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STATE SUPERINTENDENT *of* PUBLIC INSTRUCTION
OKLAHOMA STATE DEPARTMENT *of* EDUCATION

MEMORANDUM

TO: The Honorable Members of the State Board of Education
FROM: Joy Hofmeister
DATE: March 28, 2019
SUBJECT: Administrative Rule Promulgation

The State Board of Education will be taking action at the March meeting on the following administrative rule adoption pursuant to the *Oklahoma Administrative Procedures Act*, 75 O.S. § 250 *et seq.*:

- (1) Title 210. State Department of Education
Chapter 10. School Administration and Instructional Services
Subchapter 1. General Provisions
210:10-1-22. Guidelines for nontraditional public schools [NEW]

The proposed rule addresses guidelines for conversion schools and partnership schools, two types of public school entities authorized by statute, which differ from both traditional public schools and charter schools. For conversion schools, the rule clarifies the statutory requirements for "conversion plans" by stating the elements of the plan in clear language, as the authorizing statute uses citations and requires cross-referencing rather than simply stating the requirements. The statutory Open Records Act and Open Meeting Act requirements for conversion plans are also emphasized, and the rule directs any school district with a website to make the conversion plan available on the district website. For both conversion schools and partnership schools, the rule provides that nontraditional public school sites are subject to the same accreditation standards as charter schools.

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES
SUBCHAPTER 1. GENERAL PROVISIONS**

Language changes made following the public comment period appear in red italics.

210:10-1-22. Guidelines for nontraditional public schools

(a) Purpose. Oklahoma law authorizes certain public school entities that are exempt from many of the statutory and regulatory requirements that apply to traditional public schools, but are not classified or operated as charter schools. This section lays out guidelines for "conversion schools" and "partnership schools", two types of nontraditional public schools authorized by state law.

(b) Conversion schools. Pursuant to 70 O.S. § 3-132(E), "conversion school" means a school *site* created by converting all or part of a traditional public school in order to access any or all flexibilities afforded to a charter school. Unlike a charter school, a conversion school is administered by the school district board of education rather than an independent governing board, and the school district itself retains the features of a traditional public school district. A conversion school is subject to all school accreditation requirements that apply to charter schools.

(1) Conversion plan requirements. A school district that wishes to convert one or more school sites to access flexibilities available to charter schools is required by the authorizing statute to prepare a conversion plan that includes all of the following features:

(A) A mission statement for the conversion school(s);

(B) A description including, but not limited to, the organizational structure of the school(s);

(C) A description of the facility and location of the conversion school(s);

(D) A description of the grades served;

(E) An outline of criteria designed to measure effectiveness of the conversion school(s);

(F) A demonstration of support for the conversion school(s) 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;

(G) Documentation that one or more representatives of the school district pursuing the conversion of a school have completed charter school training as set forth in 70 O.S. § 3-134(A);

(H) Unless otherwise authorized by law or regulation, a description of the academic program aligned with state standards;

(I) A description of the instructional design of the conversion school(s), including the type of learning environment, class size and structure, curriculum overview, and teaching methods;

(J) The plan for using internal and external assessments to measure and report student progress;

(K) The plans for identifying and successfully serving students with disabilities, students who are English language learners, and students who are academically behind;

(L) A description of co-curricular or extracurricular programs and how they will be funded and delivered;

(M) The student discipline policies for the conversion school(s), including those for special education students;

(N) An organizational chart that clearly presents the organizational structure of the conversion school(s), including lines of authority and reporting between the board of education, staff, any related bodies such as advisory bodies or parent and teacher councils, and any external organizations that will play a role in managing the school;

(O) A clear description of the roles and responsibilities for the board of education, the leadership and management team(s) for the conversion school(s), and any other entities shown in the organizational chart;

(P) The leadership and teacher employment policies for the conversion school(s);

(Q) Proposed governing policies;

(R) Explanations of any partnerships or contractual partnerships central to the operations or mission of the conversion school(s); and

(S) A requirement that the conversion school(s) follow the requirements of the Oklahoma Open Meeting Act and the Oklahoma Open Records Act.

(2) **Public availability of the conversion plan.** In addition to the statutory requirements listed in (b)(1), the conversion plan must explain in clear language how the features and/or operations of the school(s) proposed for conversion will differ from a traditional public school. The conversion plan and all supporting documents *listed in (b)(1) that are not incorporated as part of the conversion plan, as well as any policies unique to the conversion site(s)*, shall be in writing and shall be available to the public pursuant to the requirements of the Oklahoma Open Records Act. In addition to making a print copy of the conversion plan available to the public upon request, a school district that wishes to pursue the conversion of one or more school sites shall make the conversion plan available in electronic form on any general website maintained by the school district, and if applicable, on the specific website or web page of any school in the district that would be affected by the conversion if the plan is approved. All votes of a board of education to consider a conversion plan shall be held in an open public session.

(3) **Submission of an approved conversion plan to the State Department of Education.** In addition to the statutory requirement for a board of education that approves a school conversion plan to notify the State Board of Education, upon approval of a school conversion plan by the local school board, the school district shall notify the State Department of Education Office of Accreditation and provide a copy of the approved plan. Approved school conversion plans will be made available on the State Department of Education website in the same manner as other public documents.

(c) **Partnership schools.** Pursuant to 70 O.S. § 5-117(G), the board of education of a school district with an average daily membership (ADA) of thirty thousand (30,000) or more, which is located in whole or part in a county with a population of five hundred thousand (500,000) or more, may contract with a public or private nonsectarian entity for that entity to provide educational and administrative services for one or more schools within the school district. A school that receives educational and/or administrative services by contract with a nonsectarian entity may be referred to as a "partnership school." A partnership school is subject to all school accreditation requirements that apply to charter schools. Any contract for educational and/or administrative services to a partnership school shall be available upon request under the Oklahoma Open Records Act. Upon adoption of any contract for educational and/or

administrative services to a partnership school, the school district board of education shall provide a copy of the contract to the State Department of Education Office of Accreditation.

RULE IMPACT STATEMENT

210:10-1-22. Guidelines for nontraditional public schools [NEW]

a. What is the purpose of the proposed rule change?

The proposed rule addresses guidelines for conversion schools and partnership schools, two types of public school entities authorized by statute, which differ from both traditional public schools and charter schools. For conversion schools, the rule clarifies the statutory requirements for "conversion plans" by stating the elements of the plan in clear language, as the authorizing statute uses citations and requires cross-referencing rather than simply stating the requirements. The statutory Open Records Act and Open Meeting Act requirements for conversion plans are also emphasized, and the rule directs a board of education that adopts a conversion plan to provide a copy of the plan to the State Department of Education. For both conversion schools and partnership schools, the rule provides that nontraditional public school sites are subject to the same accreditation standards as charter schools.

b. What classes of persons will be affected by the proposed rule change and what classes of persons will bear the costs of the proposed rule change?

The change will affect school districts that access the flexibilities available through either a conversion school as authorized by 70 O.S. § 3-132(E), or a partnership school as authorized by 70 O.S. § 5-117(G).

c. What classes of persons will benefit from the proposed rule change?

The change will benefit school districts with one or more conversion or partnership school sites by clarifying the requirements that apply to nontraditional public schools, and will benefit the residents of districts with such schools by ensuring that the unique features of the schools are clearly explained in publicly accessible documents.

d. What is the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions?

The agency does not anticipate any economic impact upon affected classes of persons or political subdivisions as a result of implementation of the proposed rule change at this time.

e. What is the probable cost to the agency to implement and enforce the proposed rule change?

The agency does not anticipate any cost to the agency to implement and enforce as a result of the proposed change in the rule at this time. Additional record keeping, if any, will be performed by existing staff.

f. What is the economic impact on any political subdivision to implement the proposed rule change?

The agency does not anticipate any economic impact on any political subdivision to implement the proposed rule change at this time.

g. Will implementing the rule change have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act?

The agency does not anticipate any adverse economic impact on small business as a result of the proposed rule change at this time.

h. Are there any other methods which are less costly, nonregulatory, or less intrusive to achieve the purpose of the proposed rule change?

No.

i. Will the rule change impact the public health, safety, and environment, and is the change designed to reduce significant risks to the public health, safety, and environment? If so, explain nature of risk and to what extent the proposed rule change will reduce the risk.

The agency does not anticipate any impact on public health, safety, or environment as a result of implementation of the proposed rule at this time.

j. What detrimental effect will there be on the public health, safety, and environment if the rule change is not implemented?

The agency does not anticipate any detrimental effect on public health, safety, or environment as a result of failure to implement the proposed rule at this time.

k. Date Prepared: February 7, 2019

PUBLIC COMMENT SUMMARY

210:10-1-22. Guidelines for nontraditional public schools [NEW]

Summary of Public Comment	Agency Response
<p>[While no oral or written comments were formally submitted on the proposed rule, the OSDE received a question that has resulted in a clarifying statement being added to subsection (b)(2).]</p>	<ul style="list-style-type: none">• In subsection (b)(2), language has been added to clarify which "supporting documents" and policies a school district shall make available to the public along with the text of the Conversion Plan itself. <p>The proposed rule now states that "The conversion plan and all supporting documents <i>listed in (b)(1) that are not incorporated as part of the conversion plan, as well as any policies unique to the conversion site(s)</i>, shall be in writing and shall be available to the public pursuant to the requirements of the Oklahoma Open Records Act."</p>

STATUTORY AUTHORITY FOR 210:10-1-22

Oklahoma Statutes

Title 70. Schools

Chapter 1 - School Code of 1971

Oklahoma Charter Schools Act

Article III - State Department of Education

Section 3-132 - Application of Oklahoma Charter Schools Act

D. For purposes of the Oklahoma Charter Schools Act, "charter school" means a public school established by contract with a board of education of a school district, an area vocational-technical school district, a higher education institution, a federally recognized Indian tribe, or the State Board of Education pursuant to the Oklahoma Charter Schools Act to provide learning that will improve student achievement and as defined in the Elementary and Secondary Education Act of 1965, 20 U.S.C. 8065.

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

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

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

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

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

F. A charter school may consist of a new school site, new school sites or all or any portion of an existing school site. An entire school district may not become a charter school site.

Oklahoma Statutes

Title 70. Schools

Chapter 1 - School Code of 1971

Oklahoma Charter Schools Act

Article III - State Department of Education

Section 3-134 - Sponsor Proposal

A. For written applications filed after January 1, 2008, prior to submission of the application to a proposed sponsor seeking to establish a charter school, the applicant shall be required to complete training which shall not exceed ten (10) hours provided by the State Department of Education on the process and requirements for establishing a charter school. The Department shall develop and implement the training by January 1, 2008. The Department may provide the training in any format and manner that the Department determines to be efficient and effective including, but not limited to, web-based training.

B. Except as otherwise provided for in Section 3-137 of this title, an applicant seeking to establish a charter school shall submit a written application to the proposed sponsor as prescribed in subsection E of this section. The application shall include:

1. A mission statement for the charter school;
2. A description including, but not limited to, background information of the organizational structure and the governing body of the charter school;
3. A financial plan for the first five (5) years of operation of the charter school and a description of the treasurer or other officers or persons who shall have primary responsibility for the finances of the charter school. Such person shall have demonstrated experience in school finance or the equivalent thereof;
4. A description of the hiring policy of the charter school;
5. The name of the applicant or applicants and requested sponsor;
6. A description of the facility and location of the charter school;
7. A description of the grades being served;
8. An outline of criteria designed to measure the effectiveness of the charter school;
9. A demonstration of support for the charter school from residents of the school district which may include but is not limited to a survey of the school district residents or a petition signed by residents of the school district;
10. Documentation that the applicants completed charter school training as set forth in subsection A of this section;
11. A description of the minimum and maximum enrollment planned per year for each term of the charter contract;
12. The proposed calendar for the charter school and sample daily schedule;
13. Unless otherwise authorized by law or regulation, a description of the academic program aligned with state standards;
14. A description of the instructional design of the charter school, including the type of learning environment, class size and structure, curriculum overview and teaching methods;
15. The plan for using internal and external assessments to measure and report student progress on the performance framework developed by the applicant in accordance with subsection C of Section 3-135 of this title;
16. The plans for identifying and successfully serving students with disabilities, students who are English language learners and students who are academically behind;

17. A description of cocurricular or extracurricular programs and how they will be funded and delivered;
18. Plans and time lines for student recruitment and enrollment, including lottery procedures;
19. The student discipline policies for the charter school, including those for special education students;
20. An organizational chart that clearly presents the organizational structure of the charter school, including lines of authority and reporting between the governing board, staff, any related bodies such as advisory bodies or parent and teacher councils and any external organizations that will play a role in managing the school;
21. A clear description of the roles and responsibilities for the governing board, the leadership and management team for the charter school and any other entities shown in the organizational chart;
22. The leadership and teacher employment policies for the charter school;
23. Proposed governing bylaws;
24. Explanations of any partnerships or contractual partnerships central to the operations or mission of the charter school;
25. The plans for providing transportation, food service and all other significant operational or ancillary services;
26. Opportunities and expectations for parental involvement;
27. A detailed school start-up plan that identifies tasks, time lines and responsible individuals;
28. A description of the financial plan and policies for the charter school, including financial controls and audit requirements;
29. A description of the insurance coverage the charter school will obtain;
30. Start-up and five-year budgets with clearly stated assumptions;
31. Start-up and first-year cash-flow projections with clearly stated assumptions;
32. Evidence of anticipated fundraising contributions, if claimed in the application;
33. A sound facilities plan, including backup or contingency plans if appropriate;
34. A requirement that the charter school governing board meet at a minimum quarterly in the state and that for those charter schools outside of counties with a population of five hundred thousand (500,000) or more, that a majority of members are residents within the geographic boundary of the sponsoring entity; and
35. A requirement that the charter school follow the requirements of the Oklahoma Open Meeting Act and Oklahoma Open Records Act.

C. A board of education of a public school district, public body, public or private college or university, private person, or private organization may contract with a sponsor to establish a charter school. A private school shall not be eligible to contract for a charter 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. The physical location of a charter school otherwise sponsored by the State Board of Education pursuant to

paragraph 8 of subsection A of Section 3-132 of this title shall be in the school district in which the application originated.

E. An applicant for a charter school may submit an application to a proposed sponsor which shall either accept or reject sponsorship of the charter school within ninety (90) days of receipt of the application. If the proposed sponsor rejects the application, it shall notify the applicant in writing of the reasons for the rejection. The applicant may submit a revised application for reconsideration to the proposed sponsor within thirty (30) days after receiving notification of the rejection. The proposed sponsor shall accept or reject the revised application within thirty (30) days of its receipt. Should the sponsor reject the application on reconsideration, the applicant may appeal the decision to the State Board of Education with the revised application for review pursuant to paragraph 8 of subsection A of Section 3-132 of this title. The State Board of Education shall hear the appeal no later than sixty (60) days from the date received by the Board.

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

G. Applicants for charter schools proposed to be sponsored by an entity other than a school district pursuant to paragraph 1 of subsection A of Section 3-132 of this title may, upon rejection of the revised application, proceed to binding arbitration under the commercial rules of the American Arbitration Association with costs of the arbitration to be borne by the proposed sponsor. Applicants for charter schools proposed to be sponsored by school districts pursuant to paragraph 1 of subsection A of Section 3-132 of this title may not proceed to binding arbitration but may be sponsored by the State Board of Education as provided in paragraph 8 of subsection A of Section 3-132 of this title.

H. If a board of education of a technology center school district, a higher education institution, the State Board of Education, or a federally recognized Indian tribe accepts sponsorship of a charter school, the administrative, fiscal and oversight responsibilities of the technology center school district, the higher education institution, or the federally recognized Indian tribe shall be listed in the contract. No responsibilities shall be delegated to a school district unless the local school district agrees to assume the responsibilities.

I. A sponsor of a public charter school shall have the following powers and duties:

1. Provide oversight of the operations of charter schools in the state through annual performance reviews of charter schools and reauthorization of charter schools for which it is a sponsor;
2. Solicit and evaluate charter applications;
3. Approve quality charter applications that meet identified educational needs and promote a diversity of educational choices;
4. Decline to approve weak or inadequate charter applications;
5. Negotiate and execute sound charter contracts with each approved public charter school;
6. Monitor, in accordance with charter contract terms, the performance and legal compliance of charter schools; and
7. Determine whether each charter contract merits renewal, nonrenewal or revocation.

J. Sponsors shall establish a procedure for accepting, approving and disapproving charter school applications in accordance with subsection E of this section.

K. Sponsors shall be required to develop and maintain chartering policies and practices consistent with recognized principles and standards for quality charter authorizing as established by the State Department of Education in all major areas of authorizing responsibility, including organizational capacity and infrastructure, soliciting and evaluating charter applications, performance contracting, ongoing charter school oversight and evaluation and charter renewal decision-making.

L. Sponsors acting in their official capacity shall be immune from civil and criminal liability with respect to all activities related to a charter school with which they contract.

Oklahoma Statutes

Title 70. Schools

Chapter 1 - School Code of 1971

Article V - School Districts and Boards of Education

Section 5-117 - Powers and Duties - Rules and Regulations

G. The board of education of any school district with an average daily membership of thirty thousand (30,000) or more and all or part of which school district is located in a county having more than five hundred thousand (500,000) population according to the latest Federal Decennial Census may contract with a public or private nonsectarian entity for that entity to provide educational and administrative services for the school district. The educational services provided by a contracting entity may include but are not limited to the delivery of instructional service in core and noncore academic subjects to the students enrolled in the school district at one or more school sites or parts of sites within the district pursuant to the terms of an educational services contract. All educational service providers and their employees and representatives and all educational and administrative services provided under an educational services contract shall be exempt from all statutes and rules relating to schools, boards of education and school districts to the same extent that a charter school is exempt under the Oklahoma Charter Schools Act. For all purposes, including but not limited to attendance, funding from all sources and accountability, all students who are provided services by a contracting entity pursuant to an educational services contract shall at all times be and remain students of the school district.