



THE WASHINGTON STATE BOARD OF EDUCATION

Governance | Accountability | Achievement | Oversight | Career & College Readiness

Title:	Public hearing on proposed charter school rules, WAC 180-19-220-260.	
As Related To:	<input checked="" type="checkbox"/> Goal One: Effective and accountable P-13 governance. <input checked="" type="checkbox"/> Goal Two: Comprehensive statewide K-12 accountability. <input type="checkbox"/> Goal Three: Closing achievement gap.	<input checked="" type="checkbox"/> Goal Four: Strategic oversight of the K-12 system. <input type="checkbox"/> Goal Five: Career and college readiness for all students. <input type="checkbox"/> Other
Relevant To Board Roles:	<input type="checkbox"/> Policy Leadership <input checked="" type="checkbox"/> System Oversight <input type="checkbox"/> Advocacy	<input type="checkbox"/> Communication <input type="checkbox"/> Convening and Facilitating
Policy Considerations / Key Questions:	<ol style="list-style-type: none"> 1. What means for general oversight of the performance of district authorizers should be provided for to meet the intent of RCW 28A.710.120? 2. How prescriptive should the Board be in rules to this section, and how much flexibility left to address individual circumstances? 3. How should the statutory “triggers” for special reviews be defined in rule? 4. What opportunity should be given the authorizer to remedy identified authorizing problems? 5. How should the Board define the statutory grounds for revocation of chartering authority? 6. What steps should be placed in rule for the timely and orderly transfer of charter contract to another authorizer, if necessary? 7. What changes, if any, should be made to the draft rules in response to public testimony? 	
Possible Board Action:	<input checked="" type="checkbox"/> Review <input type="checkbox"/> Adopt <input type="checkbox"/> Approve <input checked="" type="checkbox"/> Other The Board will receive public testimony on proposed WACs 180-19-220 through 180-19-260.	
Materials Included in Packet:	<input type="checkbox"/> Memo <input type="checkbox"/> Graphs / Graphics <input checked="" type="checkbox"/> Third-Party Materials <input type="checkbox"/> PowerPoint	
Synopsis:	<p>At the November 2013 meeting the SBE approved for public hearing, with changes, proposed rules to RCW 28A.710.120, concerning oversight by the SBE of the performance and effectiveness of school districts it has approved to be authorizers of public charter schools under RCW 28A.710.090. The rules prescribe procedures for the SBE in carrying out its duties for oversight under this section, and provide clarity to districts on how the oversight will be conducted. They include provisions for:</p> <ul style="list-style-type: none"> • General and ongoing oversight under the authority in subsection (1). • Special reviews under (2), including definitions of the statutory “triggers,” complaints about an authorizer or its schools, timelines, and results of the review. • Notice to an authorizer under (4) of identified authorizing problems, and opportunity for the authorizer to respond. • Revocation of the authorizing contract, including definition of the statutory grounds for revocation, notice to the authorizer of intent to revoke, and notice of revocation if the authorizer fails to remedy deficiencies. • Transfer of charter contracts held by the authorizer, in the event of revocation, to the Washington Charter School Commission. <p>In your packet you will find the proposed rules, the CR 102 (Proposed Rule-Making) filed with the Office of the Code Reviser, and the OSPI fiscal impact statement.</p>	



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: State Board of Education

<input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 13-08-065 ; or	<input checked="" type="checkbox"/> Original Notice
<input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or	<input type="checkbox"/> Supplemental Notice to WSR _____
<input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).	<input type="checkbox"/> Continuance of WSR _____

Title of rule and other identifying information: (Describe Subject) WAC 180-19-220 Oversight of authorizers—General provisions; WAC 180-19-230 Oversight of authorizers—Special review; WAC 180-19-240 Oversight of authorizers—Notice of identified problems; WAC 180-19-250 Oversight of authorizers—Revocation of authorizing contract; WAC 180-19-260 Authorizer oversight—Transfer of charter contract.

Hearing location(s): New Market Skills Center, Tumwater, WA

Submit written comments to:

Name: Jack Archer

Address: Old Capitol Building, 600 Washington Street S.E., Olympia, WA 98504

e-mail jackarcher@k12.wa.us

fax (360)586-2357 by (date) January 3, 2014

Date: January 8, 2013 Time: 1:45 pm – 2:15 pm

Assistance for persons with disabilities: Contact

Denise Ross by December 31, 2013

TTY (360) 664-3631 or (360) 725-6025

Date of intended adoption: March 6, 2014

(Note: This is NOT the effective date)

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The purpose of the proposed rules is compliance with RCW 28A.710.120(7), which requires the State Board of Education to establish timelines and a process for taking actions under this section in response to performance deficiencies by a school district board of directors that has been approved as a charter authorizer under RCW 28A.710.090 and WAC 180-19-010 through WAC 180-19-040. The proposed rules establish specific powers, duties and procedures for the SBE in carrying out its responsibility for oversight of the performance of authorizers under RCW 28A.710.120, and clarity to authorizers as to the manner in which this oversight will be conducted. The rules include provisions for:

- (1) SBE procedures for general oversight of authorizers under the authority granted by RCW 28A.710.120(1);
- (2) Special reviews under RCW 28A.710.120(2), including definitions of the statutory “triggers” for such special reviews under this subsection, the handling of complaints about an authorizer or its portfolio of schools, timelines, and the results of a special review;
- (3) Notice to an authorizer under RCW 28A.710.120 (4) of identified authorizing problems, and opportunity for authorizer response;
- (4) Revocation of the authorizing contract by the SBE, including definition of the statutory grounds for revocation, notice to the authorizer of SBE intent to revoke, and notice of revocation if the authorizer fails to remedy identified violations or deficiencies, with opportunity for the authorizer to seek an adjudicative proceeding under the authority set forth in RCW 28A.710.120(3) and (5);
- (5) Transfer of charter contracts held by the authorizer, in the event of revocation, to the Washington Charter School Commission, including provisions for obtaining the mutual consent of the Commission and each charter school governing board for the transfer, transfer of student records and data to the new authorizer, and notification to parents of the transfer as provided for in RCW 28A.710.120(6).

Statutory authority for adoption: RCW 28A.710.120

Statute being implemented: RCW 28A.710.120 (Initiative 1240)

Is rule necessary because of a:

Federal Law?

Yes No

Federal Court Decision?

Yes No

State Court Decision?

Yes No

If yes, CITATION:

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 04, 2013

TIME: 9:11 AM

WSR 13-24-115

DATE

12/03/2013

NAME (type or print)

Ben Rarick

SIGNATURE

TITLE

Executive Director

(COMPLETE REVERSE SIDE)

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None.

Name of proponent: (person or organization) State Board of Education

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Jack Archer	Old Capitol Building, 600 Washington Street, Olympia, WA	(360) 725-6035
Implementation.... Ben Rarick	Old Capitol Building, 600 Washington Street, Olympia, WA	(360) 725-6025
Enforcement..... Ben Rarick	Old Capitol Building, 600 Washington Street, Olympia, WA	(360) 725-6025

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name: Thomas J. Kelly

Address: Old Capitol Building, 600 Washington Street S.E., Olympia, WA

phone (360-725-6031)

fax (NA)

e-mail thomas.kelly@k12.wa.us

No. Explain why no statement was prepared.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No: Please explain: None required.

NEW SECTION

WAC 180-19-220 Oversight of authorizers—General Provisions. (1)

The state board of education is responsible under RCW 28A.710.120 for oversight of the performance and effectiveness of all authorizers approved under RCW 28A.710.090. This oversight is ongoing and is not limited to the specific actions and procedures described in these rules. For the purposes of the board's rules governing the oversight of authorizers, the term "authorizer" means a school district board of directors that has been approved to be a charter school authorizer under RCW 28A.710.090.

(2) In reviewing or evaluating the performance of authorizers against nationally recognized principles and standards for quality authorizing, the board will compare the authorizer's performance to the standards for quality set forth in the *Principles and Standards for Quality Charter School Authorizing*, 2012 edition, published by the National Association of Charter School Authorizers. A link to this publication shall be posted on the board's public web site.

(3) In carrying out its responsibilities for overseeing the performance and effectiveness of authorizers under RCW 28A.710.120, the board shall utilize information including, but not limited to, the annual authorizer reports submitted to the board under RCW 28A.710.100, all reports and data submitted to the office of the superintendent of public instruction under chapter 28A.710 RCW, charter contracts, and the findings of any special review conducted under RCW 28A.710.120(2). The board will require submission of or access to materials or data from the authorizer deemed reasonably necessary to evaluate the performance and effectiveness of the authorizer.

(4) The board may contract for services with persons or entities having relevant expertise in the performance of its duties under RCW 28A.710.120.

(5) The board may conduct site visits to charter schools in an authorizer's portfolio for the purpose of conducting oversight of the performance of an authorizer under these rules. The board shall provide reasonable notice to the authorizer and the charter governing board prior to a site visit.

(6) In carrying out its duties for oversight of the performance and effectiveness of authorizers under RCW 28A.710.120, the board shall respect the principal role and responsibility of the authorizer for monitoring and oversight of the charter school under RCW 28A.710.100, and the authority of the charter school board to manage and operate the charter school under RCW 28A.710.030 and the terms of its charter contract.

NEW SECTION

WAC 180-19-230 Oversight of authorizers—Special review. (1)

The board is authorized, upon a determination of persistently unsatisfactory performance of an authorizer's portfolio of charter schools, a pattern of well-founded complaints about the authorizer or its charter schools, or other objective circumstances, to conduct a special review of an authorizer's performance. The purpose of the special review is

to determine the need for additional action by the board as provided in these rules.

(2) "Persistently unsatisfactory performance of an authorizer's portfolio of charter schools" shall consist, for any school or schools, of:

(a) Repeated failure to meet the expectations for academic performance set forth in the charter contract including, but not limited to, applicable state and federal accountability requirements, without evidence of a trend indicating the school will meet those expectations.

(b) Repeated failure to meet the financial performance targets within the charter contract;

(c) Repeated failure to meet the targets for organizational performance within the charter contract;

(3) "A pattern of well-founded complaints" means multiple complaints that are found by the board to be supported by sufficient factual information alleging that an authorizer is not in compliance with a charter contract, its authorizing contract, or its authorizer duties, including the failure to develop and follow nationally recognized principles and standards for charter authorizing.

(a) Any individual or entity may submit a written complaint to the board about an authorizer or its charter schools. The complaint should state in specific terms the alleged violation of law, failure to comply with a charter contract or its authorizing contract, or failure to develop and follow nationally recognized principles and standards for charter authorizing. The complaint must be signed and dated and provide contact information for use by the board in requesting additional information as deemed needed. The board shall post a standard form for submission of complaints on its public web site.

(b) Upon receipt, the board shall transmit the complaint to the authorizer for its written response, which shall be submitted to the board within thirty days of receipt.

(c) The board may request additional information from the complainant or the authorizer as deemed necessary to investigate the complaint.

(d) If the complaint is determined not to be well-founded, the board shall notify the complainant in writing and the board shall not be required to take further action.

(e) If the complaint is determined to be well-founded, the board shall provide written notification of such determination to the complainant and the authorizer.

(4) "Other objective circumstances" include, but are not limited to, failure of the authorizer or its charter schools to comply with an applicable state or federal law or regulation, or evidence that a charter school is not operating in a manner that fulfills the requirements of its charter contract or has a substantial risk of becoming operationally unable to fulfill those requirements.

(5) The board must provide written notice to the authorizer of initiation of a special review, documenting the reasons for the decision to conduct the review. The board must provide opportunity for the authorizer to respond in writing to the specific determinations of the need for the review.

(6) The board shall submit a written report of the results of the special review to the authorizer and other interested persons. The report may include recommended corrective actions. The report shall be posted on the board's public web site.

NEW SECTION

WAC 180-19-240 Oversight of authorizers—Notice of identified problems. (1) If at any time the board finds that an authorizer is not in compliance with a charter contract, its authorizing contract, or the authorizer duties under RCW 28A.710.100, it shall provide the authorizer with written notification of the identified problems with specific reference to the charter contract, the authorizing contract, or the authorizer duties under RCW 28A.710.100.

(2) The authorizer shall respond to the written notification and remedy the problems within a specific time frame as determined reasonable by the board under the circumstances.

(3) Nothing in this section requires the board to conduct a special review under WAC 180-19-XXX before providing an authorizer with notice of identified problems.

NEW SECTION

WAC 180-19-250 Oversight of authorizers—Revocation of authorizing contract. (1) Evidence of material or persistent failure by an authorizer to carry out its duties according to nationally recognized principles and standards for charter authorizing is grounds for revocation of an authorizer's chartering contract. This may include:

(a) Failure to comply with the terms of the authorizing contract between the authorizer and the board;

(b) Violation of a term of the charter contract between the authorizer and a charter school;

(c) Demonstrated failure to develop and follow chartering policies and practices that are consistent with the principles and standards for quality charter authorizing developed by the National Association of Charter School Authorizers in any of the following areas, as required by RCW 28A.710.100:

(i) Organizational capacity;

(ii) Soliciting and evaluating charter applications;

(iii) Performance contracting;

(iv) Ongoing charter school oversight and evaluation;

(v) Charter renewal decision making.

(2) Notice of intent to revoke. If the board makes a determination, after due notice to the authorizer and reasonable opportunity to effect a remedy, that the authorizer continues to be in violation of a material provision of a charter contract or its authorizing contract, or has failed to remedy other identified authorizing problems:

(a) The board shall notify the authorizer in writing that it intends to revoke the authorizer's chartering authority under RCW 28A.710.120. The notification to the authorizer shall explain and document the reasons for the intent to revoke chartering authority.

(b) The authorizer shall, within thirty days of notification, submit a written response showing clearly that the authorizer has implemented or will promptly implement, a sufficient remedy for the violation or deficiencies that are the stated grounds for the intent to revoke chartering authority.

(3) Notice of revocation. If the authorizer fails to provide a timely written response or if the response is deemed inadequate by the

board to meet the requirement set forth in subsection (1) of this section:

(a) The board shall provide the authorizer with written notice of revocation of the authorizer's chartering authority. The notice of revocation shall state the effective date of revocation, which shall not be sooner than twenty days from the date of receipt of the notice of revocation by the authorizer unless a timely notice of a request for an adjudicative proceeding is filed as set forth herein.

(b) The authorizer may request an adjudicative proceeding to contest the revocation. The request for an adjudicative proceeding must be submitted in writing by the authorizer to the board within twenty days of receipt of the notice of revocation at the following address:

Old Capitol Building
P.O. Box 47206
600 Washington St. S.E., Room 253
Olympia, Washington 98504

Any adjudicative proceeding shall be conducted in accordance with the Administrative Procedure Act (APA).

NEW SECTION

WAC 180-19-260 Authorizer oversight—Transfer of charter contract. (1) In the event that a notice of revocation is provided to the authorizer under WAC 180-19-XXX, any charter contract held by that authorizer shall be transferred, for the remaining portion of the charter term, to the Washington charter school commission on documentation of mutual agreement to the transfer by the charter school and the commission.

(2) Documentation of mutual agreement shall consist of a written agreement between the charter school board and the commission, signed and dated by the chair or president of the charter school board and the chair of the commission. The agreement shall include any modification or amendment of the charter contract as may be mutually agreed upon by the charter school board and the commission.

(3) The commission shall submit the agreement to the state board of education. The board shall review the agreement and on a determination that the requirements of these rules have been met, issue written certification of the transfer of the charter contract to the charter school governing board and the commission.

(4) On certification by the board of the transfer of the charter contract, the prior authorizer shall transfer to the commission all student records and school performance data collected and maintained in the performance of its duties as an authorizer under RCW 28A.710.100 and 28A.710.170.

(5) The commission, in consultation with the charter school governing board, shall develop and implement a procedure for timely notification to parents of the transfer of the charter contract and any modifications or amendments to the charter included in the memorandum of understanding.



STATE BOARD OF EDUCATION RULE CHANGE SCHOOL DISTRICT FISCAL IMPACT STATEMENT

WSR:	Title of Rule: Oversight of Charter School Authorizers	Agency: SDF - School District Fiscal Impact - SPI
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Part I: Estimates

No Fiscal Impact

Fiscal impact is indeterminate.

Estimated Cash Receipts to:

No Estimated Cash Receipts

ACCOUNT	FY 2012	FY 2013	2011-13	2013-15	2015-17
Total \$					

Estimated Expenditures From:

No Estimated Expenditures

ACCOUNT	FY 2012	FY 2013	2011-13	2013-15	2015-17
Total \$					

Estimated Capital Impact:

No Estimated Capital Impact

ACCOUNT	FY 2012	FY 2013	2011-13	2013-15	2015-17
Total \$					

The cash receipts and expenditures estimate on this page represent the most likely fiscal impact.

Check applicable boxes and follow corresponding instructions:

If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note from Parts I-IV.

If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

Capital budget impact, complete Part IV.

Agency Preparation: T.J. Kelly	Phone: 360-725-6301	Date: 11/25/2013
Agency Approval: T.J. Kelly	Phone: 360-725-0000	Date: 08/16/2012

Part II: Narrative Explanation

II. A – Brief Description Of What the Measure Does That Has Fiscal Impact

Briefly describe by section, the significant provisions of the rule, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

WAC 180-19-220 (3) says that the State Board of Education (SBE) shall utilize information including but not limited to the annual authorizer reports submitted to the board under RCW 28A.710.100, all reports and data submitted to the Office of Superintendent of Public Instruction under Chapter 28A.710 RCW, charter contracts and the findings of any special review conducted under RCW 28A.710.120. The board will require submission of or access to materials or data from the authorizer deemed reasonably necessary to evaluate the performance and effectiveness of the authorizer.

Similarly, per WAC 180-19-230, C, SBE can request additional information in the event of investigating a complaint.

II. B – Cash Receipts Impact

Briefly describe and quantify the cash receipts impact of the rule on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

None.

II. C – Expenditures

Briefly describe the agency expenditures necessary to implement this rule (or savings resulting from this rule), identifying by section number the provisions of the rule that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Expenditures to be incurred by the charter school authorizers are indeterminate. The majority of what is required of authorizers for SBE to conduct their review is already required by law. The additional expense lies in whatever the state board requires to be reviewed or submitted as reasonably necessary to evaluate the performance and effectiveness of the authorizer.

Since this request will vary on a case by case basis, there is no way to come up with a reasonable cost estimate that authorizers will experience.

Part III: Expenditure Detail

III. A – Expenditures by Object or Purpose

Indeterminate

Part IV: Capital Budget Impact

None