

**SUBJECT**

Staff Update: Legislative Update

**APPLICABLE STATUTE, RULE, OR POLICY**

I.C. § 33-52  
IDAPA 08.02.04  
IDAPA 08.03.01

**BACKGROUND**

In September 2012, the PCSC approved proposed rules intended to update SBOE and PCSC administrative rules for consistency with legislative changes made during the 2012 legislative session.

Over the past year, representatives of various charter school stakeholder groups have met to discuss and develop proposed legislation to modify Idaho's charter school statute based on the National Alliance for Public Charter Schools' Model Law.

**DISCUSSION**

PCSC staff will update the PCSC on the status of policy discussions relevant to public charter schools and authorizers.

The proposed rules were recommended for adoption by the Senate Education Committee as well as a House Education Rules Subcommittee. The House Education Committee as a whole has not yet considered the rules.

Representatives of the Idaho Charter School Network, the Idaho Coalition of Charter School Families, the Public Charter School Commission, the State Department of Education, the Idaho School Boards Association, and the Idaho Association of School Administrators have worked on the draft legislation included with these materials. The drafts are in final stages of development before introduction to the legislature, so any additional PCSC input must be gathered at this time.

**IMPACT**

Information item only.

**STAFF COMMENTS AND RECOMMENDATIONS**

Staff has no comments or recommendations.

**COMMISSION ACTION**

Any action would be at the discretion of the PCSC.

**February 14, 2013**

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February 14, 2013

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-5202A, IDAHO CODE, TO DEFINE AN AUTHORIZED CHARTERING ENTITY; AMENDING CHAPTER 52, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-5203A, IDAHO CODE, TO PROVIDE A PROOCES FOR APPROVAL OF CERTAIN AUTHORIZED CHARTERING ENTITIES; AND AMENDING SECTION 33-5208, IDAHO CODE, TO PROVIDE FOR AUTHORIZER FEES.

Be It Enacted by the Legislature of the State of Idaho:

Section 1. That Section 33-5202A, Idaho Code, be, and the same is hereby amended to read as follows:

33-5202A. Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Authorized chartering entity" means ~~either~~ any of the following:

(a) a local board of trustees of a school district in this state; ~~or~~

(b) the public charter school commission created pursuant to the provisions of this chapter;

(c) an Idaho public college, university or community college, or

(d) a private, Idaho-based, nonsectarian college or university that is accredited by the same organization that accredits Idaho public colleges and universities; or

(e) a nonsectarian charitable organization that is organized under section 501(c)(3) of the Internal Revenue Code, registered with the Idaho Secretary of State, and has been approved as an authorized chartering entity by the state department of education pursuant to Section 33-5203A, Idaho Code.

(2) "Charter" means the grant of authority approved by the authorized chartering entity to the board of directors of the public charter school.

(3) "Founder" means a person, including employees or staff of a public charter school, who makes a material contribution toward the establishment of a public charter school in accordance with criteria determined by the board of directors of the public charter school, and who is designated as such at the time the board of directors acknowledges and accepts such contribution. The criteria for determining when a person is a founder shall not discriminate against any person on any basis prohibited by the federal or state constitutions or any federal, state or local law. The designation of a person as a founder, and the admission preferences available to the children of a founder, shall not constitute pecuniary benefits.

(4) "Petition" means the document submitted by a person or persons to the authorized chartering entity to request the creation of a public charter school.

(5) "Professional-technical regional public charter school" means a public charter secondary school authorized under this chapter to provide programs in professional-technical education which meet the standards and qualifications established by the division of professional-technical education. A professional-technical regional public charter school may be approved by an authorized chartering entity and, by the terms of its charter, shall operate in association with at least two (2) school districts. Notwithstanding the provisions of section [33-5205](#)(3)(j), Idaho Code, participating school districts need not be contiguous.

(6) "Public charter school" means a school that is authorized under this chapter to deliver public education in Idaho.

(7) "Traditional public school" means any school existing or to be built that is operated and controlled by a school district in this state.

(8) "Virtual school" means a school that delivers a full-time, sequential program of synchronous and/or asynchronous instruction primarily through the use of technology via the internet in a distributed environment. Schools classified as virtual must have an online component to their school with online lessons and tools for student and data management.

Section 2. That Chapter 52, Title 33, Idaho Code, be amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-5203A, Idaho Code, and to read as follows:

33-5203A. APPROVAL OF AUTHORIZED CHARTERING ENTITIES. (1) Any nonsectarian charitable organization that is organized under section 501(c)(3) of the Internal Revenue Code and registered with the Idaho Secretary of State may apply to the state department of education for approval to become an authorized chartering entity. The department shall establish an application form and application deadline(s) for such approvals.

(2) The application for approval as an authorized chartering entity shall demonstrate the applicant's ability to implement the procedures and satisfy the criteria for authorizing a public charter school under Chapter 52, Title 33, Idaho Code. The application form shall include the following:

(a) how authorizing public charter schools is a way for the organization to carry out its mission;

(b) a description of the capacity of the organization to serve as an authorized chartering entity, including the personnel who will perform authorization and oversight duties, their qualifications, the amount of time they will be assigned to these responsibilities, and the financial resources allocated by the organization to this responsibility;

(c) a description of the application and review process the authorized chartering entity will use to make decisions regarding the authorization of public charter schools;

(d) a description of the type of contract it will execute with the public charter schools it authorizes, pursuant to Section 33-5205, Idaho Code, and the process for making decisions regarding the renewal or non-renewal of its authorized public charter schools;

(e) the process to be used for providing ongoing oversight of the public charter schools it authorizes, consistent with the contract;

(f) a description of the criteria and process the authorized chartering entity will use to grant revisions to a public charter school's petition, pursuant to Section 33-5206, Idaho Code; and

(g) an assurance that the organization is committed to serving as an authorized chartering entity for at least five (5) years.

(3) The department shall establish written criteria for approval of authorized chartering entities pursuant to this section, and shall approve or disapprove an application within sixty (60) days of receipt of the application. If the department disapproves the application, the department shall notify the applicant of the specific deficiencies in writing. The applicant shall have thirty (30) days to submit a revised application that addresses the identified deficiencies. Within twenty-one (21) days of the receipt of a revised application, the department shall render a final decision to approve or disapprove the application. A disapproved applicant under this section may resubmit an application during a future application period. The department, in establishing written criteria for approval, shall consider the applicant's:

(a) capacity and infrastructure;

(b) application criteria and process;

(c) ongoing oversight and evaluation processes; and

(d) renewal criteria and processes.

(4) If the governing board of an authorized chartering entity approved pursuant to this section votes to withdraw as an authorized chartering entity, the authorizer must notify all of its authorized public charter schools and the department in writing by July 15 of its intent to withdraw as an authorizer on June 30 in the next calendar year. In such instances, the department may approve the transfer of a public charter school to a new authorized chartering entity approved pursuant to this section, or to the public charter school commission, with the consent of the public charter school and the commission or the receiving authorized chartering entity.

(5) Authorized chartering entities approved pursuant to this section shall attend department-approved authorizer training.

(6) The department shall review the performance of authorized chartering entities approved pursuant to this section every five years, in a manner and form determined by the department, and may review such an entity's performance more frequently at the department's own initiative. The department, after completing the review, shall transmit a report with findings to the authorized chartering entity. If, consistent with this section, the department finds that an authorized chartering entity has not fulfilled the requirements of this section, the commissioner may subject the authorized chartering entity to corrective action, which may include terminating its contract with any public charter schools it authorized. The department shall notify the authorized chartering entity in writing of any findings that may subject the authorizer to corrective action. The authorized chartering entity may, within twenty-one (21) days of the receipt of such findings, request an informal hearing before the department takes corrective action. If the department terminates a contract between an authorized chartering entity and a public charter school under this subsection, the commissioner may assist the charter school in acquiring a new authorizer.

(7) The department may at any time take corrective action against an authorized chartering entity approved pursuant to this section, including terminating an authorized chartering entity's ability to approve new public charter schools. Such action may be taken for:

(a) failing to demonstrate the criteria under subsection (3) of this section, under which the department approved an authorized chartering entity;

(b) violating a term of the chartering contract between an authorized chartering entity and a public charter school it authorized;

(c) unsatisfactory performance as an approved authorized chartering entity;

(d) a consistent pattern of unsatisfactory performance by the public charter schools approved by the authorized chartering entity; or

(e) any good cause shown that provides the department a legally sufficient reason to take corrective action against an authorized chartering entity.

Section 3. That Section 33-5205, Idaho Code, be, and the same is hereby amended to read as follows:

33-5205. Petition to establish public charter school. (1) Any group of persons may petition to establish a new public charter school, or to convert an existing traditional public school to a public charter school.

(a) A petition to establish a new public charter school, including a public virtual charter school, shall be signed by not fewer than thirty (30) qualified electors of the attendance area designated in the petition, unless it is a petition for approval by an authorized chartering entity permitted pursuant to subsections (1)(c), (1)(d) or (1)€ of Section 33-5202A, Idaho Code. Proof of elector qualifications shall be provided with the petition. A petition to establish a new public charter school may be submitted directly to an authorized chartering entity permitted pursuant to subsections (1)(c), (1)(d) or (1)€ of Section 33-5202A, Idaho Code; Provided, however, that no such individual authorized chartering entity shall approve more than one (1) new public charter school each year within the boundaries of a single school district. Except as provided in this subsection (1)(a), authorized chartering entities permitted pursuant to subsections (1)(c), (1)(d) or (1)€ of Section 33-5202A, Idaho Code, shall be governed by the same laws and rules in approving new public charter schools as the public charter school commission.

(b) A petition to establish a new public virtual school must be submitted directly to the public charter school commission. A petition to establish a new public charter school, other than a new public virtual school, shall first be submitted to the local board of trustees in which the public charter school will be located. A petition shall be considered to be received by an authorized chartering entity as of the

next scheduled meeting of the authorized chartering entity after submission of the petition.

(c) The board of trustees may either: (i) consider the petition and approve the charter; or (ii) consider the petition and deny the charter; or (iii) refer the petition to the public charter school commission, but such referral shall not be made until the local board has documented its due diligence in considering the petition. Such documentation shall be submitted with the petition to the public charter school commission. If the petitioners and the local board of trustees have not reached mutual agreement on the provisions of the charter, after a reasonable and good faith effort, within seventy-five (75) days from the date the charter petition is received, the petitioners may withdraw their petition from the local board of trustees and may submit their charter petition to the public charter school commission. Documentation of the reasonable and good faith effort between the petitioners and the local board of trustees must be submitted with the petition to the public charter school commission.

(d) The public charter school commission may either: (i) consider the petition and approve the charter; or (ii) consider the petition and deny the charter.

(e) A petition to convert an existing traditional public school shall be submitted to the board of trustees of the district in which the school is located for review and approval. The petition shall be signed by not fewer than sixty percent (60%) of the teachers currently employed by the school district at the school to be converted, and by one (1) or more parents or guardians of not fewer than sixty percent (60%) of the students currently attending the school to be converted. Each petition submitted to convert an existing school or to establish a new charter school shall contain a copy of the articles of incorporation and the bylaws of the nonprofit corporation, which shall be deemed incorporated into the petition.

(2) Not later than seventy-five (75) days after receiving a petition, the authorized chartering entity shall hold a public hearing for the purpose of discussing the provisions of the charter, at which time the authorized chartering entity shall consider the merits of the petition and the level of employee and parental support for the petition. In the case of a petition submitted to the public charter school commission, such public hearing must be not later than seventy-five (75) days after receipt of the petition, which may be extended for an additional specified period of time if both parties agree to an extension. Such

agreement shall be established in writing and signed by representatives of both parties.

In the case of a petition for a public virtual charter school, if the primary attendance area described in the petition of a proposed public virtual charter school extends within the boundaries of five (5) or fewer local school districts, the public charter school commission shall provide notice in writing of the public hearing no less than thirty (30) days prior to such public hearing to those local school districts. Such public hearing shall include any oral or written comments that an authorized representative of the local school districts may provide regarding the merits of the petition and any potential impacts on the school districts.

In the case of a petition for a non-virtual public charter school submitted to the public charter school commission, the board of the district in which the proposed public charter school will be physically located, shall be notified of the hearing in writing, by the public charter school commission, no less than thirty (30) days prior to the public hearing. Such public hearing shall include any oral or written comments that an authorized representative of the school district in which the proposed public charter school would be physically located may provide regarding the merits of the petition and any potential impacts on the school district. The hearing shall include any oral or written comments that petitioners may provide regarding any potential impacts on such school district. If the school district chooses not to provide any oral or written comments as provided for in this subsection (2), such school district shall notify the public charter school commission of such decision. Following review of any petition and any public hearing provided for in this section, the authorized chartering entity shall either approve or deny the charter within seventy-five (75) days after the date of the public hearing, provided however, that the date may be extended by an additional specified period of time if the petition fails to contain all of the information required in this section, or if both parties agree to the extension. Such agreement shall be established in writing and signed by representatives of both parties. This public hearing shall be an opportunity for public participation and oral presentation by the public. This hearing is not a contested case hearing as described in chapter 52, title 67, Idaho Code.

(3) An authorized chartering entity may approve a charter under the provisions of this chapter only if it determines that the petition contains the requisite signatures, the information required by

subsections (4) and (5) of this section, and additional statements describing all of the following:

(a) The proposed educational program of the public charter school, designed among other things, to identify what it means to be an "educated person" in the twenty-first century, and how learning best occurs. The goals identified in the program shall include how all educational thoroughness standards as defined in section 33-1612, Idaho Code, shall be fulfilled.

(b) The measurable student educational standards identified for use by the public charter school. "Student educational standards" for the purpose of this chapter means the extent to which all students of the public charter school demonstrate they have attained the skills and knowledge specified as goals in the school's educational program.

(c) The method by which student progress in meeting those student educational standards is to be measured.

(d) A provision by which students of the public charter school will be tested with the same standardized tests as other Idaho public school students.

(e) A provision which ensures that the public charter school shall be state accredited as provided by rule of the state board of education.

(f) The governance structure of the public charter school including, but not limited to, the person or entity who shall be legally accountable for the operation of the public charter school, and the process to be followed by the public charter school to ensure parental involvement.

(g) The qualifications to be met by individuals employed by the public charter school. Instructional staff shall be certified teachers as provided by rule of the state board of education.

(h) The procedures that the public charter school will follow to ensure the health and safety of students and staff.

(i) A plan for the requirements of section 33-205, Idaho Code, for the denial of school attendance to any student who is an habitual truant, as defined in section 33-206, Idaho Code, or who is incorrigible, or whose conduct, in the judgment of the board of directors of the public charter school, is such as to be continuously disruptive of school discipline, or of the instructional effectiveness of the school, or whose presence in a public charter school is detrimental to the health

and safety of other pupils, or who has been expelled from another school district in this state or any other state.

(j) The primary attendance area of the charter school, which shall be composed of a compact and contiguous area. For the purposes of this section, if services are available to students throughout the state, the state of Idaho is considered a compact and contiguous area.

(k) Admission procedures, including provision for overenrollment. Such admission procedures shall provide that the initial admission procedures for a new public charter school, including provision for overenrollment, will be determined by lottery or other random method, except as otherwise provided herein. If initial capacity is insufficient to enroll all pupils who submit a timely application, then the admission procedures may provide that preference shall be given in the following order: first, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school; second, to siblings of pupils already selected by the lottery or other random method; third, to students residing within the primary attendance area of the public charter school; and fourth, by an equitable selection process such as a lottery or other random method. If so stated in its petition, a new public charter school may include the children of full-time employees of the public charter school within the first priority group subject to the limitations therein. Otherwise, such children shall be included in the highest priority group for which they would otherwise be eligible. If capacity is insufficient to enroll all pupils who submit a timely application for subsequent school terms, then the admission procedures may provide that preference shall be given in the following order: first, to pupils returning to the public charter school in the second or any subsequent year of its operation; second, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school; third, to siblings of pupils already enrolled in the public charter school; fourth, to students residing within the primary attendance area of the public charter school; and fifth, by an equitable selection process such as a lottery or other random method. There shall be no carryover from year to year of the list maintained to fill vacancies. A new lottery shall be conducted each year to fill vacancies which become available. If so stated in its petition, a public charter school may include the following children within the second priority group subject to the limitations therein:

(i) The children of full-time employees of the public charter school;

(ii) Children who previously attended the public charter school within the previous three (3) school years, but who withdrew as a result of the relocation of a parent or guardian due to an academic sabbatical, employer or military transfer or reassignment.

Otherwise, such children shall be included in the highest priority group for which they would otherwise be eligible.

(l) The manner in which annual audits of the financial and programmatic operations of the public charter school are to be conducted.

(m) The disciplinary procedures that the public charter school will utilize, including the procedure by which students may be suspended, expelled and reenrolled, and the procedures required by section 33-210, Idaho Code.

(n) A provision which ensures that all staff members of the public charter school will be covered by the public employee retirement system, federal social security, unemployment insurance, worker's compensation insurance, and health insurance.

(o) The public school attendance alternative for students residing within the school district who choose not to attend the public charter school.

(p) A description of the transfer rights of any employee choosing to work in a public charter school that is approved by the board of trustees of a school district, and the rights of such employees to return to any noncharter school in the same school district after employment at such charter school.

(q) A provision which ensures that the staff of the public charter school shall be considered a separate unit for purposes of collective bargaining.

(r) The manner by which special education services will be provided to students with disabilities who are eligible pursuant to the federal individuals with disabilities education act, including disciplinary procedures for these students.

(s) A plan for working with parents who have students who are dually enrolled pursuant to section 33-203, Idaho Code.

(t) The process by which the citizens in the primary attendance area shall be made aware of the enrollment opportunities of the public charter school.

(u) A proposal for transportation services including estimated first year costs.

(v) A plan for termination of the charter by the board of directors, to include:

(i) Identification of who is responsible for dissolution of the charter school;

(ii) A description of how payment to creditors will be handled;

(iii) A procedure for transferring all records of students with notice to parents of how to request a transfer of student records to a specific school; and

(iv) A plan for the disposal of the public charter school's assets.

(4) The public charter school commission may approve a charter for a public virtual school under the provisions of this chapter only if it determines that the petition contains the requirements of subsections (3) and (5) of this section and the additional statements describing the following:

(a) The learning management system by which courses will be delivered;

(b) The role of the online teacher, including the consistent availability of the teacher to provide guidance around course material, methods of individualized learning in the online course and the means by which student work will be assessed;

(c) A plan for the provision of professional development specific to the public virtual school environment;

(d) The means by which public virtual school students will receive appropriate teacher-to-student interaction, including timely and frequent feedback about student progress;

(e) The means by which the public virtual school will verify student attendance and award course credit. Attendance at public virtual schools shall focus primarily on coursework and activities that are correlated to the Idaho state thoroughness standards;

(f) A plan for the provision of technical support relevant to the delivery of online courses;

(g) The means by which the public virtual school will provide opportunity for student-to-student interaction; and

(h) A plan for ensuring equal access to all students, including the provision of necessary hardware, software and internet connectivity required for participation in online coursework.

(5) The petitioner shall provide information regarding the proposed operation and potential effects of the public charter school including, but not limited to, the facilities to be utilized by the public charter school, the manner in which administrative services of the public charter school are to be provided and the potential civil liability effects upon the public charter school and upon the authorized chartering entity.

Section 4. That Section 33-5208, Idaho Code, be, and the same is hereby amended to read as follows:

33-5208. Public charter school financial support. Except as provided in subsection (8) of this section, from the state educational support program the state department of education shall make the following apportionment to each public charter school for each fiscal year based on attendance figures submitted in a manner and time as required by the department of education:

(1) Per student support. Computation of support units for each public charter school shall be calculated as if it were a separate school according to the schedules in section 33-1002(4), Idaho Code, except that public charter schools with fewer than one hundred (100) secondary ADA shall use a divisor of twelve (12) and the minimum units shall not apply, and no public charter school shall receive an increase in support units that exceeds the support units it received in the prior year by more than thirty (30). Funding from the state educational support program shall be equal to the total distribution factor, plus the salary-based apportionment provided in chapter 10, title 33, Idaho Code. Provided however, any public charter school that is formed by the conversion of an existing traditional public school shall be assigned divisors, pursuant to section 33-1002, Idaho Code, that are no lower than the divisors of the school district in which the traditional public school is located, for each category of pupils listed.

(2) Special education. For each student enrolled in the public charter school who is entitled to special education services, the state and federal funds from the exceptional child education program for that student that would have been apportioned for that student to the school district in which the public charter school is located.

(3) Alternative school support. Public charter schools may qualify under the provisions of sections 33-1002 and 33-1002C, Idaho Code, provided the public charter school meets the necessary statutory requirements, and students qualify for attendance at an alternative school as provided by rule of the state board of education.

(4) Transportation support. Support shall be paid to the public charter school as provided in chapter 15, title 33, Idaho Code, and section 33-1006, Idaho Code. Each public charter school shall furnish the department with an enrollment count as of the first Friday in November, of public charter school students who are eligible for reimbursement of transportation costs under the provisions of this subsection and who reside more than one and one-half (1 1/2) miles from the school. The state department of education is authorized to include in the annual appropriation to the charter school sixty percent (60%) of the estimated transportation cost. The final appropriation payment in July shall reflect reimbursements of actual costs pursuant to section 33-1006, Idaho Code. To be eligible for state reimbursement under the provisions of section 33-1006, Idaho Code, the student to be transported must reside within the public charter school's primary attendance area, and must meet at least one (1) of the following two (2) criteria:

(a) The student resides within the school district in which the public charter school is physically located; or

(b) The student resides within fifteen (15) miles of the public charter school, by road.

The limitations placed by this subsection on the reimbursement of transportation costs for certain students shall not apply to public virtual schools.

(5) Payment schedule. The state department of education is authorized to make an advance payment of twenty-five percent (25%) of a public charter school's estimated annual apportionment for its first year of operation, and each year thereafter, provided the public charter school has an increase of student population in any given year of twenty (20) students or more, to assist the school with initial start-up costs or payroll obligations.

(a) For a public charter school to receive the advance payment, the school shall submit its anticipated fall membership for each grade level to the state department of education by June 1.

(b) Using the figures provided by the public charter school, the state department of education shall determine an estimated annual apportionment from which the amount of the advance payment shall be calculated. Advance payment shall be made to the school on or after July 1 but no later than July 31.

(c) All subsequent payments, taking into account the one-time advance payment made for the first year of operation, shall be made to the public charter school in the same manner as other traditional public schools in accordance with the provisions of section 33-1009, Idaho Code.

A public charter school shall comply with all applicable fiscal requirements of law, except that the following provisions shall not be applicable to public charter schools: that portion of section 33-1004, Idaho Code, relating to reduction of the administrative and instructional staff allowance when there is a discrepancy between the number allowed and the number actually employed; and section 33-1004E, Idaho Code, for calculation of district staff indices.

(6) Nothing in this chapter shall be construed to prohibit any private person or organization from providing funding or other financial assistance to the establishment or operation of a public charter school.

(7) Each public charter school shall pay an authorizer fee to its authorized chartering entity, to defray the cost of monitoring, evaluation and oversight; provided, however, that each public charter school's board of directors may direct up to ten percent (10%) of the calculated fee to pay membership fees to an organization or association that provides technical assistance, training and advocacy for Idaho public charter schools. Such fee shall be paid by February 15 of each fiscal year, and shall be the greater of:

(a) All state funds distributed to public schools on a support unit basis for the prior fiscal year, divided by the statewide number of public school students in average daily attendance in the first reporting period in the prior fiscal year; or

(b) The lesser of:

(i) The result of the calculation in subsection (7)(a) of this section, multiplied by four (4); or

(ii) One and a half percent (1.5%) of the result of the calculation in subsection (7)(a) of this section, multiplied by the public charter school's average daily attendance in the first reporting period in the current fiscal year.

(8) Nothing in this chapter shall prevent a public charter school from applying for federal grant moneys.

~~(89)~~ (a) Each student in attendance at a public virtual school shall be funded based upon either the actual hours of attendance in the public virtual school on a flexible schedule, or the percentage of coursework completed, whichever is more advantageous to the school, up to the maximum of one (1) full-time equivalent student.

(b) All federal educational funds shall be administered and distributed to public charter schools, including public virtual schools, that have been designated by the state board of education as a local education agency (LEA), as provided in section 33-5203(7), Idaho Code.

~~(910)~~ Nothing in this section prohibits separate face-to-face learning activities or services.

~~(101)~~ The provisions of section 33-1021, Idaho Code, shall apply to public charter schools provided for in this chapter.

**CHAPTER 52.**

**PUBLIC CHARTER SCHOOLS**

Section

- 33-5201. Short title.
- 33-5202. Legislative intent.
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- 33-5211. Technical support and information.
- 33-5212. [Repealed.]
- 33-5213. Public charter school commission.
- 33-5214. [Reserved.]
- 33-5215. Professional-technical regional public charter school.
- 33-5216. Public postsecondary institutions - Public charter high schools. [Effective unless rejected by Proposition 3 - See Compiler's note.]
- 33-5216. Public postsecondary institutions - Public charter high schools. [Effective upon rejection of Proposition 3 - See Compiler's note.]

**33-5201. Short title.**

**Statute text**

This chapter shall be known and may be cited as the "Public Charter Schools Act of 1998."

**33-5202. Legislative intent.**

It is the intent of the legislature to provide opportunities for teachers, parents, students and community members to establish and maintain public charter schools which operate independently from the existing traditional school district structure but within the existing public school system as a method to accomplish any of the following:

- (1) Improve student learning;
- (2) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students;
- (3) Include the use of different and innovative teaching methods;
- (4) Utilize virtual distance learning and on-line learning;
- (5) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site;

(6) Provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system;

(7) Hold the schools established under this chapter accountable for meeting measurable student educational standards.

**33-5202A. Definitions.**

As used in this chapter, unless the context requires otherwise:

(1) "Authorized chartering entity" means either the local board of trustees of a school district in this state, or the public charter school commission pursuant to the provisions of this chapter.

(2) "Charter" means the grant of authority approved by the authorized chartering entity to the board of directors of the public charter school.

(3) "Founder" means a person, including employees or staff of a public charter school, who makes a material contribution toward the establishment of a public charter school in accordance with criteria determined by the board of directors of the public charter school, and who is designated as such at the time the board of directors acknowledges and accepts such contribution. The criteria for determining when a person is a founder shall not discriminate against any person on any basis prohibited by the federal or state constitutions or any federal, state or local law. The designation of a person as a founder, and the admission preferences available to the children of a founder, shall not constitute pecuniary benefits.

(4) "Petition" means the document submitted by a person or persons to the authorized chartering entity to request the creation of a public charter school.

(5) "Professional-technical regional public charter school" means a public charter secondary school authorized under this chapter to provide programs in professional-technical education which meet the standards and qualifications established by the division of professional-technical education. A professional-technical regional public charter school may be approved by an authorized chartering entity and, by the terms of its charter, shall operate in association with at least two (2) school districts. Notwithstanding the provisions of section 33-5205(3)(j), Idaho Code, participating school districts need not be contiguous.

(6) "Public charter school" means a school that is authorized under this chapter to deliver public education in Idaho.

(7) "Traditional public school" means any school existing or to be built that is operated and controlled by a school district in this state.

(8) "Virtual school" means a school that delivers a full-time, sequential program of synchronous and/or asynchronous instruction primarily through the use of technology via the internet in a distributed environment. Schools classified as virtual must have an online component to their school with online lessons and tools for student and data management.

(9) "Charter contract" means a fixed-term, renewable contract between a public charter school and an authorized chartering entity that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.

**33-5203. Authorization - Limitations.**

(1) The creation of public charter schools is hereby authorized. Public charter schools shall be part of the state's program of public education.

(2) New public charter schools which may begin educational instruction in any one (1) school year shall be subject to the following:

(a) No whole school district may be converted to a charter district or any configuration which includes all schools as public charter schools; and

(b) A petition must be received by the initial authorized chartering entity no later than September 1 to be eligible to begin instruction the first complete school year following receipt of the petition; and

(c) To begin operations, a newly chartered public school must be authorized by no later than January 1 of the previous school year.

(3) A public charter school may be formed either by creating a new public charter school, which charter may be approved by any authorized chartering entity, or by converting an existing traditional public school to a public charter school, which charter may only be approved by the board of trustees of the school district in which the existing public school is located.

(4) No charter shall be approved under this chapter:

(a) Which provides for the conversion of any existing private or parochial school to a public charter school.

(b) To a for-profit entity or any school which is operated by a for-profit entity, provided however, nothing herein shall prevent the board of directors of a public charter school from legally contracting with for-profit entities for the provision of products or services that aid in the operation of the school.

(c) By the board of trustees of a school district if the public charter school's physical location is outside the boundaries of the authorizing school district. The limitation provided in this subsection (4)(c) does not apply to a home-based public virtual school.

(5) A public virtual school charter may be approved by the public charter school commission. In addition, a charter may also be approved by the state board of education pursuant to section 33-5207(5)(b), Idaho Code.

(6) The state board of education shall adopt rules, subject to law, to establish a consistent application and review process for the approval and maintenance of all public charter schools.

~~(7) The state board of education shall be responsible to designate those public charter schools that will be identified~~ Each public charter school authorized by the public charter school commission is hereby designated as a local education agency (LEA) as such term is defined in 34 CFR 300.28; however, only public charter schools chartered authorized by the board of trustees of a school district may also be designated by the board of trustees as a local education agency (LEA), with the concurrence of the public charter school board of directors. Otherwise, the public charter school shall be included in that district's LEA.

### **33-5204. Nonprofit corporation - Liability - Insurance.**

(1) A public charter school shall be organized and managed under the Idaho nonprofit corporation act. The board of directors of a public charter school shall be deemed public agents authorized by a public school district, the public charter school commission, or the state board of education to control the public charter school, but shall function independently of any school board of trustees in any school district in which the public charter school is located, or independently of the public charter school commission except as provided in the charter. For the purposes of section 59-1302(15), Idaho Code, a public charter school created pursuant to this chapter shall be deemed a governmental entity. Pursuant to the provisions of section 63-3622O, Idaho Code, sales to or

purchases by a public charter school are exempt from payment of the sales and use tax. A public charter school and the board of directors of a public charter school are subject to the provisions of:

- (a) Sections 18-1351 through 18-1362, Idaho Code, on bribery and corrupt influence, except as provided by section 33-5204A(2), Idaho Code;
- (b) Chapter 2, title 59, Idaho Code, on prohibitions against contracts with officers;
- (c) Chapter 7, title 59, Idaho Code, on ethics in government;
- (d) Chapter 23, title 67, Idaho Code, on open public meetings; and
- (e) Chapter 3, title 9, Idaho Code, on disclosure of public records

in the same manner that a traditional public school and the board of school trustees of a school district are subject to those provisions.

(2) A public charter school may sue or be sued, purchase, receive, hold and convey real and personal property for school purposes, and borrow money for such purposes, to the same extent and on the same conditions as a traditional public school district, and its employees, directors and officers shall enjoy the same immunities as employees, directors and officers of traditional public school districts and other public schools, including those provided by chapter 9, title 6, Idaho Code. The authorized chartering entity that approves a public school charter shall have no liability for the acts, omissions, debts or other obligations of a public charter school, except as may be provided in the charter. A local public school district shall have no liability for the acts, omissions, debts or other obligations of a public charter school located in its district that has been approved by an authorized chartering entity other than the board of trustees of the local school district.

(3) Nothing in this chapter shall prevent the board of directors of a public charter school, operating as a nonprofit corporation, from borrowing money to finance the purchase or lease of school building facilities, equipment and furnishings of those school building facilities. Subject to the terms of a contractual agreement between the board and a lender, nothing herein shall prevent the board from using the facility, its equipment and furnishings, as collateral for the loan.

(4) Public charter schools shall secure insurance for liability and property loss.

(5) It shall be unlawful for:

(a) Any director to have pecuniary interest directly or indirectly in any contract or other transaction pertaining to the maintenance or conduct of the authorized chartering entity and charter, or to accept any reward or compensation for services rendered as a director except as may be otherwise provided in this subsection (5). The board of directors of a public charter school may accept and award contracts involving the public charter school to businesses in which the director or a person related to him by blood or marriage within the second degree has a direct or indirect interest, provided that the procedures set forth in section 18-1361 or 18-1361A, Idaho Code, are followed. The receiving, soliciting or acceptance of moneys of a public charter school for deposit in any bank or trust company, or the lending of moneys by any bank or trust company to any public charter school, shall not be deemed to be a contract pertaining to the maintenance or conduct of a public charter school and authorized chartering entity within the meaning of this section; nor shall the payment by any public charter school board of directors of compensation to any bank or trust company for services rendered in the transaction of any banking business with such public charter school board of directors be deemed the payment of any reward or compensation to any officer or director of any such bank or trust company within the meaning of this section.

(b) The board of directors of any public charter school to enter into or execute any contract with the spouse of any member of such board, the terms of which said contract require, or will require, the payment or delivery of any public charter school funds, moneys or property to such spouse, except as provided in section 18-1361 or 18-1361A, Idaho Code.

(6) When any relative of any director or relative of the spouse of a director related by affinity or consanguinity within the second degree is to be considered for employment in a public charter school, such director shall abstain from voting in the election of such relative, and shall be absent from the meeting while such employment is being considered and determined.

**33-5204A. Applicability of professional codes and standards - Limitations upon authority.**

(1) Every person who serves in a public charter school, either as an employee, contractor, or otherwise, in the capacity of teacher, supervisor, administrator, education specialist, school nurse or librarian, must comply with the professional codes and standards approved by the state board of education, including standards for ethics or conduct.

(2) Every employee of a public charter school and every member of the board of directors of a public charter school, whether compensated or noncompensated, shall comply with the standards of ethics or conduct applicable to public officials including, but not limited to, chapter 7, title 59, Idaho Code, except that section 59-704A, Idaho Code, which permits a noncompensated public official to have an interest in a contract made or entered into by the board of which he is a member under certain conditions, shall not apply to the board of directors of a public charter school. A member of the board of directors of a public charter school is prohibited from receiving a personal pecuniary benefit, directly or indirectly, pertaining to a contractual relationship with the public charter school.

**33-5205. Petition to establish public charter school.**

(1) Any group of persons may petition to establish a new public charter school, or to convert an existing traditional public school to a public charter school.

(a) A petition to establish a new public charter school, including a public virtual charter school, shall be signed by not fewer than thirty (30) qualified electors of the attendance area designated in the petition. Proof of elector qualifications shall be provided with the petition.

(b) A petition to establish a new public virtual school must be submitted directly to the public charter school commission. A petition to establish a new public charter school, other than a new public virtual school, shall first be submitted to the local board of trustees in which the public charter school will be located. A petition shall be considered to be received by an authorized chartering entity as of the next scheduled meeting of the authorized chartering entity after submission of the petition.

(c) The board of trustees may either: (i) consider the petition and approve the charter; or (ii) consider the petition and deny the charter; or (iii) refer the petition to the public charter school commission, but such referral shall not be made until the local board has documented its due diligence in considering the petition. Such documentation shall be submitted with the petition to the public charter school commission. If the petitioners and the local board of trustees have not reached mutual agreement on the provisions of the

charter, after a reasonable and good faith effort, within seventy-five (75) days from the date the charter petition is received, the petitioners may withdraw their petition from the local board of trustees and may submit their charter petition to the public charter school commission. Documentation of the reasonable and good faith effort between the petitioners and the local board of trustees must be submitted with the petition to the public charter school commission.

(d) The public charter school commission may either: (i) consider the petition and approve the charter; or (ii) consider the petition and deny the charter.

(e) A petition to convert an existing traditional public school shall be submitted to the board of trustees of the district in which the school is located for review and approval. The petition shall be signed by not fewer than sixty percent (60%) of the teachers currently employed by the school district at the school to be converted, and by one (1) or more parents or guardians of not fewer than sixty percent (60%) of the students currently attending the school to be converted. Each petition submitted to convert an existing school or to establish a new charter school shall contain a copy of the articles of incorporation and the bylaws of the nonprofit corporation, which shall be deemed incorporated into the petition.

(2) Not later than seventy-five (75) days after receiving a petition, the authorized chartering entity shall hold a public hearing for the purpose of discussing the provisions of the charter, at which time the authorized chartering entity shall consider the merits of the petition and the level of employee and parental support for the petition. In the case of a petition submitted to the public charter school commission, such public hearing must be not later than seventy-five (75) days after receipt of the petition, which may be extended for an additional specified period of time if both parties agree to an extension. Such agreement shall be established in writing and signed by representatives of both parties.

In the case of a petition for a public virtual charter school, if the primary attendance area described in the petition of a proposed public virtual charter school extends within the boundaries of five (5) or fewer local school districts, the public charter school commission shall provide notice in writing of the public hearing no less than thirty (30) days prior to such public hearing to those local school districts. Such public hearing shall include any oral or written comments that an authorized representative of the local school districts may provide regarding the merits of the petition and any potential impacts on the school districts.

In the case of a petition for a non-virtual public charter school submitted to the public charter school commission, the board of the district in which the proposed public charter school will be physically located, shall be notified of the hearing in writing, by the public charter school commission, no less than thirty (30) days prior to the public hearing. Such public hearing shall include any oral or written comments that an authorized representative of the school district in which the proposed public charter school would be physically located may provide regarding the merits of the petition and any potential impacts on the school district. The hearing shall include any oral or written comments that petitioners may provide regarding any potential impacts on such school district. If the school district chooses not to provide any oral or written comments as provided for in this subsection (2), such school district shall notify the public charter school commission of such decision. Following review of any petition and any public hearing provided for in this section, the authorized chartering entity shall either approve or deny the charter within seventy-five (75) days after the date of the public hearing, provided however, that the date may be extended by an additional specified period of time if the petition fails to contain all of the

information required in this section, or if both parties agree to the extension. Such agreement shall be established in writing and signed by representatives of both parties. This public hearing shall be an opportunity for public participation and oral presentation by the public. This hearing is not a contested case hearing as described in chapter 52, title 67, Idaho Code.

(3) An authorized chartering entity may approve a charter under the provisions of this chapter only if it determines that the petition contains the requisite signatures, the information required by subsections (4) and (5) of this section, and additional statements describing all of the following:

(a) The proposed educational program of the public charter school, designed among other things, to identify what it means to be an "educated person" in the twenty-first century, and how learning best occurs. The goals identified in the program shall include how all educational thoroughness standards as defined in section 33-1612, Idaho Code, shall be fulfilled.

(b) The measurable student educational standards identified for use by the public charter school. "Student educational standards" for the purpose of this chapter means the extent to which all students of the public charter school demonstrate they have attained the skills and knowledge specified as goals in the school's educational program.

(c) The method by which student progress in meeting those student educational standards is to be measured.

(d) A provision by which students of the public charter school will be tested with the same standardized tests as other Idaho public school students.

(e) A provision which ensures that the public charter school shall be state accredited as provided by rule of the state board of education.

(f) The governance structure of the public charter school including, but not limited to, the person or entity who shall be legally accountable for the operation of the public charter school, and the process to be followed by the public charter school to ensure parental involvement.

(g) The qualifications to be met by individuals employed by the public charter school. Instructional staff shall be certified teachers as provided by rule of the state board of education.

(h) The procedures that the public charter school will follow to ensure the health and safety of students and staff.

(i) A plan for the requirements of section 33-205, Idaho Code, for the denial of school attendance to any student who is an habitual truant, as defined in section 33-206, Idaho Code, or who is incorrigible, or whose conduct, in the judgment of the board of directors of the public charter school, is such as to be continuously disruptive of school discipline, or of the instructional effectiveness of the school, or whose presence in a public charter school is detrimental to the health and safety of other pupils, or who has been expelled from another school district in this state or any other state.

(j) The primary attendance area of the charter school, which shall be composed of a compact and contiguous area. For the purposes of this section, if services are available to students throughout the state, the state of Idaho is considered a compact and contiguous area.

(k) Admission procedures, including provision for overenrollment. Such admission procedures shall provide that the initial admission procedures for a new public charter school, including provision for overenrollment, will be determined by lottery or other

random method, except as otherwise provided herein. If initial capacity is insufficient to enroll all pupils who submit a timely application, then the admission procedures may provide that preference shall be given in the following order: first, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school; second, to siblings of pupils already selected by the lottery or other random method; third, to students residing within the primary attendance area of the public charter school; and fourth, by an equitable selection process such as a lottery or other random method. If so stated in its petition, a new public charter school may include the children of full-time employees of the public charter school within the first priority group subject to the limitations therein. Otherwise, such children shall be included in the highest priority group for which they would otherwise be eligible. If capacity is insufficient to enroll all pupils who submit a timely application for subsequent school terms, then the admission procedures may provide that preference shall be given in the following order: first, to pupils returning to the public charter school in the second or any subsequent year of its operation; second, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school; third, to siblings of pupils already enrolled in the public charter school; fourth, to students residing within the primary attendance area of the public charter school; and fifth, by an equitable selection process such as a lottery or other random method. There shall be no carryover from year to year of the list maintained to fill vacancies. A new lottery shall be conducted each year to fill vacancies which become available. If so stated in its petition, a public charter school may include the following children within the second priority group subject to the limitations therein:

- (i) The children of full-time employees of the public charter school;
- (ii) Children who previously attended the public charter school within the previous three (3) school years, but who withdrew as a result of the relocation of a parent or guardian due to an academic sabbatical, employer or military transfer or reassignment.

Otherwise, such children shall be included in the highest priority group for which they would otherwise be eligible.

(l) The manner in which annual audits of the financial and ~~programmatic~~ operations of the public charter school are to be conducted.

(m) The disciplinary procedures that the public charter school will utilize, including the procedure by which students may be suspended, expelled and reenrolled, and the procedures required by section 33-210, Idaho Code.

(n) A provision which ensures that all staff members of the public charter school will be covered by the public employee retirement system, federal social security, unemployment insurance, worker's compensation insurance, and health insurance.

(o) The public school attendance alternative for students residing within the school district who choose not to attend the public charter school.

(p) A description of the transfer rights of any employee choosing to work in a public charter school that is approved by the board of trustees of a school district, and the rights of such employees to return to any noncharter school in the same school district after employment at such charter school.

(q) A provision which ensures that the staff of the public charter school shall be considered a separate unit for purposes of collective bargaining.

- (r) The manner by which special education services will be provided to students with disabilities who are eligible pursuant to the federal individuals with disabilities education act, including disciplinary procedures for these students.
- (s) A plan for working with parents who have students who are dually enrolled pursuant to section 33-203, Idaho Code.
- (t) The process by which the citizens in the primary attendance area shall be made aware of the enrollment opportunities of the public charter school.
- (u) A proposal for transportation services including estimated first year costs.
- (v) A plan for termination of the charter by the board of directors, to include:
  - (i) Identification of who is responsible for dissolution of the charter school;
  - (ii) A description of how payment to creditors will be handled;
  - (iii) A procedure for transferring all records of students with notice to parents of how to request a transfer of student records to a specific school; and
  - (iv) A plan for the disposal of the public charter school's assets.
- (4) The public charter school commission may approve a charter for a public virtual school under the provisions of this chapter only if it determines that the petition contains the requirements of subsections (3) and (5) of this section and the additional statements describing the following:
  - (a) The learning management system by which courses will be delivered;
  - (b) The role of the online teacher, including the consistent availability of the teacher to provide guidance around course material, methods of individualized learning in the online course and the means by which student work will be assessed;
  - (c) A plan for the provision of professional development specific to the public virtual school environment;
  - (d) The means by which public virtual school students will receive appropriate teacher-to-student interaction, including timely and frequent feedback about student progress;
  - (e) The means by which the public virtual school will verify student attendance and award course credit. Attendance at public virtual schools shall focus primarily on coursework and activities that are correlated to the Idaho state thoroughness standards;
  - (f) A plan for the provision of technical support relevant to the delivery of online courses;
  - (g) The means by which the public virtual school will provide opportunity for student-to-student interaction; and
  - (h) A plan for ensuring equal access to all students, including the provision of necessary hardware, software and internet connectivity required for participation in online coursework.
- (5) The petitioner shall provide information regarding the proposed operation and potential effects of the public charter school including, but not limited to, the facilities to be utilized by the public charter school, the manner in which administrative services of the public charter school are to be provided and the potential civil liability effects upon the public charter school and upon the authorized chartering entity.

**Purposes and Limitations of Charter Petitions**

- (1) The purposes of the charter petition are to present the proposed public charter school's academic and operational vision and plans, demonstrate the petitioner's capacities to execute the proposed vision and plans, and provide the authorized chartering entity a

clear basis for assessing the applicant's plans and capacities. An approved charter petition shall not serve as the school's charter contract.

**Initial Charter Term**

- (1) An initial charter shall be granted for a term of three operating years. The charter term shall commence on the public charter school's first day of operation.

**Charter Contracts**

- (1) Within seventy-five (75) days of approval of a charter application, the authorized chartering entity and the governing board of the approved public charter school shall execute a charter contract that clearly sets forth the academic and operational performance expectations and measures by which the public charter school will be judged and the administrative relationship between the authorized chartering entity and public charter school, including each party's rights and duties. The performance expectations and measures set forth in the charter contract shall include but need not be limited to applicable federal and state accountability requirements. The performance provisions may be refined or amended by mutual agreement after the public charter school is operating and has collected baseline achievement data for its enrolled students.
- (2) The charter contract shall be signed by the president of the authorized chartering entity's governing board and the president of the public charter school's governing body. Within fourteen (14) days of executing a charter contract, the authorized chartering entity shall submit to the State Board of Education written notification of the charter contract execution.
- (3) No public charter school may commence operations without a charter contract executed in accordance with this provision and approved in an open meeting of the authorized chartering entity's governing board.
- (4) All public charter schools approved prior to July 1, 2013, shall execute charter contracts with their authorizers no later than July 1, 2014. Such contracts shall ensure that each public charter school approved prior to July 1, 2014, is evaluated for renewal or non-renewal between March 1, 2016 and March 1, 2019.

**33-5205A. Transfer of charter.**

(1) A charter and charter contract for a public charter school approved by the board of trustees of a local school district may be transferred to, and placed under the chartering authority of, the public charter school commission if the board of trustees of such local school district, the public charter school commission, and the board of directors of the public charter school all agree to such transfer, including any revision to the charter and charter contract that may be required in connection with such transfer. A charter and charter contract for a public charter school approved by the public charter school commission may be transferred to, and placed under the chartering authority of, the board of trustees of the local school district in which the public charter school is located if the public charter school commission, the board of trustees of such local school district, and the board of directors of the public charter school all agree to such transfer, including any revisions to the charter and charter contract that may be required in connection with such transfer. A request to transfer a charter and charter contract may be initiated by the board of directors of a

public charter school or by the authorized chartering entity with chartering authority over the charter and charter contract of such public charter school.

(2) A public charter school, authorized by the public charter school commission, which has a primary attendance area located within more than one (1) school district, may transfer the physical location of its public charter school within its primary attendance area to locate the facilities within the boundaries of another school district within the primary attendance area if the public charter school commission, the board of trustees of each of the relevant school districts and the board of directors of the public charter school all approve of such transfer of facilities location, and if the public charter school commission approves any revisions to the charter that may be required in connection with such transfer.

(3) If all parties fail to reach agreement in regard to the request to transfer a charter and charter contract, as required herein, then the matter may be appealed directly to the state board of education. With respect to such appeal, the state board of education shall substantially follow the procedure as provided in section 33-5207(5)(b), Idaho Code. A transferred charter school shall not be considered a new public charter school ~~and shall not be subject to the limitations of section 33-5203(2), Idaho Code.~~

### **33-5206. Requirements and prohibitions upon approval of a public charter school.**

(1) In addition to any other requirements imposed in this chapter, a public charter school shall be nonsectarian in its programs, affiliations, admission policies, employment practices, and all other operations, shall not charge tuition, levy taxes or issue bonds, and shall not discriminate against any student on any basis prohibited by the federal or state constitutions or any federal, state or local law. Admission to a public charter school shall not be determined according to the place of residence of the student, or of the student's parent or guardian within the district, except that a new or conversion public charter school established under the provisions of this chapter shall adopt and maintain a policy giving admission preference to students who reside within the primary attendance area of that public charter school.

(2) No board of trustees shall require any employee of the school district to be involuntarily assigned to work in a public charter school.

(3) Certified teachers in a public charter school shall be considered public school teachers. Educational experience shall accrue for service in a public charter school and such experience shall be counted by any school district for any teacher who has been employed in a public charter school.

(4) Employment of charter school teachers and administrators shall be on written contract in form as approved by the state superintendent of public instruction, conditioned upon a valid certificate being held by such professional personnel at the time of entering upon the duties thereunder.

(5) No board of trustees shall require any student enrolled in the school district to attend a public charter school.

~~(6) Upon approval of the petition by the authorized chartering entity, the petitioner shall provide written notice of that approval, including a copy of the approved petition, to the state board of education. For the purpose of implementing the provisions of section 33-5203(2), Idaho Code, the state board of education shall assign a number to each petition it receives. Petitions shall be numbered based on the chronological order in which notice of the approved petition is received by the state board of education. Authorized chartering entities may establish reasonable pre-opening~~

requirements or conditions to monitor the start-up progress of newly approved public charter schools and ensure that they are prepared to open smoothly on the date agreed, and to ensure that each school meets all building, health, safety, insurance, and other legal requirements for school opening.

(7) Each public charter school shall annually submit ~~a report to the authorized chartering entity which approved its charter. The report shall contain the audit of the fiscal and programmatic operations as required in section 33-5205(3)(l), Idaho Code, a report on student progress based on the public charter school's measurable student educational standards identified in section 33-5205(3)(b), Idaho Code,~~ and a copy of the public charter school's accreditation report.

(8) A public charter school or the authorized chartering entity may enter into negotiations to revise ~~its~~ a charter or charter contract at any time. ~~A~~ If a public charter school ~~may~~ petitions to revise its charter or charter contract, at any time. ~~T~~ the authorized chartering entity's review of the revised petition shall be limited in scope solely to the proposed revisions. In those instances where a non-virtual public charter school submits a proposed charter revision to the public charter school commission and such revision includes a proposal to increase such public charter school's approved student enrollment cap by ten percent (10%) or more, the commission shall hold a public hearing on such petition. The public charter school commission shall provide the board of the local school district in which the public charter school is physically located, notice in writing of such hearing, no later than thirty (30) days prior to the hearing. The public hearing shall include any oral or written comments that an authorized representative of the school district in which the public charter school is physically located may provide regarding the impact of the proposed charter revision upon the school district. Such public hearing shall also include any oral or written comments that any petitioner may provide regarding the impact of the proposed charter revision upon such school district.

(9) When a charter is non-renewed pursuant to Section 33-5209B, Idaho Code, revoked pursuant to section 33-5209C, Idaho Code, or the board of directors of the public charter school terminates the charter, the assets of the public charter school remaining after all debts of the public charter school have been satisfied must be returned to the authorized chartering entity for distribution in accordance with applicable law.

### **33-5207. Charter appeal procedure.**

(1) If a local school board of trustees, acting in its capacity as an authorized chartering entity, approves a petition for the conversion of an existing traditional public school within the school district over the objection of thirty (30) or more persons or employees of the district, or if an authorized chartering entity denies a petition for the establishment of a new public charter school for any reason including, but not limited to, failure by the petitioner to follow procedures or for failure to provide required information, then such decisions may be appealed to the state superintendent of public instruction within thirty (30) days of the date of the written decision, at the request of persons opposing the conversion of an existing traditional public school, or at the request of the petitioner whose request for a new charter was denied.

(2) The state superintendent of public instruction shall select a hearing officer to review the action of the authorized chartering entity, pursuant to section 67-5242, Idaho Code. The hearing officer shall, within thirty (30) days of receipt of the request, review the full record regarding the charter petition and convene a public hearing regarding the charter petition. Within

ten (10) days of the public hearing, the hearing officer shall submit a written recommendation to the authorized chartering entity and to the persons requesting the review. The recommendation by the hearing officer either to affirm or reverse the decision of the authorized chartering entity shall be based upon the full record regarding the charter petition, including the standards and criteria contained in this chapter and upon any public charter school rules adopted by the state board of education. The recommendation shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the recommendations based on the applicable statutory provisions and factual information contained in the record.

(3) Within thirty (30) days following receipt of the hearing officer's written recommendation, the authorized chartering entity shall hold a meeting open to the public for the purpose of reviewing the hearing officer's written recommendation. Within ten (10) days of such meeting, the authorized chartering entity shall either affirm or reverse its initial decision. The authorized chartering entity's decision shall be in writing and contain findings which explain the reasons for its decision.

(4) If, upon reconsideration of a decision to approve the conversion of a traditional public school to a public charter school, the local school board:

(a) Affirms its initial decision to authorize such conversion, the charter shall be approved and there shall be no further appeal.

(b) Reverses its initial decision and denies the conversion, that decision is final and there shall be no further appeal.

(5) If, upon reconsideration of a decision to deny a petition for a public charter school, the authorized chartering entity:

(a) Reverses its initial decision and approves the public charter school petition, there shall be no further appeal.

(b) Affirms its initial decision denying the public charter school petition, the board of directors of the nonprofit corporation identified in the petition may appeal to the state board of education. The state board of education shall hold a public hearing within a reasonable time after receiving notice of such appeal but no later than sixty (60) calendar days after receiving such notice, and after the public hearing, shall take any of the following actions: (i) approve or deny the petition for the public charter school, provided that the state board of education shall only approve the petition if it determines that the authorized chartering entity failed to appropriately consider the charter petition, or if it acted in an arbitrary manner in denying the petition; (ii) ~~remand the matter back to the authorized chartering entity, which shall have authority to further review and act on such matter as directed by the state board of education; or, (iii) in the case of a denial by the board of a local school district, redirect the matter to another authorized chartering entity~~ the public charter school commission for further review ~~as directed by the state board of education~~. Such public hearing shall be conducted pursuant to procedures as set by the state board of education.

(6) A public charter school for which a charter is approved by the state board of education shall qualify fully as a public charter school for all funding and other purposes of this chapter. The public charter school commission shall assume the role of the authorized chartering entity for any charter approved by the state board of education as provided in subsection (5) (b) of this section. Employees of a public charter school approved by the state board of education shall not be

considered employees of the local school district in which the public charter school is located, nor of the state board of education, nor of the commission.

(7) The decision of the state board of education shall be subject to review pursuant to chapter 52, title 67, Idaho Code. Nothing in this section shall prevent a petitioner from bringing a new petition for a public charter school at a later time.

(8) There shall be no appeal of a decision by a local school board of trustees which denies the conversion of an existing traditional public school within that district to a public charter school, or by an authorized chartering entity which approves a petition for a public charter school.

### **33-5208. Public charter school financial support.**

Except as provided in subsection (8) of this section, from the state educational support program the state department of education shall make the following apportionment to each public charter school for each fiscal year based on attendance figures submitted in a manner and time as required by the department of education:

(1) Per student support. Computation of support units for each public charter school shall be calculated as if it were a separate school according to the schedules in section 33-1002(4), Idaho Code, except that public charter schools with fewer than one hundred (100) secondary ADA shall use a divisor of twelve (12) and the minimum units shall not apply, and no public charter school shall receive an increase in support units that exceeds the support units it received in the prior year by more than thirty (30). Funding from the state educational support program shall be equal to the total distribution factor, plus the salary-based apportionment provided in chapter 10, title 33, Idaho Code. Provided however, any public charter school that is formed by the conversion of an existing traditional public school shall be assigned divisors, pursuant to section 33-1002, Idaho Code, that are no lower than the divisors of the school district in which the traditional public school is located, for each category of pupils listed.

(2) Special education. For each student enrolled in the public charter school who is entitled to special education services, the state and federal funds from the exceptional child education program for that student that would have been apportioned for that student to the school district in which the public charter school is located.

(3) Alternative school support. Public charter schools may qualify under the provisions of sections 33-1002 and 33-1002C, Idaho Code, provided the public charter school meets the necessary statutory requirements, and students qualify for attendance at an alternative school as provided by rule of the state board of education.

(4) Transportation support. Support shall be paid to the public charter school as provided in chapter 15, title 33, Idaho Code, and section 33-1006, Idaho Code. Each public charter school shall furnish the department with an enrollment count as of the first Friday in November, of public charter school students who are eligible for reimbursement of transportation costs under the provisions of this subsection and who reside more than one and one-half (1 1/2) miles from the school. The state department of education is authorized to include in the annual appropriation to the charter school sixty percent (60%) of the estimated transportation cost. The final appropriation payment in July shall reflect reimbursements of actual costs pursuant to section 33-1006, Idaho Code. To be eligible for state reimbursement under the provisions of section 33-1006, Idaho Code, the student to be transported must reside within the public charter school's primary attendance area, and must meet at least one (1) of the following two (2) criteria:

(a) The student resides within the school district in which the public charter school is physically located; or

(b) The student resides within fifteen (15) miles of the public charter school, by road.

The limitations placed by this subsection on the reimbursement of transportation costs for certain students shall not apply to public virtual schools.

(5) Payment schedule. The state department of education is authorized to make an advance payment of twenty-five percent (25%) of a public charter school's estimated annual apportionment for its first year of operation, and each year thereafter, provided the public charter school has an increase of student population in any given year of twenty (20) students or more, to assist the school with initial start-up costs or payroll obligations.

(a) For a public charter school to receive the advance payment, the school shall submit its anticipated fall membership for each grade level to the state department of education by June 1.

(b) Using the figures provided by the public charter school, the state department of education shall determine an estimated annual apportionment from which the amount of the advance payment shall be calculated. Advance payment shall be made to the school on or after July 1 but no later than July 31.

(c) All subsequent payments, taking into account the one-time advance payment made for the first year of operation, shall be made to the public charter school in the same manner as other traditional public schools in accordance with the provisions of section 33-1009, Idaho Code.

A public charter school shall comply with all applicable fiscal requirements of law, except that the following provisions shall not be applicable to public charter schools: that portion of section 33-1004, Idaho Code, relating to reduction of the administrative and instructional staff allowance when there is a discrepancy between the number allowed and the number actually employed; and section 33-1004E, Idaho Code, for calculation of district staff indices.

(6) Nothing in this chapter shall be construed to prohibit any private person or organization from providing funding or other financial assistance to the establishment or operation of a public charter school.

(7) Nothing in this chapter shall prevent a public charter school from applying for federal grant moneys.

(8) (a) Each student in attendance at a public virtual school shall be funded based upon either the actual hours of attendance in the public virtual school on a flexible schedule, or the percentage of coursework completed, whichever is more advantageous to the school, up to the maximum of one (1) full-time equivalent student.

(b) All federal educational funds shall be administered and distributed to public charter schools, including public virtual schools, that have been designated by the state board of education as a local education agency (LEA), as provided in section 33-5203(7), Idaho Code.

(9) Nothing in this section prohibits separate face-to-face learning activities or services.

(10) The provisions of section 33-1021, Idaho Code, shall apply to public charter schools provided for in this chapter.

### **[New Section 33-5209A] Accountability**

(1) Performance Framework

- (a) The performance provisions within the charter contract shall be based on a performance framework that clearly sets forth the academic and operational performance indicators, measures and metrics that will guide the authorized chartering entity's evaluations of each public charter school. The performance framework shall include indicators, measures, and metrics for, at a minimum:
  - (i) Student academic proficiency;
  - (ii) Student academic growth;
  - (iii) College and career readiness (for high schools); and
  - (iv) Board performance and stewardship, including compliance with all applicable laws, regulations, and terms of the charter contract.
- (b) Measurable performance targets shall be set by each public charter school in conjunction with its authorized chartering entity, and shall, at a minimum, require that each school meet applicable federal, state and authorized chartering entity goals for student achievement.
- (c) The performance framework shall allow the inclusion of additional rigorous, valid, and reliable indicators proposed by a public charter school to augment external evaluations of its performance, provided that the authorized chartering entity approves the quality and rigor of such school-proposed indicators, and that they are consistent with the purposes of this chapter.
- (d) For each public charter school it oversees the authorized chartering entity shall be responsible for analyzing and reporting all data from state assessments in accordance with the performance framework.

**[New Section 33-5209B] Renewals**

- (1) A charter may be renewed for successive five-year terms of duration. An authorized chartering entity may grant renewal with specific, written conditions for necessary improvements to a public charter school. Any such specific, written conditions shall state the date by which the conditions must be met.
- (2) Following the initial, three-year term, an authorized chartering entity may non-renew or grant renewal for an additional two years or for an additional five years, based on the performance of the public charter school on the performance indicators, measures, and metrics contained in the charter contract. Subsequent renewals shall be for a term of five (5) years.
- (3) No later than November 15, the authorized chartering entity shall issue a public charter school performance report and charter renewal application guidance to any public charter school whose charter will expire the following year. The performance report shall summarize the public charter school's performance record to date, based on the data required by this chapter and the charter contract, and shall provide notice of any weaknesses or concerns perceived by the authorized chartering entity concerning the public charter school that may jeopardize its position in seeking renewal if not timely rectified. The public charter school shall have 30 days to respond to the performance report and submit any corrections or clarifications for the report.
- (4) The renewal application guidance shall, at a minimum, provide an opportunity for the public charter school to:

- (a) Present additional evidence, beyond the data contained in the performance report, supporting its case for charter renewal; and
  - (b) Describe improvements undertaken or planned for the school.
- (2) The renewal application guidance shall include or refer explicitly to the criteria that will guide the authorized chartering entity's renewal decisions, which shall be based on independent fiscal audits and the performance framework set forth in the charter contract.
- (3) No later than December 15, the governing board of a public charter school seeking renewal shall submit a renewal application to the authorized chartering entity pursuant to the renewal application guidance issued by the authorized chartering entity. The authorized chartering entity shall vote on the renewal application no later than March 15.
- (4) In making charter renewal decisions, every authorized chartering entity shall:
  - (a) Ground its decisions in evidence of the school's performance over the term of the charter contract in accordance with the performance framework set forth in the charter contract;
  - (b) Ensure that data used in making renewal decisions are available to the school and the public; and
  - (c) Provide a public report summarizing the evidence basis for each decision.
- (5) An authorized chartering entity must develop revocation and non-renewal processes that :
  - (a) Provide the charter holders with a timely notification of the prospect of revocation or non-renewal and of the reasons for such possible closure, which shall be limited to failure to meet the terms of the charter contract;
  - (b) Allow the charter holders a reasonable amount of time in which to prepare a response;
  - (c) Provide the charter holders with an opportunity to submit documents and give testimony challenging the rationale for closure and in support of the continuation of the school at an orderly proceeding held for that purpose;
  - (d) Allow the charter holders to be represented by counsel and to call witnesses on their behalf;
  - (e) Permit the recording of such proceedings; and
  - (f) After a reasonable period for deliberation, require a final determination to be made and conveyed in writing to the charter holders.
- (6) An authorized chartering entity shall renew any charter in which the public charter school met all of the terms of its charter contract at the time of renewal. An authorized chartering entity may renew or non-renew any charter in which the public charter school failed to meet one or more of the terms of its charter contract.

**33-5209. Enforcement - Revocation – Appeal [repeal 33-5209 and re-enact as Section 33-5209C].**

- (1) An authorized chartering entity shall ~~ensure that all public charter schools for which it approved petitions, or for which it has responsibility, operate in accordance with the approved charter.~~ continually monitor the performance and legal compliance of the public charter schools it oversees, including collecting and analyzing data to support

ongoing evaluation according to the charter contract. Every authorized chartering entity shall have the authority to conduct or require oversight activities that enable the authorized chartering entity to fulfill its responsibilities under this chapter, including conducting appropriate inquiries and investigations, so long as those activities are consistent with the intent of this chapter, adhere to the terms of the charter contract, and do not unduly inhibit the autonomy granted to public charter schools.

(2) Each authorized chartering entity shall annually publish and make available to the public a performance report for each public charter school it oversees, in accordance with the performance framework set forth in the charter contract and section \*\*\* of this chapter. The authorized chartering entity may require each public charter school it oversees to submit an annual report to assist the authorized chartering entity in gathering complete information about each school, consistent with the performance framework. Each public charter school shall publish its annual performance report on the school's website.

~~(2) If the authorized chartering entity has reason to believe that the public charter school has done any of the following, it shall provide the public charter school written notice of the defect and provide a reasonable opportunity to cure the defect:—~~

~~(a) Committed a material violation of any condition, standard or procedure set forth in the approved charter;—~~

~~(b) Failed to substantially any of the student educational standards identified in the approved charter;—~~

~~(c) Failed to meet generally accepted accounting standards of fiscal management;~~

~~(d) Failed to demonstrate fiscal soundness. In order to be fiscally sound, the public charter school must be:—~~

~~(i) Fiscally stable on a short term basis, that is, able to service all upcoming obligations; and—~~

~~(ii) Fiscally sustainable as a going concern, that is, able to reasonably demonstrate its ability to service any debt and meet its financial obligations for the next fiscal year;—~~

~~(e) Failed to submit required reports to the authorized chartering entity governing the charter; or—~~

~~(f) Violated any provision of law.—~~

(3) If an authorized chartering entity has reason to believe that a public charter school cannot remain fiscally sound for the remainder of its contract term, it shall provide the State Department of Education with written notification of such concern. Upon receiving such notification, the State Department of Education shall have the authority to modify the percentage of the total appropriation to be paid to the public charter school pursuant to Section 33-1009(1), Idaho Code, such that equal percentages are paid on each of the prescribed dates.

(4) If an authorized chartering entity has reason to believe that a public charter school has violated any provision of law, it shall notify the public charter school and the entity responsible for administering said law of the possible violation.

(5) If an authorized chartering entity revokes or does not renew a charter, the authorized chartering entity shall clearly state, in a resolution of its governing board, the reasons for the revocation or non-renewal.

(6) Within 14 days of taking action to renew, not renew, or revoke a charter, the authorized chartering entity shall report to the State Board of Education the action taken, and shall provide a copy of the report to the public charter school at the same time that the report is submitted to the State Board of Education. The report shall include a copy of the authorized chartering entity's resolution setting forth the action taken and reasons for the decision and assurances as to compliance with all of the requirements set forth in this chapter.

~~(37)~~ A charter may be revoked by the authorized chartering entity if the public charter school has failed to meet any of the specific, written conditions for necessary improvements established pursuant to Section 33-5209B(1), Idaho Code, by the dates specified ~~eure a defect after receiving reasonable notice and having had a reasonable opportunity to cure the defect.~~ Revocation may not occur until the public charter school has been afforded a public hearing ~~and a reasonable opportunity to cure the defect,~~ unless the authorized chartering entity ~~reasonably~~ determines that the continued operation of the public charter school presents an imminent public safety issue, in which case the charter may be revoked immediately. Public hearings shall be conducted by the governing authorized chartering entity, or such other person or persons appointed by the authorized chartering entity to conduct public hearings and receive evidence as a contested case in accordance with section 67-5242, Idaho Code. Reasonable notice and opportunity to reply shall include, at a minimum, written notice setting out the basis for consideration of revocation, a period of not less than thirty (30) days within which the public charter school can reply in writing, and a public hearing within thirty (30) days of the receipt of the written reply.

(48) A decision to ~~revoke or non-renew~~ a charter or to deny a revision of a charter may be appealed directly to the state board of education. With respect to such appeal, the state board of education shall substantially follow the procedure as provided in section 33-5207(5)(b), Idaho Code. In the event the state board of education reverses a decision of revocation ~~or non-renewal,~~ the public charter school subject to such action shall then be placed under the chartering authority of the commission.

#### **[New Section 33-5212] School Closure and Dissolution**

- (1) Prior to any public charter school closure decision, an authorized chartering entity shall have developed a public charter school closure protocol to ensure timely notification to parents, orderly transition of students and student records to new schools, and proper disposition of school funds, property, and assets in accordance with the requirements of this chapter. The protocol shall specify tasks, timelines, and responsible parties, including delineating the respective duties of the school and the authorized chartering entity. In the event of a public charter school closure for any reason, the authorized chartering entity shall oversee and work with the closing school to ensure a smooth and orderly closure and transition for students and parents, as guided by the closure protocol. ~~The closing school's board of directors shall be responsible for executing the school's closure.~~
- (2) In the event of a public charter school closure for any reason, the assets of the school shall be distributed first to satisfy outstanding payroll obligations for employees of the school, then to creditors of the school, and then to the authorized chartering entity in the case of a public charter school authorized by the board of a local school district. In the case of a public charter school authorized by the public charter school commission, remaining assets shall be distributed to the public

school income fund. Assets purchased using federal funds will be returned to the authorized chartering entity for redistribution among other public charter schools. If the assets of the school are insufficient to pay all parties to whom the school owes compensation, the prioritization of the distribution of assets may be determined by decree of a court of law.

**33-5210. Application of school law - Accountability - Exemption from state rules.**

(1) All public charter schools are under the general supervision of the state board of education.

(2) Every authorized chartering entity that approves a charter shall be responsible for ensuring that each public charter school program approved by that authorized chartering entity meets the terms of the charter, complies with the general education laws of the state unless specifically directed otherwise in this chapter 52, title 33, Idaho Code, and operates in accordance with the state educational standards of thoroughness as defined in section 33-1612, Idaho Code.

(3) Each charter school shall comply with the financial reporting requirements of section 33-701, subsections 5. through 10., Idaho Code, in the same manner as those requirements are imposed upon school districts.

(4) Each public charter school is otherwise exempt from rules governing school districts which have been promulgated by the state board of education, with the exception of state rules relating to:

(a) Waiver of teacher certification as necessitated by the provisions of section 33-5205(3)(g), Idaho Code;

(b) Accreditation of the school as necessitated by the provisions of section 33-5205(3)(e), Idaho Code;

(c) Qualifications of a student for attendance at an alternative school as necessitated by the provisions of section 33-5208(3), Idaho Code;

(d) The requirement that all employees of the school undergo a criminal history check as required by section 33-130, Idaho Code; and

(e) All rules which specifically pertain to public charter schools promulgated by the state board of education. Public charter schools authorized by the public charter school commission are also subject to rules promulgated by the public charter school commission.

**33-5211. Technical support and information.**

(1) The state department of education shall provide technical assistance to persons or groups preparing or revising charter petitions and to existing public charter schools in the same manner as such assistance is provided to traditional public schools and school districts.

(2) Upon request, the state department of education shall provide the following information concerning a public charter school whose petition has been approved:

(a) The public charter school's ~~petition~~ charter and charter contract.

(b) The annual audit performed at the public charter school pursuant to the public charter school petition.

(c) Any written report by the state board of education to the legislature reviewing the educational effectiveness of public charter schools.

(3) At least one (1) person among a group of petitioners of a prospective public charter school shall attend a public charter school workshop offered by the state department of education. The state department of education shall provide notice of dates and locations when workshops will be held and shall provide proof of attendance to workshop attendees. Such proof shall be submitted by the petitioners to an authorized chartering entity along with the charter petition.

(4) Prior to submission of a petition for a new or conversion public charter school to an authorized chartering entity, the state department of education must conduct a sufficiency review of the petition and provide to the petitioners, in writing, the findings of such review.

**33-5212. Review. [Repealed].**

**33-5213. Public charter school commission.**

(1) There is hereby created an independent public charter school commission, referred to hereinafter as the commission, to be located in the office of the state board of education, pursuant to section 33-105, Idaho Code. It shall be the responsibility and duty of the executive director of the state board of education acting at the direction of the commission to administer and enforce the provisions of this chapter, and the director or his designee shall serve as secretary to the commission.

(2) The public charter school commission shall adopt rules, subject to law, regarding the governance and administration of the commission.

(3) The commission shall be composed of seven (7) members:

(a) Three (3) members shall be current or former members of boards of directors of Idaho public charter schools and shall be appointed by the governor, subject to the advice and consent of the senate; provided however, that no current board member of a public charter school authorized by the commission shall be eligible for appointment;

(b) Three (3) members shall be current or former trustees of an Idaho school district and shall be appointed by the governor, subject to the advice and consent of the senate; and

(c) One (1) member shall be a member of the public at large not directly associated with the Idaho public education system and shall be appointed by the governor, subject to the advice and consent of the senate.

The term of office for commission members shall be four (4) years. In making such appointments, the governor shall consider regional balance. Members of the commission shall hold office until the expiration of the term to which the member was appointed and until a successor has been duly appointed, unless sooner removed for cause by the appointing authority. Whenever a vacancy occurs, the appointing authority shall appoint a qualified person to fill the vacancy for the unexpired portion of the term.

(4) All members of the commission shall be citizens of the United States and residents of the state of Idaho for not less than two (2) years.

(5) The members of the commission shall, at their first regular meeting following the effective date of this act, and every two (2) years thereafter, elect, by a majority vote of the members of the commission, a chairman and a vice-chairman. The chairman shall preside at meetings of the commission, and the vice-chairman shall preside at such meetings in the absence of the chairman. A majority of the members of the commission shall constitute a quorum. The commission shall meet at such times and places as determined to be necessary and convenient, or at the call of the chair.

(6) Each member of the commission not otherwise compensated by public moneys shall be compensated as provided in section 59-509(h), Idaho Code.

**33-5214. [Reserved.].**

**33-5215. Professional-technical regional public charter school.**

(1) A professional-technical regional public charter school is hereby declared to be a public charter school and as such, the provisions of chapter 52, title 33, Idaho Code, shall apply to each professional-technical regional public charter school in the same manner and to the same extent as the provisions of charter school law apply to other public charter schools, with the exception of certain conditions and applications as specifically provided in this section.

(2) In addition to the approval provisions of this chapter, approval of a professional-technical regional public charter school by an authorized chartering entity shall not be final until the petition has also been reviewed by the division of professional-technical education.

(3) Funding for a professional-technical regional public charter school shall be the same as provided in section 33-5208, Idaho Code, except that:

(a) The salary-based apportionment for a professional-technical regional public charter school shall be the statewide average index for public charter schools. Such salary-based apportionment may be used for payment of contracted services or for direct hire of staff;

(b) The board of directors may contract for the services of certificated and noncertificated personnel, to procure the use of facilities and equipment, and to purchase materials and equipment, which in the judgment of the board of directors is necessary or desirable for the conduct of the business of the professional-technical regional public charter school; and

(c) Transportation support shall be paid to the professional-technical regional public charter school in accordance with the provisions of chapter 15, title 33, Idaho Code.

(4) A professional-technical regional public charter school shall provide assurances in state attendance reports that it has verified attendance reports, which generate ADA with its participating school districts, to make certain that the districts and the charter school do not duplicate enrollment or ADA claims.

**33-5216. Public postsecondary institutions - Public charter high schools. [Effective unless rejected by Proposition 3 - See Compiler's note.].**

(1) Any public postsecondary institution located in this state is hereby authorized to operate a public charter high school in Idaho. The provisions of chapter 52, title 33, Idaho Code, shall apply to each such public charter high school in the same manner and to the same extent as the provisions of charter school law apply to other public charter schools, with the exception of certain conditions and applications as specifically provided in this section.

(2) With the consent of the state board of education, a public postsecondary institution may petition to establish a public charter high school to the public charter school commission or to the local board of trustees.

(3) The president or chief executive officer of such postsecondary institution, or his designee(s), shall serve as the board of trustees of any public charter high school opened for educational instruction pursuant to this section.

(4) For the purposes of this section, the term "high school" means a school serving any grades from ninth grade or higher.

**33-5216. Public postsecondary institutions - Public charter high schools. [Effective upon rejection of Proposition 3 - See Compiler's note.]**

Null and void.

33-1009. Payments from the public school income fund.

1. a. Payments of the state general account appropriation for public school support shall be made each year by the state board of education to the public school districts of the state in five (5) payments. Payments to the districts shall be made not later than the fifteenth day of August, the first day of October, the fifteenth day of November, the fifteenth day of February, and the fifteenth day of May each year. The first two (2) payments by the state board of education shall be approximately thirty percent (30%) of the total general account appropriation for the fiscal year, while the third, fourth and fifth payments shall be approximately twenty percent (20%), ten percent (10%) and ten percent (10%), respectively, except as provided by Section 33-5209, Idaho Code. Amounts apportioned due to a special transfer to the public school income fund to restore or reduce a deficiency in the prior year's transfer pursuant to subsection 4. of this section shall not be subject to this limitation.

b. Payments of moneys, other than the state general account appropriation, that accrue to the public school income fund shall be made by the state board of education to the school districts of the state on the fifteenth day of November, February, May and July each year. The total amount of such payments shall be determined by the state department of education and shall not exceed the amount of moneys available and on deposit in the public school income fund at the time such payment is made.

c. Amounts apportioned due to a special transfer to the public school income fund to restore or reduce a deficiency in the prior year's transfer pursuant to subsection 4. of this section shall not be subject to the limitation imposed by paragraphs a. and b. of this subsection.

2. Payments made to the school districts in August, October and November are advance payments for the current year and may be based upon payments from the public school income fund for the preceding

school year. Each school district may receive its proportionate share of the advance payments in the same ratio that its total payment for the preceding year was to the total payments to all school districts for the preceding year.

3. No later than the fifteenth day of February in each year, the state department of education shall compute the state distribution factor based on the total average daily attendance through the first Friday in November. The factor will be used in payments of state funds in February and May. Attendance shall be reported in a format and at a time specified by the state department of education.

As of the thirtieth day of June of each year the state department of education shall determine final payments to be made on July fifteenth next succeeding to the several school districts from the public school income fund for the school year ended June 30. The July payments shall take into consideration:

a. the average daily attendance of the several school districts for the twenty-eight (28) best weeks of the school year completed not later than the thirtieth of June,

b. all funds available in the public school income fund for the fiscal year ending on the thirtieth of June,

c. all payments distributed for the current fiscal year to the several school districts,

d. the adjustment based on the actual amount of discretionary funds per support unit required by the provisions of section 33-1018, Idaho Code,

e. payments made or due for the transportation support program and the exceptional education support program. The state department of education shall apportion and direct the payment to the several school districts the moneys in the public school income fund in each year, taking into account the advance made under subsection 2. of this section, in such amounts as will provide in full for each district its support program, and not more than therefor required, and no school district shall receive less than fifty dollars (\$50.00).

4. If the full amount appropriated to the public school income fund from the general account by the legislature is not transferred to the public school income fund by the end of the fiscal year, the deficiency resulting therefrom shall either be restored or reduced through a special transfer from the general account in the first sixty

(60) days of the following fiscal year, or shall be calculated in computing district levies, and any additional levy shall be certified by the state superintendent of public instruction to the board of county commissioners and added to the district's maintenance and operation levy. If the deficiency is restored or reduced by special transfer, the amount so transferred shall be in addition to the amount appropriated to be transferred in such following fiscal year and shall be apportioned to each school district in the same amount as each would have received had the transfer been made in the year the deficiency occurred. The state department of education shall distribute to the school district the full amount of the special transfer as soon as practical after such transfer is made. In making the levy computations required by this subsection the state department of education shall take into account and consider the full amount of money receipted into the public school income fund from all sources for the given fiscal year. Deficits in the transfer of the appropriated amount of general account revenue to the public school income fund shall be reduced by the amount, if any, that the total amount receipted from other sources into the public school income fund exceeds the official estimated amount from those sources. The official estimate of receipts from other sources shall be the total amount stated by the legislature in the appropriation bill. The provisions of this subsection shall not apply to any transfers to or from the public education stabilization fund.

5. Any apportionments in any year, made to any school district, which may within the succeeding three (3) year period be found to have been in error either of computation or transmittal, may be corrected during the three (3) year period by reduction of apportionments to any school district to which over-apportionments may have been made or received, and corresponding additions to apportionments to any school district to which under-apportionments may have been made or received.

SECTION X. That Section 33-1002, Idaho Code, be, and the same is hereby amended to read as follows:

33-1002. Educational support program. The educational support program is calculated as follows:

(1) State Educational Support Funds. Add the state appropriation, including the moneys available in the public school income fund, together with all miscellaneous revenues to determine the total state funds.

(2) From the total state funds subtract the following amounts needed for state support of special programs provided by a school district:

(a) Pupil tuition-equivalency allowances as provided in section 33-1002B, Idaho Code;

(b) Transportation support program as provided in section 33-1006, Idaho Code;

(c) Feasibility studies allowance as provided in section 33-1007A, Idaho Code;

(d) The approved costs for border district allowance, provided in section 33-1403, Idaho Code, as determined by the state superintendent of public instruction;

(e) The approved costs for exceptional child approved contract allowance, provided in subsection 2. of section 33-2004, Idaho Code, as determined by the state superintendent of public instruction;

(f) Certain expectant and delivered mothers allowance as provided in section 33-2006, Idaho Code;

(g) Salary-based apportionment calculated as provided in sections 33-1004 through 33-1004F, Idaho Code;

(h) Unemployment insurance benefit payments according to the provisions of section 72-1349A, Idaho Code;

(i) For expenditure as provided by the public school technology program;

(j) For employee severance payments as provided in section 33-521, Idaho Code;

(k) For distributions to the Idaho digital learning academy as provided in section 33-1020, Idaho Code;

(l) For charter school facility stipends and reimbursements paid pursuant to Section 33-5208(5), Idaho Code;

(m) For the support of provisions that provide a safe environment conducive to student learning and maintain classroom discipline, an allocation of \$300 per support unit; and

(nn) Any additional amounts as required by statute to effect administrative adjustments or as specifically required by the provisions of any bill of appropriation;

to secure the total educational support distribution funds.

(3) Average Daily Attendance. The total state average daily attendance shall be the sum of the average daily attendance of all of the school districts of the state. The state board of education shall establish rules setting forth the procedure to determine average daily attendance and the time for, and method of, submission of such report. Average daily attendance calculation shall be carried out to the nearest hundredth. Computation of average daily attendance shall also be governed by the provisions of section 33-1003A, Idaho Code.

(4) Support Units. The total state support units shall be determined by using the tables set out hereafter called computation of kindergarten support units, computation of elementary support units, computation of secondary support units, computation of exceptional education support units, and computation of alternative school secondary support units. The sum of all of the total support units of all school districts of the state shall be the total state support units.

COMPUTATION OF KINDERGARTEN SUPPORT UNITS

Average Daily

Attendance	Attendance Divisor	Units Allowed
41 or more ....	40.....	1 or more as computed
31 - 40.99 ADA.....	-.....	1

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26 - 30.99 ADA....-.85  
 21 - 25.99 ADA....-.75  
 16 - 20.99 ADA....-.6  
 8 - 15.99 ADA....-.5  
 1 - 7.99 ADA....-count as elementary

COMPUTATION OF ELEMENTARY SUPPORT UNITS

Average Daily	Attendance Divisor	Minimum Units Allowed
300 or more ADA.....		15
	..23...grades 4,5 & 6....	
	..22...grades 1,2 & 3....1994-95	
	..21...grades 1,2 & 3....1995-96	
	..20...grades 1,2 & 3....1996-97	
	and each year thereafter.	
160 to 299.99 ADA... 20		8.4
110 to 159.99 ADA... 19		6.8
71.1 to 109.99 ADA... 16		4.7
51.7 to 71.0 ADA... 15		4.0
33.6 to 51.6 ADA... 13		2.8
16.6 to 33.5 ADA... 12		1.4
1.0 to 16.5 ADA... n/a		1.0

COMPUTATION OF SECONDARY SUPPORT UNITS

Average Daily Minimum Units

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Attendance	Attendance Divisor	Allowed
750 or more ....	18.5	47
400 - 749.99 ADA....	16	28
300 - 399.99 ADA....	14.5	22
200 - 299.99 ADA....	13.5	17
100 - 199.99 ADA....	12	9
99.99 or fewer	Units allowed as follows:	
Grades 7-12		8
Grades 9-12		6
Grades 7- 9		1 per 14 ADA
Grades 7- 8		1 per 16 ADA

COMPUTATION OF EXCEPTIONAL EDUCATION SUPPORT UNITS

Average Daily	Attendance Divisor	Minimum Units
Attendance	Attendance Divisor	Allowed
14 or more ....	14.5	1 or more as computed
12 - 13.99....	-	1
8 - 11.99....	-	.75
4 - 7.99....	-	.5
1 - 3.99....	-	.25

COMPUTATION OF ALTERNATIVE SCHOOL SECONDARY SUPPORT UNITS

Pupils in Attendance	Attendance Divisor	Minimum Units
		Allowed

12 or more.....12

1 or more as  
computed

In applying these tables to any given separate attendance unit, no school district shall receive less total money than it would receive if it had a lesser average daily attendance in such separate attendance unit. In applying the kindergarten table to a kindergarten program of less days than a full school year, the support unit allowance shall be in ratio to the number of days of a full school year. The tables for exceptional education and alternative school secondary support units shall be applicable only for programs approved by the state department of education following rules established by the state board of education. Moneys generated from computation of support units for alternative schools shall be utilized for alternative school programs. School district administrative and facility costs may be included as part of the alternative school expenditures.

(5) State Distribution Factor per Support Unit. Divide educational support program distribution funds, after subtracting the amounts necessary to pay the obligations specified in subsection (2) of this section, by the total state support units to secure the state distribution factor per support unit.

(6) District Support Units. The number of support units for each school district in the state shall be determined as follows:

(a) (i) Divide the actual average daily attendance, excluding students approved for inclusion in the exceptional child educational program, for the administrative schools and each of the separate schools and attendance units by the appropriate divisor from the tables of support units in this section, then add the quotients to obtain the district's support units allowance for regular students, kindergarten through grade 12 including alternative school secondary students. Calculations in application of this subsection shall be carried out to the nearest tenth.

(ii) Divide the combined totals of the average daily attendance of all preschool, kindergarten, elementary, secondary, juvenile detention center students and students with disabilities approved for inclusion in the exceptional child program of the district by the appropriate divisor from the table for computation of exceptional education support units to obtain the number of support units allowed for the district's

approved exceptional child program. Calculations for this subsection shall be carried out to the nearest tenth when more than one (1) unit is allowed.

(iii) The total number of support units of the district shall be the sum of the total support units for regular students, subsection (6)(a)(i) of this section, and the support units allowance for the approved exceptional child program, subsection (6)(a)(ii) of this section.

(b) Total District Allowance Educational Program. Multiply the district's total number of support units, carried out to the nearest tenth, by the state distribution factor per support unit and to this product add the approved amount of programs of the district provided in subsection (2) of this section to secure the district's total allowance for the educational support program.

(c) District Share. The district's share of state apportionment is the amount of the total district allowance, subsection (6)(b) of this section.

(d) Adjustment of District Share. The contract salary of every noncertificated teacher shall be subtracted from the district's share as calculated from the provisions of subsection (6)(c) of this section.

(7) Property Tax Computation Ratio. In order to receive state funds pursuant to this section a charter district shall utilize a school maintenance and operation property tax computation ratio for the purpose of calculating its maintenance and operation levy, that is no greater than that which it utilized in tax year 1994, less four-tenths of one percent (.4%). As used herein, the term "property tax computation ratio" shall mean a ratio determined by dividing the district's certified property tax maintenance and operation budget by the actual or adjusted market value for assessment purposes as such values existed on December 31, 1993. Such maintenance and operation levy shall be based on the property tax computation ratio multiplied by the actual or adjusted market value for assessment purposes as such values existed on December 31 of the prior calendar year.

SECTION Y. That Section 33-5208, Idaho Code, be, and the same is hereby amended to read as follows:

33-5208. Public charter school financial support. Except as provided in subsection (~~8~~9) of this section, from the state educational support

program the state department of education shall make the following apportionment to each public charter school for each fiscal year based on attendance figures submitted in a manner and time as required by the department of education:

(1) Per student support. Computation of support units for each public charter school shall be calculated as if it were a separate school according to the schedules in section 33-1002(4), Idaho Code, except that public charter schools with fewer than one hundred (100) secondary ADA shall use a divisor of twelve (12) and the minimum units shall not apply, and no public charter school shall receive an increase in support units that exceeds the support units it received in the prior year by more than thirty (30). Funding from the state educational support program shall be equal to the total distribution factor, plus the salary-based apportionment provided in chapter 10, title 33, Idaho Code. Provided however, any public charter school that is formed by the conversion of an existing traditional public school shall be assigned divisors, pursuant to section 33-1002, Idaho Code, that are no lower than the divisors of the school district in which the traditional public school is located, for each category of pupils listed.

(2) Special education. For each student enrolled in the public charter school who is entitled to special education services, the state and federal funds from the exceptional child education program for that student that would have been apportioned for that student to the school district in which the public charter school is located.

(3) Alternative school support. Public charter schools may qualify under the provisions of sections 33-1002 and 33-1002C, Idaho Code, provided the public charter school meets the necessary statutory requirements, and students qualify for attendance at an alternative school as provided by rule of the state board of education.

(4) Transportation support. Support shall be paid to the public charter school as provided in chapter 15, title 33, Idaho Code, and section 33-1006, Idaho Code. Each public charter school shall furnish the department with an enrollment count as of the first Friday in November, of public charter school students who are eligible for reimbursement of transportation costs under the provisions of this subsection and who reside more than one and one-half (1 1/2) miles from the school. The state department of education is authorized to include in the annual appropriation to the charter school sixty percent (60%) of the estimated transportation cost. The final appropriation payment in July shall reflect reimbursements of actual costs pursuant to section 33-1006, Idaho Code. To be eligible for state reimbursement under the provisions of section 33-1006, Idaho Code, the student to be transported must reside within the public charter school's primary

attendance area, and must meet at least one (1) of the following two (2) criteria:

(a) The student resides within the school district in which the public charter school is physically located; or

(b) The student resides within fifteen (15) miles of the public charter school, by road.

The limitations placed by this subsection on the reimbursement of transportation costs for certain students shall not apply to public virtual schools.

(5) Facilities Stipend. The state department of education shall distribute a facilities stipend to public charter schools for each enrolled student in which a majority of the student's instruction is received at a facility that is owned or leased by the public charter school. Such funds shall be used to defray the purchase, fee, loan or lease costs associated with payments for real property used by the students or employees of the public charter school for educational or administrative purposes. Such stipend shall be calculated as a percentage of the statewide average amount of bond and plant facility funds levied per student by Idaho school districts, as follows:

<u>Fiscal Year 2014</u>	<u>Thirty Percent (30%)</u>
<u>Fiscal Year 2015</u>	<u>Sixty Percent (60%)</u>
<u>Fiscal Year 2016 and</u> <u>each fiscal year thereafter</u>	<u>Ninety Percent (90%)</u>

For those public charter schools that do not receive a facility stipend for all enrolled students, the school may submit to the state department of education a reimbursement claim for any costs for which facility stipend funds may be used. The state department of education shall reduce such claim by the greater of ten percent (10%) or the percentage of the school's enrolled students for which the school receives facilities stipend funding, and shall pay the balance; provided, however, that the total reimbursements paid to a public charter school, in combination with any facilities stipend received by the school, shall not exceed the amount of facilities stipend that would have been received by the school had the school received a facilities stipend for all enrolled students. For the purposes of this subsection, the term "real property" shall be used as defined by Section 63-201, Idaho Code.

(6) Payment schedule. The state department of education is authorized to make an advance payment of twenty-five percent (25%) of a public charter school's estimated annual apportionment for its first year of operation, and each year thereafter, provided the public charter school

has an increase of student population in any given year of twenty (20) students or more, to assist the school with initial start-up costs or payroll obligations.

(a) For a public charter school to receive the advance payment, the school shall submit its anticipated fall membership for each grade level to the state department of education by June 1.

(b) Using the figures provided by the public charter school, the state department of education shall determine an estimated annual apportionment from which the amount of the advance payment shall be calculated. Advance payment shall be made to the school on or after July 1 but no later than July 31.

(c) All subsequent payments, taking into account the one-time advance payment made for the first year of operation, shall be made to the public charter school in the same manner as other traditional public schools in accordance with the provisions of section 33-1009, Idaho Code.

A public charter school shall comply with all applicable fiscal requirements of law, except that the following provisions shall not be applicable to public charter schools: that portion of section 33-1004, Idaho Code, relating to reduction of the administrative and instructional staff allowance when there is a discrepancy between the number allowed and the number actually employed; and section 33-1004E, Idaho Code, for calculation of district staff indices.

~~(67)~~ Nothing in this chapter shall be construed to prohibit any private person or organization from providing funding or other financial assistance to the establishment or operation of a public charter school.

~~(78)~~ Nothing in this chapter shall prevent a public charter school from applying for federal grant moneys.

~~(89)~~ (a) Each student in attendance at a public virtual school shall be funded based upon either the actual hours of attendance in the public virtual school on a flexible schedule, or the percentage of coursework completed, whichever is more advantageous to the school, up to the maximum of one (1) full-time equivalent student.

(b) All federal educational funds shall be administered and distributed to public charter schools, including public virtual schools, that have been designated by the state board of education as a local education agency (LEA), as provided in section 33-5203(7), Idaho Code.

~~(910)~~ Nothing in this section prohibits separate face-to-face learning activities or services.

~~(101)~~ The provisions of section 33-1021, Idaho Code, shall apply to public charter schools provided for in this chapter.