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OKLAHOMA STATE DEPARTMENT *of* EDUCATION

MEMORANDUM

TO: The Honorable Members of the State Board of Education

FROM: Joy Hofmeister

DATE: November 27, 2018

SUBJECT: Administrative Rule Promulgation

The State Board of Education will be taking action at the November meeting on the following administrative rule amendments 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
210:10-1-3. Reports and records for attendance, enrollment, and transportation [AMENDED]

The rule describing the creation and maintenance of school attendance and enrollment records is being updated to reflect changes in law and practice. A provision is added clarifying that digital recordkeeping is now authorized, where the rule previously referred to all records being kept in ink. References to the "county superintendent" of schools are eliminated, because that position no longer exists.

- (2) Title 210. State Department of Education
Chapter 35. Standards for Accreditation of Elementary, Middle Level, Secondary, and Career and Technology Schools
Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and Technology Schools
Part 5. Standard VIII: Administration and Organization
210:35-3-46. Administrative and supervisory services [AMENDED]

This rule from the accreditation standards is also being updated due to changes in law and practice since the rule's adoption, largely the 1,080 hours-based school calendar option. There have been statutory changes involving the length requirements for kindergarten and early childhood programs, so rule content inconsistent with the new provisions is being removed. "Elementary superintendent" is no longer in use as a separate certification status for administrators, so references to that classification are also eliminated, as are

two provisions addressing the State Board's authority to grant waivers which are sufficiently addressed by statute. A provision requiring school districts to notify the Office of Accreditation within 72 hours in case of fire, tornado, or other emergency situation is updated to clarify that the notification requirement applies to all school districts regardless of their academic calendar.

- (3) Title 210. State Department of Education
 - Chapter 40. Grants and Programs-in-Aid
 - Subchapter 87. Rules for Payments to Charter Schools
 - 210:40-87-4. Penalty for noncompliance [AMENDED]**
 - 210:40-87-6. Charter school insurance and surety bonding [AMENDED]**

Two of the rules addressing charter schools are being updated to reflect changes to the Oklahoma Charter Schools Act in the time since their adoption. Both amended sections were originally drafted to refer only to school districts as charter school sponsors. The Charter Schools Act now authorizes sponsorship by other entities in addition to school districts: technology center districts, colleges that are part of the State System of Higher Education, federally recognized Indian tribes, and under appeal conditions the State Board of Education.

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

210:10-1-3. Reports and records for attendance, enrollment, and transportation

- (a) All original attendance records are hereby made official public records, and as such shall be kept daily in ink, or recorded daily in the school district's Schools Interoperability Framework (SIF)-compliant Student Information System according to the law and regulations, and on the forms approved by the State Board of Education. Original attendance records for all school districts having less than 50 teachers shall be filed in the office of the County Superintendent at the close of the term for the respective school districts and shall be retained there until the final audits are completed. While a school district's Student Information System may serve as a school's official record of student attendance, it is recommended that teachers also keep their own attendance records in hard copy form, so that if any discrepancies arise the Student Information System record may be compared with individual teacher records. Each school district shall be responsible for maintaining an addendum to the attendance records to verify the number of individual student absences for activities.
- (b) All original attendance records for schools ~~having more than 50 teachers~~ shall be kept at the respective schools and shall be made available during the summer months for inspection and audit by a representative of the State Board of Education. All attendance record forms shall be approved by the State Board of Education. All Registers of Pupil Attendance, Enrollment and Transportation shall be marked daily in ink as outlined in the register, or recorded as appropriate in the district's Student Information System. Such records shall be kept by a competent individual under supervision of the principal.
- (c) At the close of the school year, the ~~County or~~ District Superintendent of Schools shall keep on file all Registers of Pupil Attendance, Enrollment and Transportation, and Class Record Books of all teachers and principals employed under ~~his~~ the superintendent's supervision.

RULE IMPACT STATEMENT 210:10-1-3

Reports and records for attendance, enrollment, and transportation [AMENDED]

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

The rule describing the creation and maintenance of school attendance, enrollment, and transportation records must be updated to reflect changes in law and practice. The existing rule language refers to requirements that are no longer in effect, such as making records in ink when digital recordkeeping is now authorized. A reference to the County Superintendent is removed, as that position no longer exists.

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 rule change will affect school districts and school district personnel.

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

The rule change will benefit school districts and their personnel by ensuring the guidelines in the Administrative Code reflect current technology and practices.

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 political subdivisions or affected classes 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:** September 23, 2018

STATUTORY AUTHORITY FOR 210:10-1-3

Oklahoma Statutes

Title 70. Schools

Chapter 1 - School Code of 1971

Article XXIV - Miscellaneous Provisions

Section 24-114 - Pupil Records - Storing of Pupil Records - Time Requirement and Exception

A. The board of education of each school district in Oklahoma shall compile and maintain both temporary and permanent records of students enrolled in the district and regulate access, disclosure or communication of information contained in the student records in a manner consistent with state and federal law.

B. School districts may store all documents and information in student records either electronically or in paper format, and either in a single- or multiple-file format. Records shall be stored, backed up and secured in accordance with standards and protocol developed by the State Board of Education.

C. The transcript of a student shall be maintained by the school district for not less than eighty (80) years following the graduation, transfer or withdrawal from the district of the student. For purposes of this subsection, "transcript" means the permanent academic record of a student and shall include the name, address, telephone listing and date and place of birth of the student, an inventory of courses taken, all grades received, grade-point averages and/or class rank, and may include all academic and extracurricular honors and awards received, all degrees conferred and extracurricular or after-school activities.

D. Except for the transcript records as defined in subsection C of this section, school districts shall dispose of information in a student record at a time selected by the district that is between five (5) years and seven (7) years after the student has graduated, transferred or withdrawn from the district. The State Board of Education shall promulgate rules regarding notification to parents or guardians of a student or the student if he or she is eighteen (18) years of age or older of destruction of the records.

TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE
LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS
SUBCHAPTER 3. STANDARDS FOR ELEMENTARY, MIDDLE LEVEL,
SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS
PART 5. STANDARD III: ADMINISTRATION AND ORGANIZATION

210:35-3-46. Administrative and supervisory services

(a) The school site shall be part of a system employing a full-time superintendent. If a vacancy occurs in the superintendency during the course of the school year, a certified replacement must be employed within forty-five (45) school days.

(b) It shall further be the responsibility of the local board, upon the recommendation of the superintendent, to employ an administrative head to be known as a principal for each of the schools within the district. Private schools shall employ a full-time principal/headmaster. ~~An elementary district shall employ a full-time elementary superintendent. With the exception of requirements for certification, the term superintendent as used in these standards shall mean an elementary school superintendent, headmaster, or superintendent.~~ Full time is defined as employed full time and therefore allows administrators to teach.

(c) Instructional leadership shall be the chief function of the school's principal. The principal shall be responsible for the improvement of instruction and be given the authority and resources needed to accomplish this goal. The principal shall help clarify the goals of the school, help obtain resources for it, coordinate its various activities, and promote its continuous evaluation to determine improvements needed.

(d) Lines of administrative and supervisory authority between the central office staff and the principal shall be defined clearly and shall give the principal responsibility for initiating appropriate changes to meet the needs of the students.

(e) The principal shall be involved in the selection, assessment, evaluation, retention, and promotion of all personnel assigned to the school.

(f) While working with faculty, staff, or students in the school, central office and other supplementary personnel shall coordinate their activities through the principal.

(g) The principal shall have the responsibility and the authority for the administration of the non-instructional programs in the school.

(h) The local board shall adopt a school calendar and school day consistent with statutory requirements in Oklahoma.

~~(1) The early childhood school day shall consist of not less than 2 1/2 hours per session. Early childhood may meet for less than 2 1/2 hours a day the first five (5) days of school.~~

~~(2) The kindergarten school day shall consist of not less than 2 1/2 hours per day. Kindergarten may meet for less than 2 1/2 hours for the first five (5) days of school.~~

~~(3) A school day for first graders shall consist of not less than three (3) hours per day during the first two (2) weeks of school if the teachers devote the afternoon to parent-teacher conferences.~~

~~(i) If, because of emergency situations, school has been missed more than fifteen (15) days, the State Board of Education will consider forgiving a portion of those days or in rare instances all days missed, on a case-by-case basis. Exceptions to the fifteen (15) day minimum will be made at the recommendation of the State Superintendent and forgiveness will be considered by the State Board of Education on a case-by-case basis. [70 O.S., Section 1-109]~~

(j)(i) If a school district on a traditional 180 day academic calendar rather than a 1,080 hour academic calendar determines that it is necessary to deviate from the required 6 hour school day because of severe weather conditions or fire, the administrator should report this, in writing, to the State Department of Education, ~~Accreditation Section~~, Office of Accreditation within seventy-two (72) hours. Any loss of school time shall require the superintendent to report the amount of time lost and the procedures to be used to make up the lost time. If a school district on a 1,080 hour academic calendar adopted pursuant to 70 O.S. § 1-109 determines that it is necessary to cancel or shorten a school day due to severe weather or other such unavoidable conditions, the district may adapt the length of subsequent school days as necessary to ensure class is in session for at least the 1,080 hours required for the school year. Any such adaptations to a school district's academic calendar that are made during the school year must be reported to the State Department of Education Office of Accreditation within seventy-two (72) hours, but pre-approval for the calendar adjustment is not required provided class time for the school year will not be reduced below 1,080 hours.

~~(k) Schools shall obtain permission from the State Board of Education before conducting Saturday classes to complete a standard school term including professional days. [70 O.S., Section 1-112]~~

RULE IMPACT STATEMENT 210:35-3-46

Administrative and supervisory services [AMENDED]

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

This rule from the standards for school accreditation must be updated due to changes in law since the rule's adoption. The old "elementary superintendent" certification status is no longer in use, so content referring to that as a separate role is being removed. References to the length of early childhood and kindergarten programs have changed in statute, so old provisions inconsistent with the current guidelines are also being stricken from the rule. Two additional provisions addressing the State Board of Education's authority to grant certain statutory waivers are being removed from the rule, as they are already well addressed by statute. A provision requiring school districts to notify the State Department of Education Office of Accreditation within 72 hours in case of fire, tornado, or other such emergency situation is updated to clarify that the notification requirement applies to all school districts regardless of their academic calendar.

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 rule change will affect school districts and school district administrators.

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

The rule change will benefit school districts and their administrators by ensuring the guidelines in the Administrative Code reflect current law and practices.

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 political subdivisions or affected classes 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:** September 23, 2018

STATUTORY AUTHORITY FOR 210:35-3-46

Oklahoma Statutes

Title 70. Schools

Chapter 1 - School Code of 1971

Article XVIII - State Aid

Section 18-108 - Kindergarten

A. It is the intent of the Legislature to provide a free public kindergarten for every five-year-old child in this state.

B. Each day during which a child attends a kindergarten for two and one-half (2 1/2) hours or more shall be counted as one hundred percent (100%) of one (1) day of average daily attendance. Each day a kindergarten student is on the membership roll in a school district shall be counted as one hundred percent (100%) of one (1) day of average daily membership.

C. It shall be the duty of every school district in this state to provide and offer kindergarten free of tuition for every child residing in the district who attains the age of five (5) years on or before the first day of September during the school year such kindergarten is offered. The duty to provide and offer kindergarten may be satisfied by transferring kindergarten children to other school districts which accept them and provide kindergarten for such children, or by contracting for classroom space with a licensed public or licensed private child care provider based upon selection criteria established by the district.

D. A kindergarten program may be offered jointly by school districts that have formed interlocal cooperative agreements pursuant to Section 5-117b of this title.

E. Beginning with the 2013-2014 school year, it shall be the duty of every school district in this state to provide and offer a full six-hour day of kindergarten free of tuition for every child residing in the district who attains the age of five (5) years on or before the first day of September during the school year kindergarten is offered. The duty to provide and offer kindergarten may be satisfied by intra-district transfer to a school offering full-day kindergarten, by transferring kindergarten children to other school districts which will accept them and can provide kindergarten for such children, or by contracting for classroom space with a licensed public or licensed private child care provider based upon selection criteria established by the district. A school district shall be exempt from the provisions of this subsection if the school district has voted indebtedness through the issuance of bonds or approval by voters of issuance of new bonds for more than eighty-five percent (85%) of the maximum allowable, pursuant to the provisions of Section 26 of Article X of the Oklahoma Constitution, at any time within the previous five (5) years.

F. The requirement to attend kindergarten provided in Section 10-105 of this title may be satisfied by attendance in either a half-day or full-day program. Membership in a kindergarten for either two and one-half (2 1/2) hours or six (6) hours per school day shall be counted as one (1) day for average daily membership purposes. For purposes of State Aid, the pupil grade level weight for a two-and-one-half-hour day of kindergarten shall be 1.3, and for a six-hour full day of kindergarten shall be 1.5.

Oklahoma Statutes

Title 70. Schools

Chapter 1 - School Code of 1971

Article I - Scope, Organization, and Definitions

Section 1-109 - School Year for Public Schools - Criteria for Extended Day Schedule

A. For all public schools in Oklahoma, school shall actually be in session and classroom instruction offered:

1. For not less than one hundred eighty (180) days; or

2. For not less than one thousand eighty (1,080) hours each school year, if a district board of education adopts a school-hours policy and notifies the State Board of Education prior to October 15 of the applicable school year.

B. A school district may not count more than thirty (30) hours each school year that are used for attendance of professional meetings toward the one hundred eighty (180) days or one thousand eighty (1,080) hours of classroom instruction time required in subsection A of this section.

C. Teachers off contract with an employing district shall not be required by the employing school district to attend professional meetings unless the teacher is paid additional compensation for the additional time. Teachers may be paid additional compensation for attending professional meetings in excess of their contract term. Subject to district board of education policy or collective bargaining agreement, additional paid professional days may be granted for individual teachers to attend or participate in professional meetings, staff development training, or National Board certification portfolio development as provided for in [Section 6-204.2](#) of this title.

D. A school district may authorize parent-teacher conferences to be held during a regular school day. If authorized by the school district, parent-teacher conferences shall be counted as classroom instruction time for no more than six (6) hours per semester, for a total of twelve (12) hours per school year.

E. A school district may maintain school for less than a full school year only when conditions beyond the control of school authorities make the maintenance of the term impossible and the State Board of Education has been apprised and has expressed concurrence in writing.

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 40. GRANTS AND PROGRAMS-IN-AID
SUBCHAPTER 87. RULES FOR PAYMENTS TO CHARTER SCHOOLS**

210:40-87-4. Penalty for noncompliance

Upon notice of noncompliance and verification by the charter school of a sponsor's failure to disburse state funding to the charter school as outlined in Oklahoma Administrative Code 210:40-87-3, the State Department of Education may make a recommendation to the State Board of Education to withhold future payments of funds until the ~~district~~ sponsor disburses payments to the charter school in accordance with 70 O.S. § 3-142 and these ~~policies~~ administrative rules. In the event such a recommendation is made, the ~~local school board~~ sponsor shall be notified in writing and given an opportunity to appear and provide information prior to any decision by the State Board of Education to invoke the penalty within ~~these rules~~ this section.

210:40-87-6. Charter school insurance and surety bonding

(a) **Liability insurance.** Each charter school shall be required to furnish and maintain liability insurance coverage and fidelity bonding of the same terms, conditions, types and amounts required of public schools under Oklahoma law. The provisions of this subsection shall not be interpreted to preclude any charter school from obtaining liability insurance coverage or fidelity bonds in addition to or in excess of the requirements of this section.

(b) **Surety bonds.** Charter school officers and/or employees shall be required to furnish and maintain surety bonds with the same terms, conditions, penalty, types and amounts required of public school officers and/or employees under Oklahoma law.

(1) All surety bonds shall comply with the requirements set forth in 70 O.S. § 5-116a, provided that in the case of a charter school established in accordance with the provisions of the Oklahoma Charter Schools Act, ~~at the~~ surety bond shall be made payable to the charter school instead of the school district.

(2) The provisions of this subsection shall not be interpreted to preclude any charter school officer and/or employee from furnishing and maintaining a surety bond in excess of the requirements of this section.

(3) Further, the provisions of this subsection shall not be interpreted to preclude a school board, school district, or charter school sponsor from requiring a charter school officer and/or employee charged with custody of public funds from furnishing a surety bond as a prerequisite of employment unless otherwise prohibited by law.

RULE IMPACT STATEMENT 210:40-87-4 and 210:40-87-6

**Penalty for noncompliance [AMENDED]
Charter school insurance and surety bonding [AMENDED]**

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

Two of the rules addressing charter schools are being updated to reflect changes to the Oklahoma Charter Schools Act in the time since their adoption. Both amended sections were originally drafted to refer only to school districts as charter school sponsors, while the Charter Schools Act now authorizes sponsorship by other entities including technology center districts, colleges that are part of the State System of Higher Education, federally recognized Indian tribes, and in certain instances the State Board of Education.

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 rule change will affect charter schools and their sponsoring entities.

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

The rule change will benefit charter schools and their sponsors by ensuring the guidelines in the Administrative Code reflect current law and practices.

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 political subdivisions or affected classes 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:** September 23, 2018

STATUTORY AUTHORITY FOR 210:40-87-4 AND 210:40-87-6

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

A. The Oklahoma Charter Schools Act shall apply only to charter schools formed and operated under the provisions of the act. Charter schools shall be sponsored only as follows:

1. By any school district located in the State of Oklahoma, provided such charter school shall only be located within the geographical boundaries of the sponsoring district and subject to the restrictions of Section 3-145.6 of this title;
2. By a technology center school district if the charter school is located in a school district served by the technology center school district in which all or part of the school district is located in a county having more than five hundred thousand (500,000) population according to the latest Federal Decennial Census;
3. By a technology center school district if the charter school is located in a school district served by the technology center school district and the school district has a school site that has been identified as in need of improvement by the State Board of Education pursuant to the Elementary and Secondary Education Act of 1965, as amended or reauthorized;
4. By an accredited comprehensive or regional institution that is a member of The Oklahoma State System of Higher Education or a community college if the charter school is located in a school district in which all or part of the school district is located in a county having more than five hundred thousand (500,000) population according to the latest Federal Decennial Census;
5. By a comprehensive or regional institution that is a member of The Oklahoma State System of Higher Education if the charter school is located in a school district that has a school site that has been identified as in need of improvement by the State Board of Education pursuant to the Elementary and Secondary Education Act of 1965, as amended or reauthorized. In addition, the institution shall have a teacher education program accredited by the Oklahoma Commission for Teacher Preparation and have a branch campus or constituent agency physically located within the school district in which the charter school is located in the State of Oklahoma;
6. By a federally recognized Indian tribe, operating a high school under the authority of the Bureau of Indian Affairs as of November 1, 2010, if the charter school is for the purpose of demonstrating native language immersion instruction, and is located within its former reservation or treaty area boundaries. For purposes of this paragraph, native language immersion instruction shall require that educational instruction and other activities conducted at the school site are primarily conducted in the native language;
7. By the State Board of Education when the applicant of the charter school is the Office of Juvenile Affairs or the applicant has a contract with the Office of Juvenile Affairs 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;
8. By a federally recognized Indian tribe only when the charter school is located within the former reservation or treaty area boundaries of the tribe on property held in trust by the Bureau of Indian Affairs of the United States Department of the Interior for the benefit of the tribe; or

9. By the State Board of Education when the applicant has first been denied a charter by the local school district in which it seeks to operate. In counties with fewer than five hundred thousand (500,000) population, according to the latest Federal Decennial Census, the State Board of Education shall not sponsor more than five charter schools per year each year for the first five (5) years after the effective date of this act, with not more than one charter school sponsored in a single school district per year. In order to authorize a charter school under this section, the State Board of Education shall find evidence of all of the following:

- a. a thorough and high-quality charter school application from the applicant based on the authorizing standards in subsection B of Section 3-134 of this title,
- b. a clear demonstration of community support for the charter school, and
- c. the grounds and basis of objection by the school district for denying the operation of the charter are not supported by the greater weight of evidence and the strength of the application.
