reg. Sess. Effective September 1, 2013

### **Section 44.3. Repealed.**

### **Section 44.4. Written 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 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 of the organizational structure and the governing body of the charter school;
3. A financial plan for the first three (3) years of operation of the charter school and a description of the treasurer or other officers or persons who shall have primary responsibility for the finances of the charter school. Such person shall have demonstrated experience in school finance or the equivalent thereof;
4. A description of the hiring policy of the charter school;
5. The name of the applicant or applicants and requested sponsor;
6. A description of the facility and location of the charter school;
7. A description of the grades being served;
8. An outline of criteria designed to measure the effectiveness of the charter school;
9. A demonstration of support for the charter school from residents of the school district which may include but is not limited to a survey of the school district residents or a petition signed by residents of the school district; and

10. Documentation that the applicants completed charter school training as set forth in subsection A of this section.

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

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

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.

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

G. If a proposed sponsor rejects the revised application for a charter school, the applicant may proceed to mediation or binding arbitration or both mediation and binding arbitration as provided in the Dispute Resolution Act and the rules promulgated pursuant thereto. The applicant shall contact the early settlement program for the county in which the charter school would be located. If the parties proceed to binding arbitration, a panel of three arbitrators shall be appointed by the director of the early settlement program handling the dispute. The proposed sponsor shall pay the cost for any mediation or arbitration requested pursuant to this section.

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. **(70-3-134)**

A location where a group of students enrolled in a charter school gather on a regular basis to receive face-to-face instruction from a teacher provided by the charter school might well constitute a "school site," and thus a "physical location of a charter school" that must be within the boundaries of the sponsoring school district. *August 21, 2012* (2012 OK AG 12)

While binding arbitration is provided for in the Charter Schools Act, it is legally impossible for it to take place in the absence of rules and regulations governing the procedure provided by the Dispute Resolution Act. The Dispute Resolution Act contains no provisions for binding arbitration. *Pentagon Academy v. ISD No. 1 of Tulsa County*, 2003 OK 98, 82 P.3d 587.

The Oklahoma Charter Schools Act does not violate the doctrine that the Legislature may not delegate its powers to private organizations or persons, as the Legislature retains its authority to provide for a free public education as required by Okla. Const. art. XIII, § 1, and as the Act contains specific statutory standards for charter schools. *August 22, 2007 (AG Op. No. 07-23)*

## **Section 44.5. Written Contract for Charter School.**

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

1. A description of the program to be offered by the school which complies with the purposes outlined in Section 11 of this act;
2. Admission policies and procedures;
3. Management and administration of the charter school;
4. Requirements and procedures for program and financial audits;
5. A description of how the charter school will comply with the charter requirements set forth in the Oklahoma Charter Schools Act;
6. Assumption of liability by the charter school; and
7. The term of the contract.

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

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. (70-3-135)

## **Section 44.6. Charter Requirements.**

A. A charter school shall adopt a charter which will ensure compliance with the following:

1. A 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 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 school may provide a comprehensive program of instruction for a pre kindergarten program, a kindergarten program or any grade between grades one and twelve. Instruction may be provided to all persons between the ages of four (4) and twenty-one (21) years. A 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 which offers grades nine through twelve shall specifically address whether the 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 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 shall also provide any necessary data to the Office of Accountability;

5. Except as provided for in the Oklahoma Charter Schools Act and its charter, a charter school shall be exempt from all statutes and rules relating to schools, boards of education, and school districts;

6. A charter school, to the extent possible, 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 charter school shall use the Oklahoma Cost Accounting System to report financial transactions to the sponsoring school district;

7. A 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;

8. A charter school shall provide for a governing body for the school which shall be responsible for the policies and operational decisions of the charter school;

9. A 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;

10. A charter school may not charge tuition or fees;

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

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

13. A charter school shall be considered a school district for purposes of tort liability under the Governmental Tort Claims Act;

14. Employees of a 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;

15. A charter school may participate in all health and related insurance programs available to the employees of the sponsor of the charter school;

16. A charter school shall comply with the Oklahoma Open Meeting Act and the Oklahoma Open Records Act; and

17. The governing body of a charter school shall be subject to the same conflict of interest requirements as a member of a local school board.

B. The charter of a charter school shall include a description of the personnel policies, personnel qualifications, and method of school governance, and the specific role and duties of the sponsor of the charter school.

C. The charter of a charter school may be amended at the request of the governing body of the charter school and upon the approval of the sponsor.

D. A charter school may enter into contracts and sue and be sued.

E. The governing body of a charter school may not levy taxes or issue bonds.

F. The charter of a 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 upon expiration or termination of the charter or failure of the 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 sponsoring school district. 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. **(70-3-136)**

The Oklahoma Charter Schools Act only requires a charter school to be nonsectarian in its operations and affiliation but does not prohibit a charter school student from accessing or receiving instruction at a community faith-based institution. *August 21, 2012 (2012 OK AG 12)*

Charter schools are not required to offer alternative education programs. *February 15, 2000 (AG Op. No. 00-12).*

Charter schools are exempt from mandated core curriculum requirements. *September 27, 1999 (AG Op. No. 99-64).*

#### **Section 44.7. Term of Contract, Renewal, and Termination.**

A. An approved contract for a charter school shall be effective for not longer than five (5) years from the first day of operation. Prior to the beginning of the fifth year of operation, the charter school may apply for renewal of the contract with the sponsor. 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.

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

C. 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 proceed to mediation or binding arbitration or both as provided for in subsection G of Section 3-134 of this title.

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

E. 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. **(70-3-137)**

#### **Section 44.8. Reprisal Prohibited for Involvement with Application.**

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. **(70-3-138)**

#### **Section 44.9. Rights of Teachers Returning to Sponsoring School District.**

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. **(70-3-139)**

#### **Section 44.10. Admission and Enrollment 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 the effective date of this act 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. **(70-3-140)**

**Note:** Amended by HB 1385 and SB 267 of the 2013 Reg. Sess.

### **Section 44.11. Transportation.**

A. Transportation shall be provided by the charter school in accordance with Sections 9-101 through 9-118 of Title 70 of the Oklahoma Statutes and only within the transportation boundaries of the school district in which the charter school is located.

B. A charter school shall provide the parent or guardian information regarding transportation at the time the student enrolls in the charter school. **(70-3-141)**

### **Section 44.12. Funding of Charter Schools.**

A. For purposes of funding, a charter school sponsored by a board of education of a school district shall be considered a site within the school district in which the charter school is located. The student membership of the charter school shall be considered separate from the student membership of the district in which the charter school is located for the purpose of calculating weighted average daily membership pursuant to Section 18-201.1 of this title and State Aid pursuant to Section 18-200.1 of this title. For charter schools sponsored by a board of education of a school district, the sum of the separate calculations for the charter school and the school district shall be used to determine the total State Aid allocation for the district in which the charter school is located. A charter school shall receive from the sponsoring school district, the State Aid allocation and any other state-appropriated revenue generated by its students for the applicable year, less up to five percent (5%) of the State Aid allocation, which may be retained by the school district as a fee for administrative services rendered. For charter schools sponsored by the board of education of a technology center school district, a higher education institution, the State Board of Education, or a federally recognized Indian tribe and for statewide virtual charter schools sponsored by the Statewide Virtual Charter School Board, the State Aid allocation for the charter school shall be distributed by the State Board of Education and not more than five percent (5%) of the State Aid allocation may be charged by the sponsor as a fee for administrative services rendered. The State Board of Education shall determine the policy and procedure for making payments to a charter school. The fee for administrative services as authorized in this subsection shall only be assessed on the State Aid allocation amount and shall not be assessed on any other appropriated amounts.

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

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

C. A charter school shall be eligible to receive any other aid, grants or revenues allowed to other schools. A

charter school sponsored by the board of education of a technology center school district, a higher education institution, the State Board of Education, or a federally recognized Indian tribe shall be considered a local education agency for purposes of funding. A charter school sponsored by a board of education of a school district shall be considered a local education agency for purposes of federal funding.

D. A charter school, in addition to the money received from the state, may receive money from any other source. Any unexpended nonstate funds, excluding local revenue, may be reserved and used for future purposes.

E. Any charter school which chooses to lease property shall be eligible to receive current government lease rates. **(70-3-142)**

**Note:** Amended by SB 267 of the 2013 Reg. Sess.

### **Section 44.13. 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. **(70-3-143)**

### **Section 44.14. 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. **(70-3-144)**

### **Section 44.15. Statewide Virtual Charter School Board, Creation, Vacancies.**

A. There is hereby created the Statewide Virtual Charter School Board. The Board shall have the sole authority to authorize and sponsor full-time 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;
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 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. **(70-3-145.1)**

**Note:** Amended by SB 267 of the 2013 Reg. Sess., eff. Sept. 1, 2013

#### **Section 44.16. Statewide Virtual Charter School Board Rules.**

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. **(70-3-145.2)**

#### **Section 44.17. Statewide Virtual Charter School Board Powers and Responsibilities.**

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

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 the geographic boundaries of each 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. 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.

F. 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. **(70-3-145.3)**

**Note:** Amended by SB 267 of the 2013 Reg. Sess., eff. Sept. 1, 2013

A charter school that wishes to provide students learning opportunities through a full-time statewide virtual charter school may do so through the State Board of Education when the applicant of the charter school is the Statewide Virtual Charter School Board. *August 21, 2012 (2012 OK AG 12)*

#### **Section 44.18. State Department to Promulgate Rules for Virtual Charter School Act.**

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. **(70-3-145.4)**

**Note:** Amended by SB 267 of the 2013 Reg. Sess., eff. Sept. 1, 2013

#### **Section 44.19. Districts Offering Virtual School to Non-residents Must Report.**

A. Notwithstanding any other provision of law, beginning July 1, 2014, no school district shall offer full-time virtual education to students who are not residents of the school district or 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. **(70-3-145.5)**

**Note:** Amended by SB 267 of the 2013 Reg. Sess., eff. Sept. 1, 2013

#### **Section 44.20. Districts Offering Virtual School to Non-residents Considered Site.**

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 as necessary to the State Department of Education detailed data on the performance of non-resident students who are receiving full-time instruction. **(70-3-145.6)**

**Note:** Enacted by SB 169 of the 2013 Reg. Sess.

#### **Section 45.0. Repealed**

**Note:** Amended by HB1071 of the 2013 Reg. Sess. and Repealed by HB 1385 of the 2013 Reg. Sess.

#### **Section 45.1. Repealed**

**Note:** Repealed by HB 1385 of the 2013 Reg. Session

#### **Section 45.2. School Graduation Rates.**

A. For purposes of establishing a uniform and accurate definition of high school graduation rate for school districts and secondary schools in the state, the State Board of Education shall adopt and implement a four-year adjusted cohort graduation rate and an extended-year adjusted cohort graduation rate. The Board shall utilize and report the four-year adjusted cohort graduation rate and the extended-year adjusted cohort graduation rate at the secondary school site, the school district and the state level, and the graduation rates shall be reported in the aggregate as well as disaggregated by subgroups as required in the Elementary and Secondary Education Act of 2001 (ESEA), P.L. No. 107-110, also known as the No Child Left Behind Act of 2001.

B. The Board shall use the four-year adjusted cohort graduation rate for purposes of determining the high school graduation rate indicator for the academic performance data calculation beginning with state and district report cards providing results of assessments administered in the 2011-2012 school year. The Board shall use the four-year adjusted cohort graduation rate for establishing the high school graduation rate for measuring alternate year percentage growth targets as set forth in Section 3-151.2 of this Title beginning with the 2012-2013 school year.

C. The four-year adjusted cohort graduation rate shall be defined as the number of students who graduate in four

(4) years with a standard high school diploma divided by the number of students who entered high school four (4) years earlier, adjusted for transfers in and out of the school, émigrés and deceased students. Students who graduate in four (4) years shall include students who earn a standard high school diploma at the end of their fourth year, before the end of their fourth year, and during a summer session immediately following their fourth year. To remove a student from a cohort, a school district shall confirm in writing or by electronic means that a student has transferred out of the school site or school district, has emigrated to another country or is deceased. For a student who transfers out of a school site or school district, the written or electronic confirmation shall be official and document that the student has enrolled in another school site or school district or in an educational program that culminates in a standard high school diploma. Students who graduate with a credential other than a standard high school diploma or a higher diploma, including but not limited to a General Educational Development (GED) credential, certificate of attendance, or any alternative award, shall not be included in the graduation rate calculation as set forth in this subsection as a student who graduated in four (4) years with a standard high school diploma but shall be included in the number of students who entered high school four (4) years earlier.

D. The extended-year adjusted cohort graduation rate shall be defined as the number of students who graduate in four (4) years or five (5) years with a standard high school diploma divided by the number of students who form the adjusted cohort for the four-year graduation rate as calculated as provided for in subsection C of this section, provided that the adjustments add to the cohort all students who transfer into the cohort by the end of the year of graduation being considered and subtract students who transfer out, emigrate to another country or are deceased by the end of that year. The extended-year adjusted cohort graduation rate shall be reported separately from the four-year adjusted cohort graduation rate. **(70-3-151.1)**

### **Section 45.3. Growth Targets – Graduation Rates.**

A. The State Board of Education shall adopt expected alternate year percentage growth targets, for all public secondary schools and school districts, based on high school graduation rates, using the four-year adjusted cohort graduation rate calculated as provided for in Section 1 of this act. The minimum percentage growth targets shall be twenty percent (20%) of the difference between the graduation rate of the baseline year and the goal of one hundred percent (100%). The baseline year shall be established in the 2012-2013 school year. In alternating years new growth targets shall be established until all secondary schools and school districts have met the goal of one hundred percent (100%).

B. Public secondary schools and school districts meeting or exceeding expected growth targets at the end of the initial two (2) years or in the alternate years as provided for in subsection A of this section shall be recognized by the state as notable schools and school districts. Recognition may include, but not be limited to, citations of congratulations from the State Superintendent of Public Instruction as the designee of the State Board of Education, the Governor or designee, the Representative and Senator representing the school and or school district, and banners for each school or school district achieving notable status.

C. Public secondary schools and school districts failing to meet the expected growth targets at the end of the initial two (2) years or in the alternate years as provided for in subsection A of this section shall:

1. Submit a high school graduation improvement plan to their district board of education at a regularly scheduled meeting prior to December 31st of the same year; and

2. Contingent upon the availability of funding, participate in technical assistance and training provided by the State Department of Education for the purpose of reducing drop-out rates and improving high school graduation rates. The technical assistance and training shall include identifying and implementing best practices, identifying actions the school district and schools should take to meet target high school graduation goals, and providing ongoing monitoring to assess school district and school progress in implementing recommended actions. **(70-3-151.2)**