

## Arkansas Quality Charter Schools Act of 2013

### Subchapter 1 – General Provisions

#### 6-23-101. Title.

This chapter shall be known and cited as the "Arkansas Quality Charter Schools Act of 2013".

**HISTORY:** Acts 1999, No. 890, § 1; 2013, No. 509, § 1.

#### 6-23-102. Legislative intent.

It is the intent of the General Assembly, by this chapter, to provide opportunities for teachers, parents, pupils, and community members to establish and maintain public schools that operate independently from the existing structure of local school districts as a method to accomplish the following:

- (1) Improve student learning;
- (2) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as low-achieving;
- (3) Encourage the use of different and innovative teaching methods;
- (4) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site;
- (5) Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system; and
- (6) Hold the schools established under this chapter accountable for meeting measurable student achievement standards.

**HISTORY:** Acts 1999, No. 890, § 2.

#### 6-23-103. Definitions.

As used in this chapter:

- (1) "Application" means the proposal for obtaining conversion public charter school status, open-enrollment public charter school status, or limited public charter school status;
- (2) "Authorizer" means an entity that authorizes a charter, which may be either the:
  - (A) Department of Education; or
  - (B) State Board of Education acting under § 6-23-703;
- (3) "Charter" means a performance-based contract for an initial five-year period between the authorizer and an approved applicant for public charter school status that exempts the public charter

school from state and local rules, regulations, policies, and procedures specified in the contract and from the provisions of this title specified in the contract;

**(4)** "Conversion public charter school" means a public school that has converted to operating under the terms of a charter approved by the local school board and the authorizer;

**(5)** "Eligible entity" means:

**(A)** A public institution of higher education;

**(B)** A private nonsectarian institution of higher education;

**(C)** A governmental entity; or

**(D)** An organization that:

**(i)** Is nonsectarian in its program, admissions policies, employment practices, and operations;  
and

**(ii)** Has applied for tax exempt status under § 501(c)(3) of the Internal Revenue Code of 1986;

**(6)** "Founding member" means any individual who is either:

**(A)** A member or an employee of the eligible entity applying for the initial charter for an open-enrollment public charter school; or

**(B)** A member of the initial governing nonadvisory board of the open-enrollment public charter school;

**(7)** "Limited public charter school" means a public school that has converted to operating under the terms of a limited public charter approved by the local school board and the authorizer;

**(8)** "Local school board" means a board of directors exercising the control and management of a public school district;

**(9) (A)** "Open-enrollment public charter school" means a public school that:

**(i)** Is operating under the terms of a charter granted by the authorizer on the application of an eligible entity;

**(ii)** May draw its students from any public school district in this state; and

**(iii)** Is a local educational agency under the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6301 et seq., as it existed on April 10, 2009.

**(B)** "Open-enrollment public charter school" also possesses the same meaning as given the term "charter school" in the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 7221i, as it existed on April 10, 2009;

(10) "Parent" means any parent, legal guardian, or other person having custody or charge of a school-age child;

(11) "Public school" means a school that is part of a public school district under the control and management of a local school board; and

(12) "Public charter school" means a conversion public charter school, an open-enrollment public charter school, or a limited public charter school.

**HISTORY:** Acts 1999, No. 890, § 3; 2003 (2nd Ex. Sess.), No. 22, § 2; 2005, No. 2005, § 2; 2007, No. 736, § 1; 2009, No. 1469, § 18; 2013, No. 509, § 2.

#### **6-23-104. Charter form for public charter schools -- Requirements -- Revision.**

(a) A charter for a public charter school shall:

(1) Be in the form of a written contract signed by the Commissioner of Education and the chief operating officer of the public charter school;

(2) Satisfy the requirements of this chapter; and

(3) Ensure that the information required under § 6-23-404 is consistent with the information provided in the application and any modification that the authorizer may require.

(b) Any revision or amendment of the charter for a public charter school may be made only with the approval of the authorizer.

**HISTORY:** Acts 1999, No. 890, § 10; 2007, No. 736, § 2; 2009, No. 1469, § 19; 2013, No. 509, § 2.

#### **6-23-105. Basis and procedure for public charter school probation or charter modification, revocation, or denial of renewal.**

(a) The authorizer may place a public charter school on probation or may modify, revoke, or deny renewal of its charter if the authorizer determines that the persons operating the public charter school:

(1) Committed a material violation of the charter, including failure to satisfy accountability provisions prescribed by the charter;

(2) Failed to satisfy generally accepted accounting standards of fiscal management;

(3) Failed to comply with this chapter or other applicable law or regulation; or

(4) Failed to meet academic or fiscal performance criteria deemed appropriate and relevant for the public charter school by the authorizer.

(b) Any action the authorizer may take under this section shall be based on the best interests of the public charter school's students, the severity of the violation, and any previous violation the public

charter school may have committed.

(c) The authorizer shall adopt a procedure to be used for placing a public charter school on probation or modifying, revoking, or denying renewal of the school's charter.

(d) (1) The procedure adopted under this section shall provide an opportunity for a hearing to the persons operating the public charter school.

(2) (A) The hearing shall be held at the Department of Education.

(B) The authorizer shall provide sufficient written notice of the time and location of the hearing.

(3) There is no further right of appeal beyond the determination of the authorizer.

(4) The Arkansas Administrative Procedure Act, § 25-15-201 et seq., shall not apply to a hearing concerning a public charter school.

**HISTORY:** Acts 1999, No. 890, § 11; 2005, No. 2005, § 3; 2007, No. 736, § 3; 2009, No. 1469, § 23; 2013, No. 509, § 2.

#### **6-23-106. Impact on school desegregation efforts.**

(a) The applicants for a public charter school, the local school board for the district in which a proposed public charter school would be located, and the authorizer shall carefully review the potential impact of an application for a public charter school on the efforts of a public school district or public school districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools.

(b) The authorizer shall attempt to measure the likely impact of a proposed public charter school on the efforts of public school districts to achieve and maintain a unitary system.

(c) The authorizer shall not approve any public charter school under this chapter or any other act or any combination of acts that hampers, delays, or in any manner negatively affects the desegregation efforts of a public school district or public school districts in this state.

**HISTORY:** Acts 1999, No. 890, § 15; 2005, No. 2005, § 4; 2007, No. 736, § 4; 2013, No. 509, § 2.

#### **6-23-107. Reporting requirements.**

(a) Within ten (10) calendar days of the close of the first quarter of each school year, a public charter school shall submit a written report to the Department of Education that contains the following information for the current school year:

(1) The number of applications for enrollment received;

(2) The number of applicants with a disability identified under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.; and

(3) The number of applications for enrollment the public charter school denied and an explanation of the reason for each denial.

(b) Within ten (10) calendar days of the close of the fourth quarter of each school year, a public charter school shall submit a written report to the department that contains the following information for the current school year:

(1) The number of students in each of the following categories:

(A) Students who dropped out of the public charter school during the school year;

(B) Students who were expelled during the school year by the public charter school; and

(C) Students who were enrolled in the public charter school but for a reason other than those cited in subdivisions (b)(1)(A) and (B) did not complete the school year at the public charter school; and

(2) (A) For all students enrolled in the public charter school, the scores for assessments required under the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-401 et seq., including without limitation benchmark assessments and end-of-course assessments.

(B) If there is any discrepancy in the number of students for whom scores are reported under this subdivision (b)(2) and the number of students enrolled at the beginning of the school year, the public charter school shall explain in the report the reason for the discrepancy.

(c) The department shall not exempt a public charter school from the reporting required under this section.

(d) The department shall publish a copy of each report on the department's website.

(e) If a public charter school fails to comply with this section, the department shall note the failure in the annual evaluation of the public charter school.

**HISTORY:** Acts 2011, No. 993, § 3.

## **Subchapter 2 – Conversion Public Charter Schools 6-23-201. Application for conversion public charter school status.**

(a) (1) Any public school district may apply to the authorizer for conversion public charter school status for a public school in the public school district in accordance with a schedule approved by the authorizer.

(2) A public school district's application for conversion public charter school status for the public school may include, but shall not be limited to, the following purposes:

(A) Adopting research-based school or instructional designs, or both, that focus on improving student and school performance;

(B) Addressing school improvement status resulting from sanctions listed in §§ 6-15-207(c)(8) and 6-15-429(a) and (b); or

(C) Partnering with other public school districts or public schools to address students' needs in a geographical location or multiple locations.

(b) Such application shall:

(1) (A) Describe the results of a public hearing called by the local school board for the purpose of assessing support of an application for conversion public charter school status.

(B) Notice of the public hearing shall be:

(i) Distributed to the community, licensed personnel, and the parents of all students enrolled at the public school for which the public school district initiated the application; and

(ii) Published in a newspaper having general circulation in the public school district at least three (3) weeks prior to the date of the meeting;

(2) Describe a plan for school improvement that addresses how the conversion public charter school will improve student learning and meet the state education goals;

(3) Outline proposed performance criteria that will be used during the initial five-year period of the charter to measure the progress of the conversion public charter school in improving student learning and meeting or exceeding the state education goals;

(4) Describe how the licensed employees and parents of students to be enrolled in the conversion public charter school will be involved in developing and implementing the school improvement plan and identifying performance criteria;

(5) Describe how the concerns of licensed employees and parents of students enrolled in the conversion public charter school will be solicited and addressed in evaluating the effectiveness of the improvement plan; and

(6) List the specific provisions of this title and the specific rules and regulations promulgated by the state board from which the conversion public charter school will be exempt.

(c) (1) A licensed teacher employed by a public school in the school year immediately preceding the effective date of a charter for a public school conversion within that public school district may not be transferred to or be employed by the conversion public charter school over the licensed teacher's objection, nor shall that objection be used as a basis to deny continuing employment within the public school district in another public school at a similar grade level.

(2) If the transfer of a teacher within the public school district is not possible because only one (1) public school exists for that teacher's licensure level, then the local school board shall call for a vote of the licensed teachers in the proposed conversion public charter school site and proceed, at the local school board's option, with the conversion public charter school application if a majority of the licensed teachers approve the proposal.

**HISTORY:** Acts 1999, No. 890, § 4; 2001, No. 1311, § 1; 2005, No. 2005, § 5; 2007, No. 736, § 5; 2013, No. 509, § 3; 2013, No. 1138, §§ 61, 62.

#### **6-23-202. Authorization for conversion public charter school status.**

As requested by the conversion public charter school applicant, the State Board of Education shall review the application for conversion public charter school status and may approve any application that:

(1) Provides a plan for improvement at the school level for improving student learning and for meeting or exceeding the state education goals;

(2) Includes a set of performance-based objectives and student achievement objectives for the

term of the charter and the means for measuring those objectives on at least a yearly basis;

(3) Includes a proposal to directly and substantially involve the parents of students to be enrolled in the conversion public charter school, as well as the licensed employees and the broader community, in the process of carrying out the terms of the charter; and

(4) Includes an agreement to provide a yearly report to parents, the community, the local school board, and the state board that indicates the progress made by the conversion public charter school in meeting the performance objectives during the previous year.

**HISTORY:** Acts 1999, No. 890, § 4; 2007, No. 736, § 6; 2013, No. 509, § 4; 2013, No. 1138, § 63.

#### **6-23-203. Resubmission of applications.**

(a) The authorizer may allow applicants to resubmit applications for conversion public charter school status if the original application was, in the opinion of the authorizer, deficient in one (1) or more respects.

(b) The Department of Education may provide technical assistance to the conversion public charter school applicants in the creation or modification of these applications.

**HISTORY:** Acts 1999, No. 890, § 4; 2007, No. 736, § 7; 2013, No. 509, § 4.

#### **6-23-204. Charter renewal.**

The authorizer may renew charters of conversion public charter schools on a one-year or multiyear basis, not to exceed five (5) years, after the initial five-year period if the renewal is approved by the local school board.

**HISTORY:** Acts 1999, No. 890, § 4; 2005, No. 2005, § 6; 2007, No. 736, § 8; 2013, No. 509, § 4.

#### **6-23-205. Teacher hires when charter revoked.**

If a licensed teacher employed by a public school district in the school year immediately preceding the effective date of the charter is employed by a conversion public charter school and the charter is revoked, the licensed teacher will receive a priority in hiring for the first available position for which the licensed teacher is qualified in the public school district where the licensed teacher was formerly employed.

**HISTORY:** Acts 1999, No. 890, § 4; 2007, No. 736, § 9; 2013, No. 1138, § 64.

#### **6-23-206. Rules and regulations.**

The State Board of Education is authorized and directed to establish rules and regulations for conversion public charter schools.

**HISTORY:** Acts 1999, No. 890, § 4; 2007, No. 736, § 10.

#### **6-23-207. [Repealed.]**

### **Subchapter 3 – Open-Enrollment Public Charter Schools**

#### **6-23-301. Application forms and procedures for open-enrollment public charter schools.**

(a) The authorizer shall adopt:

(1) An application form, a schedule, and a procedure that must be used to apply for a charter for an open-enrollment public charter school; and

(2) Criteria to use in selecting a program for which a charter may be granted.

(b) The application form must provide space for including all information required under this chapter to be contained in the charter.

(c) [Repealed.]

**HISTORY:** Acts 1999, No. 890, § 8; 2007, No. 736, § 12; 2011, No. 993, § 4; 2013, No. 509, § 5.

### **6-23-302. Application for an open-enrollment public charter school.**

(a) Pursuant to the provisions of this chapter, an eligible entity may apply to the authorizer to grant a charter for an open-enrollment public charter school to operate in a facility of a commercial or nonprofit entity or a public school district.

(b) The application to the authorizer for an open-enrollment public charter school shall be made in accordance with a schedule approved by the authorizer.

(c) The application shall:

(1) (A) Describe the results of a public hearing called by the applicant for the purpose of assessing support for an application for an open-enrollment public charter school.

(B) (i) Notice of the public hearing shall be published one (1) time a week for three (3) consecutive weeks in a newspaper having general circulation in the public school district in which the open-enrollment public charter school is likely to be located.

(ii) The last publication of notice shall be no less than seven (7) days before the public meeting.

(iii) The notice shall not be published in the classified or legal notice section of the newspaper.

(C) (i) Within seven (7) calendar days following the first publication of notice required under subdivision (c)(1)(B) of this section, letters announcing the public hearing shall be sent to the superintendent of each of the public school districts from which the open-enrollment public charter school is likely to draw students for the purpose of enrollment and the superintendent of any public school district that is contiguous to the public school district in which the open-enrollment public charter school will be located.

(ii) An affected school district may submit written comments concerning the application to the authorizer to be considered at the time of the authorizer's review of the application;

(2) Describe a plan for academic achievement that addresses how the open-enrollment public charter school will improve student learning and meet the state education goals;

(3) Outline the proposed performance criteria that will be used during the initial five-year period of the open-enrollment public charter school operation to measure its progress in improving student learning and meeting or exceeding the state education goals;

(4) List the specific provisions of this title and the specific rules and regulations promulgated by the state board from which the open-enrollment public charter school seeks to be exempted;

**(5) (A)** Describe the facility to be used for the open-enrollment public charter school and state the facility's current use.

**(B)** If the facility to be used for an open-enrollment public charter school is a public school district facility, the open-enrollment public charter school must operate in the facility in accordance with the terms established by the local school board of the public school district in an agreement governing the relationship between the open-enrollment public charter school and the public school district.

**(C)** If the facility that will be used for the open-enrollment public charter school is owned by or leased from a sectarian organization, the terms of the facility agreement must be disclosed to the authorizer; and

**(6)** Include a detailed budget and a governance plan for the operation of the open-enrollment public charter school.

**(d) (1) (A)** The application may be reviewed and approved by the local school board of the public school district in which the proposed open-enrollment public charter school will operate.

**(B)** The applicant may submit to the authorizer for expedited review an application approved by the local school board under subdivision (d)(1)(A) of this section.

**(2) (A)** However, if the local school board disapproves the application, the applicant shall have an immediate right to proceed with a written notice of appeal to the authorizer.

**(B)** The authorizer shall hold a hearing within forty-five (45) calendar days after receipt of the notice of appeal or a request for review.

**(C)** All interested parties may appear at the hearing and present relevant information regarding the application.

**(e)** A licensed teacher employed by a public school district in the school year immediately preceding the effective date of a charter for an open-enrollment public charter school operated at a public school facility may not be transferred to or be employed by the open-enrollment public charter school over the licensed teacher's objections.

**HISTORY:** Acts 1999, No. 890, § 5; 2001, No. 1311, § 2; 2005, No. 2005, § 7; 2007, No. 736, § 13; 2009, No. 1469, § 20; 2011, No. 993, § 5; 2013, No. 509, §§ 6-9.

### **6-23-303. Authorization for an open-enrollment public charter school.**

As requested by the applicant for an open-enrollment public charter school, the authorizer shall review the application for an open-enrollment public charter school and may approve any application that:

**(1)** Provides a plan for academic achievement that addresses how the open-enrollment public charter school proposes to improve student learning and meet the state education goals;

**(2)** Includes a set of performance criteria that will be used during the initial five-year period of the open-enrollment public charter school's operation to measure its progress in meeting its academic performance goals;

**(3)** Includes a proposal to directly and substantially involve the parents of students to be enrolled in the open-enrollment public charter school, the licensed employees, and the broader community in carrying out the terms of the open-enrollment charter;

(4) Includes an agreement to provide an annual report to parents, the community, and the authorizer that demonstrates the progress made by the open-enrollment public charter school during the previous academic year in meeting its academic performance objectives;

(5) Includes a detailed budget, a business plan, and a governance plan for the operation of the open-enrollment public charter school; and

(6) Establishes the eligible entity's status as a tax-exempt organization under § 501(c)(3) of the Internal Revenue Code of 1986 prior to the first day of its operation with students.

**HISTORY:** Acts 1999, No. 890, § 5; 2007, No. 736, § 14; 2013, No. 509, § 10; 2013, No. 1138, § 65.

#### **6-23-304. Requirements -- Preference for certain districts.**

(a) The authorizer may approve or deny an application based on:

(1) Criteria provided by law or by rule adopted by the State Board of Education;

(2) Findings of the authorizer relating to improving student performance and encouraging innovative programs; and

(3) Written findings or statements received by the authorizer from any public school district likely to be affected by the open-enrollment public charter school.

(b) The authorizer shall give preference in approving an application for an open-enrollment public charter school to be located in any public school district:

(1) When the percentage of students who qualify for free or reduced-price lunches is above the average for the state;

(2) When the district has been classified by the state board as in academic distress under § 6-15-428; or

(3) When the district has been classified by the Department of Education as in some phase of school improvement status under § 6-15-426 or some phase of fiscal distress under the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq., if the fiscal distress status is a result of administrative fiscal mismanagement, as determined by the state board.

(c) (1) (A) The department, the State Board of Education, or a combination of the department and state board may grant no more than a total of twenty-four (24) charters for open-enrollment public charter schools except as provided under subdivision (c)(1)(B) of this section.

(B) If the cap on the number of charters available for an open-enrollment public charter school is within two (2) charters of meeting any existing limitation or cap on available open-enrollment charters, the number of available charters shall automatically increase by five (5) slots more than the most recent existing limitation or cap on open-enrollment charters.

(C) By March 1 each year, the department shall issue a commissioner's memo stating the existing limitation on the number of charters available for open-enrollment public charter schools and the number of charters available for open-enrollment public charter schools during the next application cycle.

(2) An open-enrollment public charter applicant's school campus shall be limited to a single open-enrollment public charter school per charter except as allowed in subdivision (d) of this section.

(3) An open-enrollment public charter school shall not open in the service area of a public school district administratively reorganized under § 6-13-1601 et seq. until after the third year of the administrative reorganization.

(4) A private or parochial elementary or secondary school shall not be eligible for open-enrollment public charter school status.

(d) A charter applicant that receives an approved open-enrollment public charter may petition the authorizer for additional licenses to establish an open-enrollment public charter school in any of the various congressional districts in Arkansas if the applicant meets the following conditions:

(1) The approved open-enrollment public charter applicant has demonstrated academic success as defined by the state board for all public schools;

(2) The approved open-enrollment public charter applicant has not:

(A) Been subject to any disciplinary action by the authorizer;

(B) Been classified as in academic or fiscal distress; and

(C) Had its open-enrollment public charter placed on charter school probation or suspended or revoked under § 6-23-105; and

(3) The authorizer determines in writing by majority of a quorum present that the open-enrollment public charter applicant has generally established the educational program results and criteria set forth in this subsection.

**HISTORY:** Acts 1999, No. 890, §§ 5, 8, 13; 2001, No. 1311, § 3; 2005, No. 2005, § 8; 2007, No. 736, § 15; 2007, No. 827, § 117; 2009, No. 376, § 46; 2011, No. 987, § 1; 2011, No. 993, § 6; 2013, No. 509, § 10.

#### **6-23-305. Notice of disapproval -- Assistance with resubmission of application.**

(a) If the authorizer disapproves an application for an open-enrollment public charter school, the authorizer shall notify the applicant in writing of the reasons for such disapproval.

(b) The authorizer may allow the applicant for an open-enrollment public charter school to resubmit its application if the original application was found to be deficient by the authorizer.

(c) The Department of Education may provide technical assistance to the applicant for an open-enrollment public charter school in the creation or modification of its application.

**HISTORY:** Acts 1999, No. 890, § 5; 2007, No. 736, § 16; 2013, No. 509, § 10.

#### **6-23-306. Contents of open-enrollment public charters.**

An open-enrollment public charter granted under this subchapter shall:

(1) Describe the educational program to be offered;

(2) Specify the period for which the open-enrollment public charter or any renewal is valid;

(3) Provide that the continuation or renewal of the open-enrollment public charter is contingent on acceptable student performance on assessment instruments adopted by the State Board of Education and on compliance with any accountability provision specified by the open-enrollment public charter, by a deadline, or at intervals specified by the open-enrollment public charter;

**(4)** Establish the level of student performance that is considered acceptable for purposes of subdivision (3) of this section;

**(5)** Specify any basis, in addition to a basis specified by this chapter, on which the open-enrollment public charter school may be placed on probation or its charter is revoked or on which renewal of the open-enrollment public charter may be denied;

**(6)** Prohibit discrimination in admissions policy on the basis of gender, national origin, race, ethnicity, religion, disability, or academic or athletic eligibility, except as follows:

**(A)** The open-enrollment public charter school may adopt admissions policies that are consistent with federal law, regulations, or guidelines applicable to charter schools;

**(B)** The open-enrollment public charter school may allow a weighted lottery to be used in the student selection process when necessary to comply with Title VI of the federal Civil Rights Act of 1964, Title IX of the federal Education Amendments of 1972, the equal protection clause of the Fourteenth Amendment to the United States Constitution, a court order, or a federal or state law requiring desegregation; and

**(C)** The open-enrollment public charter may provide for the exclusion of a student who has been expelled from another public school district in accordance with this title;

**(7)** Specify the grade levels to be offered;

**(8)** Describe the governing structure of the program;

**(9)** Specify the qualifications to be met by professional employees of the program;

**(10)** Describe the process by which the persons providing the program will adopt an annual budget;

**(11)** Describe the manner in which the annual audit of the financial and programmatic operations of the program is to be conducted, including the manner in which the persons providing the program will provide information necessary for the public school district in which the program is located to participate;

**(12)** Describe the facilities to be used, including the terms of the facility utilization agreement if the facility for the open-enrollment public charter school is owned or leased from a sectarian organization;

**(13)** Describe the geographical area, public school district, or school attendance area to be served by the program;

**(14) (A)** Specify methods for applying for admission, enrollment criteria, and student recruitment and selection processes.

**(B) (i) (a)** Except as provided in subdivision (14)(C) of this section, if more eligible students apply for a first-time admission than the open-enrollment public charter school is able to accept by the annual deadline that the open-enrollment public charter school has established for the receipt of applications for the next school year, the open-enrollment public charter must require the open-enrollment public charter school to use a random, anonymous student selection method that shall be described in the charter application.

**(b) (1)** If there are still more applications for admissions than the open-enrollment public charter school is able to accept after the completion of the random, anonymous student selection

method, then the open-enrollment public charter school shall place the applicants on a waiting list for admission.

(2) The waiting list is valid until the next time the open-enrollment public charter school is required to conduct a random, anonymous student selection.

(ii) However, an open-enrollment public charter school may allow a preference for:

(a) (1) Children of the founding members of the eligible entity.

(2) The number of enrollment preferences granted to children of founding members shall not exceed ten percent (10%) of the total number of students enrolled in the open-enrollment public charter school; and

(b) Siblings of students currently enrolled in the open-enrollment public charter school.

(C) The open-enrollment public charter may use a weighted lottery in the student selection process only when necessary to comply with a:

(i) Federal court order; or

(ii) Federal administrative order issued by an appropriate federal agency having proper authority to enforce remedial measures necessary to comply with Title VI of the federal Civil Rights Act of 1964, Title IX of the federal Education Amendments of 1972, or the equal protection clause of the Fourteenth Amendment to the United States Constitution; and

(15) Include a statement that the eligible entity will not discriminate on the basis of race, sex, national origin, ethnicity, religion, age, or disability in employment decisions, including hiring and retention of administrators, teachers, and other employees whose salaries or benefits are derived from any public moneys.

**HISTORY:** Acts 1999, No. 890, § 9; 2001, No. 463, § 1; 2007, No. 736, § 17; 2009, No. 1469, § 21; 2011, No. 993, § 7.

#### **6-23-307. Renewal of charter.**

After the initial five-year period of an open-enrollment public charter, the authorizer may renew the open-enrollment public charter on a one-year or multiyear basis, not to exceed twenty (20) years.

**HISTORY:** Acts 1999, No. 890, § 5; 2001, No. 1311, § 4; 2005, No. 2005, § 9; 2007, No. 736, § 18; 2011, No. 993, § 8; 2013, No. 509, § 11.

#### **6-23-308. Priority hiring for teachers.**

If a licensed teacher employed by a public school district in the school year immediately preceding the effective date of the open-enrollment public charter is employed by an open-enrollment public charter school and the open-enrollment public charter is revoked, the licensed teacher will receive a priority in hiring for the first available position for which the licensed teacher is qualified in the public school district where the licensed teacher was formerly employed.

**HISTORY:** Acts 1999, No. 890, § 5; 2007, No. 736, § 19; 2013, No. 1138, § 66.

#### **6-23-309. Rules and regulations.**

The State Board of Education is authorized to promulgate rules and regulations for the creation of open-enrollment public charter schools.

**HISTORY:** Acts 1999, No. 890, § 5; 2007, No. 736, § 20.

**6-23-310. Status report.**

The authorizer shall report on the status of the open-enrollment public charter school programs to the General Assembly each biennium and to the House Committee on Education and the Senate Committee on Education during the interim between regular sessions of the General Assembly.

**HISTORY:** Acts 1999, No. 890, § 5; 2007, No. 736, § 21; 2013, No. 509, § 12.

**Subchapter 4 – Open-Enrollment Public Charter Schools -- Operation**

**6-23-401. Authority under a charter for open-enrollment public charter schools.**

(a) An open-enrollment public charter school:

(1) Shall be governed by an eligible entity that is fiscally accountable and under the governing structure as described by the charter;

(2) Shall provide instruction to students at one (1) or more elementary or secondary grade levels as provided by the charter;

(3) Shall retain authority to operate under the charter contingent on satisfactory student performance as provided by the charter and in accordance with this chapter;

(4) Shall have no authority to impose taxes;

(5) Shall not incur any debts without the prior review and approval of the Commissioner of Education;

(6) Shall not charge students tuition or fees that would not be allowable charges in the public school districts; and

(7) Shall not be religious in its operations or programmatic offerings.

(b) An open-enrollment public charter school is subject to any prohibition, restriction, or requirement imposed by this title and any rule and regulation promulgated by the State Board of Education under this title relating to:

(1) Monitoring compliance with this chapter, as determined by the commissioner;

(2) Public school accountability under this title;

(3) High school graduation requirements as established by the state board;

(4) Special education programs as provided by this title;

(5) Conducting criminal background checks for employees as provided in this title; and

(6) Health and safety codes as established by the state board and local governmental entities.

**HISTORY:** Acts 1999, No. 890, § 6; 2007, No. 736, § 22.

**6-23-402. Enrollment numbers and deadline.**

(a) An open-enrollment public charter school may enroll a number of students not to exceed the number of students specified in its charter.

(b) (1) Any student enrolling in an open-enrollment public charter school shall enroll in that school by July 30 for the upcoming school year during which the student will be attending the open-enrollment public charter school.

(2) However, if a student enrolled by July 15 should no longer choose to attend the open-enrollment public charter school or if the open-enrollment public charter school has not yet met its enrollment cap, the open-enrollment public charter school may enroll a number of replacement or additional students not to exceed the enrollment cap of the open-enrollment public charter school.

(c) Open-enrollment public charter schools shall keep records of attendance in accordance with the law and submit quarterly attendance reports to the Department of Education.

**HISTORY:** Acts 1999, No. 890, § 7; 2001, No. 1311, § 5; 2005, No. 2005, § 10; 2007, No. 736, § 23; 2011, No. 989, § 74; 2011, No. 993, § 9.

#### **6-23-403. Annual audit of open-enrollment public charter school required.**

Any other provisions of the Arkansas Code notwithstanding, an open-enrollment public charter school shall be subject to the same auditing and accounting requirements as any other public school district in the state.

**HISTORY:** Acts 1999, No. 890, § 14; 2007, No. 736, § 24.

#### **6-23-404. Evaluation of open-enrollment public charter schools.**

(a) The Department of Education shall cause to be conducted an annual evaluation of open-enrollment public charter schools.

(b) An annual evaluation shall include without limitation consideration of:

(1) Student scores under the statewide assessment program described in § 6-15-433;

(2) Student attendance;

(3) Student grades;

(4) Incidents involving student discipline;

(5) Socioeconomic data on students' families;

(6) Parental satisfaction with the schools;

(7) Student satisfaction with the schools; and

(8) The open-enrollment public charter school's compliance with § 6-23-107.

(c) The authorizer may require the charter holder to appear before the authorizer to discuss the results of the evaluation and to present further information to the authorizer as the authorizer deems necessary.

**HISTORY:** Acts 1999, No. 890, § 12; 2001, No. 1311, § 6; 2007, No. 736, § 25; 2011, No. 993, § 10; 2013, No. 509, § 13.

### **6-23-405. Monthly reports.**

An open-enrollment public charter school in its initial school year of operation shall provide monthly reports on its enrollment status and compliance with its approved budget for the current school year to the Department of Education.

**HISTORY:** Acts 2011, No. 993, § 11.

### **6-23-406. Department of Education review.**

The Department of Education shall:

(1) Conduct an end-of-semester review of each open-enrollment public charter school that is in its initial school year of operation at the end of the first semester and at the end of the school year; and

(2) Report to the State Board of Education and the Commissioner of Education on the open-enrollment public charter school's:

(A) Overall financial condition; and

(B) Overall condition of student enrollment.

**HISTORY:** Acts 2011, No. 993, § 11; 2013, No. 509, § 14.

## **Subchapter 5 – Open-Enrollment Public Charter Schools -- Funding**

### **6-23-501. Funding for open-enrollment public charter schools.**

(a) (1) An open-enrollment public charter school shall receive funds equal to the amount that a public school would receive under § 6-20-2305(a) and (b) as well as any other funding that a public charter school is entitled to receive under law or under rules promulgated by the State Board of Education.

(2) (A) For the first year of operation and for the first year the open-enrollment public charter school adds a new grade, the foundation funding and enhanced educational funding for an open-enrollment public charter school is determined as follows:

(i) The initial funding estimate shall be based on enrollment as of July 1 of the current school year;

(ii) In December, funding will be adjusted based upon the first quarter average daily membership; and

(iii) A final adjustment will be made after the current three-quarter average daily membership is established.

(B) For the second year and each school year thereafter, the previous year's average daily membership will be used to calculate foundation funding and any enhanced educational funding amounts.

(3) National school lunch state categorical funding under § 6-20-2305(b)(4) shall be provided to an open-enrollment public charter school as follows:

(A) For the first year of operation and in any year when a grade is added, free or reduced-price meal eligibility data as reported by October 1 of the current school year will be used to calculate the national school lunch state categorical funding under the state board rules governing special needs

funding; and

**(B)** For the second year and each school year of operation thereafter, the previous year's October 1 national school lunch student count as specified in state board rules governing special needs funding will be used to calculate national school lunch state categorical funding for the open-enrollment public charter school.

**(4)** Professional development funding under § 6-20-2305(b)(5) shall be provided to an open-enrollment public charter school for the first year of operation and in any year in which a grade is added as follows:

**(A) (i)** In the first year of operation the open-enrollment public charter school shall receive professional development funding based upon the initial projected enrollment student count as of July 1 of the current school year multiplied by the per-student professional development funding amount under § 6-20-2305(b)(5) for that school year.

**(ii)** For the second year and each school year thereafter, professional development funding will be based upon the previous year's average daily membership multiplied by the per-student professional development funding amount for that school year.

**(5)** The Department of Education shall distribute other categorical funding under § 6-20-2305(a) and (b) for which an open-enrollment public charter school is eligible as provided by state law and rules promulgated by the state board.

**(6)** An open-enrollment public charter school shall not be denied foundation funding, enhanced educational funding, or categorical funding in the first year or any year of operation provided that the open-enrollment public charter school submits to the department the number of students eligible for funding as specified in applicable rules.

**(7)** Foundation funding for an open-enrollment public charter school shall be paid in twelve (12) installments each fiscal year.

**(b)** An open-enrollment public charter school may receive any state and federal aids, grants, and revenue as may be provided by law.

**(c)** Open-enrollment public charter schools may receive gifts and grants from private sources in whatever manner is available to public school districts.

**(d) (1)** An open-enrollment public charter school shall have a right of first refusal to purchase or lease for fair market value a closed public school facility or unused portions of a public school facility located in a public school district from which it draws its students if the public school district decides to sell or lease the public school facility.

**(2)** The public school district may not require lease payments that exceed the fair market value of the property.

**(3)** The application of this subsection is subject to the rights of a repurchaser under § 6-13-103 regarding property taken by eminent domain.

**(4)** A public school district is exempt from the provisions of this subsection if the public school district, through an open bid process, receives and accepts an offer to lease or purchase the property from a purchaser other than the open-enrollment public charter school for an amount that exceeds the fair market value.

**(5)** The purposes of this subsection are to:

(A) Acknowledge that taxpayers intended a public school facility to be used as a public school; and

(B) Preserve the option to continue that use.

(6) Nothing in this subsection is intended to diminish the opportunity for an Arkansas Better Chance Program to bid on the purchase or lease of the public school facility on an equal basis as the open-enrollment public charter school.

**HISTORY:** Acts 1999, No. 890, § 7; 2001, No. 1311, § 7; 2003 (2nd Ex. Sess.), No. 59, § 3; 2005, No. 2005, § 11; 2007, No. 736, § 26; 2009, No. 1469, § 22; 2011, No. 981, § 14; 2011, No. 989, §§ 75-77; 2011, No. 993, §§ 12-14.

#### **6-23-502. Source of funding.**

(a) Open-enrollment public charter schools shall be funded each year through funds set aside from funds appropriated to state foundation funding aid in the Public School Fund.

(b) The amount set aside shall be determined by the State Board of Education.

**HISTORY:** Acts 1999, No. 890, § 7; 2001, No. 1311, § 8; 2007, No. 736, § 27.

#### **6-23-503. Use of funding.**

(a) An open-enrollment public charter school may not use the moneys that it receives from the state for any sectarian program or activity or as collateral for debt.

(b) (1) No indebtedness of any kind incurred or created by the open-enrollment public charter school shall constitute an indebtedness of the state or its political subdivisions, and no indebtedness of the open-enrollment public charter school shall involve or be secured by the faith, credit, or taxing power of the state or its political subdivisions.

(2) Every contract or lease into which an open-enrollment public charter school enters shall include the wording of subdivision (b)(1) of this section.

**HISTORY:** Acts 1999, No. 890, § 7; 2007, No. 736, § 28.

#### **6-23-504. Employee benefits.**

Employees of an open-enrollment public charter school shall be eligible to participate in all benefits programs available to public school employees.

**HISTORY:** Acts 1999, No. 890, § 7; 2007, No. 736, § 29.

#### **6-23-505. Annual audit.**

An open-enrollment public charter school shall prepare an annual certified audit of the financial condition and transactions of the open-enrollment public charter school as of June 30 of each year in accordance with generally accepted auditing procedures and containing any other data as determined by the State Board of Education for all public schools.

**HISTORY:** Acts 1999, No. 890, § 7; 2007, No. 736, § 30; 2013, No. 509, § 15.

#### **6-23-506. Assets of school as property of state.**

(a) Upon dissolution of the open-enrollment public charter school or upon nonrenewal or

revocation of the charter, all net assets of the open-enrollment public charter school, including any interest in real property, purchased with public funds shall be deemed the property of the state, unless otherwise specified in the charter of the open-enrollment public charter school.

**(b) (1)** If the open-enrollment public charter school used state funds to purchase or finance personal property, real property, or fixtures for use by the open-enrollment public charter school, the Department of Education may require that the property be sold.

**(2)** The state has a perfected priority security interest in the net proceeds from the sale or liquidation of the property to the extent of the public funds used in the purchase.

**HISTORY:** Acts 1999, No. 890, § 7; 2007, No. 736, § 31; 2013, No. 509, § 16.

#### **6-23-507. Rules and regulations.**

The State Board of Education shall have the authority to promulgate rules and regulations in accordance with other state and federal statutes to implement this subchapter and § 6-23-402.

**HISTORY:** Acts 1999, No. 890, § 7.

### **Subchapter 6 – Limited Public Charter Schools**

#### **6-23-601. Application for limited public charter school status -- Approval -- Teacher transfers -- Annual evaluation.**

**(a) (1)** Any public school may apply to the Department of Education for limited public charter school status for alternative comprehensive staffing and compensation programs designed to enhance student and teacher performance and improve employee salaries, opportunities, and incentives, to be known as a limited public charter school.

**(2)** A limited public charter shall be for the purpose of instituting alternative staffing practices in accordance with a schedule approved by the authorizer.

**(3)** A limited public charter shall be initially established for a period of no more than five (5) years and may be renewed on a one-year or multiyear basis, not to exceed five (5) years per charter renewal.

**(b)** The application shall:

**(1) (A)** Contain the provisions of this title and the specific rules and regulations promulgated by the state board from which the limited public charter school will be exempt.

**(B)** The provisions from which the public school district may be exempt for the limited public charter school only shall be limited to the following:

**(i)** The duty-free lunch period requirements set forth in § 6-17-111;

**(ii)** The daily planning period requirements set forth in § 6-17-114;

**(iii)** The committee on personnel policies requirements set forth in § 6-17-201 et seq.; and

**(iv)** Standards for accreditation set forth in the Arkansas Code, set forth by the Department of Education, or set forth by the State Board of Education.

**(C)** No limited public charter school may be allowed an exemption that would allow a full-time licensed employee to be paid less than the salary provided in the public school district's salary

schedule for that employee;

**(2)** Describe a plan for school improvement that addresses how the limited public charter school will improve student learning and meet the state education goals;

**(3)** Describe how the licensed employees at the limited public charter school will be involved in developing and implementing the school improvement plan set forth in subdivision (b)(2) of this section and in identifying performance criteria;

**(4)** Outline proposed performance criteria that will be used during the initial five-year period of the charter to measure the progress of the limited public charter school in improving student learning and meeting or exceeding the state education goals; and

**(5)** Be reviewed as a regular agenda item and approved after sufficient public comment by the local school board and the authorizer.

**(c) (1)** Any application to obtain limited public charter school status approved by a local school board shall be forwarded by the local school board to the authorizer.

**(2)** If a local school board does not approve a public school's application, the local school board shall inform the applicants and faculty of the public school of the local school board's reasons for not approving the application.

**(d) (1)** A licensed teacher employed by a public school in the school year immediately preceding the effective date of a limited public charter for a limited public charter school within that public school district may not be transferred to or be employed by the limited public charter school over the licensed teacher's objections, nor shall that objection be used as a basis to deny continuing employment within the public school district in another public school at a similar grade level.

**(2)** If the transfer of a teacher within a public school district is not possible because only one (1) public school exists for the teacher's licensure level, then the local school board shall call for a vote of the licensed teachers in the proposed limited public charter school site and proceed, at the local school board's option, with the limited public charter school application if a majority of the licensed teachers approve the proposal.

**(3) (A)** A licensed teacher choosing to join the staff of a limited public charter school shall be employed by the district by a written contract as set forth in § 6-13-620(5), with the contract being subject to the provisions of The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq.

**(B) (i)** The licensed teacher shall also enter into a separate supplemental contract specifically for the teacher's employment in the limited public charter school, with the supplemental contract being exempt from The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq., and from § 6-17-807.

**(ii)** Termination of the supplemental contract shall not be used as a basis to deny continued employment of the teacher within the public school district in another public school at a similar grade level.

**(e) (1)** Limited public charter schools shall be evaluated annually by the department based on criteria approved by the authorizer including without limitation:

**(A)** Student performance data in order to determine progress in student achievement that has been achieved by the limited public charter school; and

**(B)** The limited public charter school's compliance with § 6-23-107.

(2) The department shall annually report its evaluation to the state board and the Commissioner of Education.

(3) Based upon that evaluation, the authorizer may revoke a limited public charter.

(f) The state board shall promulgate rules and regulations necessary for the implementation of this subchapter.

**HISTORY:** Acts 2001, No. 1311, § 9; 2005, No. 2005, § 12; 2007, No. 736, § 32; 2011, No. 993, § 15; 2013, No. 509, § 17; 013, No. 1138, §§ 67-69.

## **Subchapter 7 – Public Charter School Authorizer**

### **6-23-701. Designated public charter authorizer.**

(a) The Department of Education is the designated public charter authorizer with jurisdiction and authority over all public charters issued in this state to take the following action on a proposed or established public charter:

(1) Approve;

(2) Reject;

(3) Renew;

(4) Non-renew;

(5) Place on probation;

(6) Modify;

(7) Revoke; or

(8) Deny.

(b) (1) The department shall exercise authority over public charter schools under this chapter through a public charter authorizing panel established within the department.

(2) (A) The Commissioner of Education shall appoint a public charter authorizing panel that consists of professional staff employed at the department to serve at the pleasure of the commissioner.

(B) The commissioner may elect to serve as a member on the charter authorizing panel as the chair.

(3) The public charter authorizing panel is composed of an odd number of members and consists of no less than five (5) members and no more than eleven (11) members.

(c) The department may waive provisions of Title 6 or State Board of Education rules as allowed by law for public charters.

(d) (1) The department shall conduct all hearings on public charter school matters as required by law, rule, and process and make final determinations as allowed by law.

(2) (A) A hearing under this chapter conducted by the department shall be an open meeting under the Freedom of Information Act of 1967, § 25-19-106.

(B) For the purposes of § 25-19-106, the members of the public charter authorizing panel shall be considered a governing body only in regard to actions specifically authorized by this subchapter.

(3) (A) All decisions of the panel shall be made by majority vote of the quorum.

(B) A decision of the department is final except as provided under § 6-23-703.

(4) The Arkansas Administrative Procedure Act, § 25-15-201 et seq., shall not apply to a hearing concerning a public charter school.

(e) The department shall be the primary authorizer of public charters except as provided under § 6-23-703.

**HISTORY:** Acts 2013, No. 509, § 18.

### **6-23-702. Public charter authorizing procedures -- Notification.**

(a) The State Board of Education shall adopt rules as necessary to administer this subchapter, including without limitation the procedure for:

(1) Hearings; and

(2) Administration of the public charter authorizing panel.

(b) (1) The Department of Education shall notify in writing the State Board of Education, charter applicant, public charter school, and affected school districts, if any, of final decisions made by the department no less than fourteen (14) calendar days before the next regularly scheduled State Board of Education meeting after the final decision is made by the department.

(2) (A) A charter applicant, public charter school, and affected school district, if any, may submit in writing a request that the state board review the final decision of the department under § 6-23-703.

(B) The written request submitted under subdivision (b)(2)(A) of this section shall state the specific reasons supporting a review by the state board.

(3) The decision of whether to review a final decision of the department is discretionary by the state board and the provisions of this section and § 6-23-703 do not grant any right of appeal to a charter applicant, public charter school, or affected school district.

**HISTORY:** Acts 2013, No. 509, § 18.

### **6-23-703. State Board of Education optional review.**

(a) On a motion approved by a majority vote, the State Board of Education may exercise a right of review of a charter determination made by the Department of Education at the next regularly scheduled state board meeting after receiving notice provided under § 6-23-702(b).

(b) If the state board votes to review a final decision made by the department, the state board shall:

(1) State the specific additional information the state board requires from the department, public charter school, public charter school applicant, or affected school district;

(2) Conduct a full hearing regarding a final decision by the department under § 6-23-701(a); and

(3) Hold the hearing at the earlier of:

(A) The next regularly scheduled state board meeting following the state board meeting during which the state board voted to authorize a review; or

(B) A special board meeting called by the state board.

(c) (1) At the conclusion of the hearing, the state board may issue a final decision by state board vote.

(2) The state board may decide by majority vote of the quorum to:

(A) Affirm the decision of the department;

(B) Take other lawful action on the public charter;

(C) (i) Request additional information from the department, public charter school, public charter school applicant, or affected school district, if needed.

(ii) If the state board requests additional information under subdivision (c)(2)(C)(i) of this section, the state board shall hold a subsequent hearing at the earlier of:

(a) The next regularly scheduled state board meeting; or

(b) A special board meeting called by the state board.

(3) A decision made by the state board is final with no right of appeal.

(d) The state board may promulgate rules as necessary to implement this section.

**HISTORY:** Acts 2013, No. 509, § 18.

## **Subchapter 8 -- Open-Enrollment Public Charter School Capital Grant Program**

### **6-23-801. Definitions.**

As used in this subchapter:

(1) "Academic facility" means a building or space, including related areas such as the physical plant and grounds, that is part of an institution in which students receive instruction;

(2) "Maintenance, repair, and renovation" means an activity or improvement to an academic facility and, if necessary, related areas such as the physical plant and grounds that maintains, conserves, or protects the state of condition or efficiency of the academic facility;

(3) "National school lunch students" has the same meaning as in § 6-20-2303; and

(4) "New construction" means an improvement to an academic facility and, if necessary, related areas such as the physical plant and grounds, that improves the state of condition or efficiency of the academic facility.

**HISTORY:** Acts 2013, No. 1064, § 1.

### **6-23-802. Purposes of grants.**

An open enrollment public charter school may apply for and the Division of Public School Academic Facilities and Transportation may grant moneys from the Open Enrollment Public Charter School Capital Grant Program Fund for one (1) or more of the following purposes:

- (1) The maintenance, repair, renovation, and new construction of academic facilities;
- (2) The cost of acquiring a site and constructing and equipping an academic facility on that site;
- (3) The purchase of instructional materials, technology systems, and other academic equipment; and
- (4) The repayment of debt incurred by an open enrollment public charter school for one (1) or more of the purposes identified in subdivisions (1)-(3) of this section.

**HISTORY:** Acts 2013, No. 1064, § 1.

**6-23-803. Application for grant.**

(a) The board of directors of an open enrollment public charter school may request a grant from the Open Enrollment Public Charter School Capital Grant Program under this subchapter by filing a formal application with the Division of Public School Academic Facilities and Transportation using the form and in the manner required by rules of the Commission for Arkansas Public School Academic Facilities and Transportation.

(b) The application shall contain the following information without limitation:

- (1) The open enrollment public charter school's:
  - (A) Name;
  - (B) Local education agency number; and
  - (C) Location;
- (2) A certified copy of the written resolution of the board that includes without limitation:
  - (A) The board's authorization for filing the application; and
  - (B) The date and place of the meeting of the board at which the action was taken;
- (3) The proposed use for the proceeds of the grant;
- (4) The amount of the grant requested and supporting evidence upon which the amount is based; and
- (5) Additional information required by the division.

(c) The open enrollment public charter school shall:

- (1) Execute the application in duplicate;
  - (2) File the original with the division; and
  - (3) Retain one (1) copy in the files of the open enrollment public charter school.
- (d) Within a reasonable time after its receipt of an application for a grant from the Open Enrollment

Public Charter School Capital Grant Program under this subchapter, the division shall review the accuracy and merits of the application and either:

- (1) Approve the application for the full amount of the grant request;
- (2) Approve the application for a grant of a lesser amount than the amount requested; or
- (3) Reject the application.

**HISTORY:** Acts 2013, No. 1064, § 1.

#### **6-23-804. Administration -- Regulations.**

(a) (1) The Division of Public School Academic Facilities and Transportation shall administer the Open Enrollment Public Charter School Capital Grant Program in a manner that awards a grant and monitors the use of a grant according to the stated purpose of the grant.

(2) This section is not intended to subject a grant applicant to rules similar to those applicable to school districts under the Arkansas Public School Academic Facilities Funding Act, § 6-20-2501 et seq., and the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq.

(b) The Commission for Arkansas Public School Academic Facilities and Transportation shall promulgate rules to implement this subchapter.

**HISTORY:** Acts 2013, No. 1064, § 1.

### **Subchapter 9 – The Open-Enrollment Public Charter School Facilities Loan Fund**

#### **6-23-901. The Open-Enrollment Public Charter School Facilities Loan Fund -- Established.**

Beginning with the 2013-2014 school year, the Open-Enrollment Public Charter School Facilities Loan Fund is established under § 19-5-1251 to provide funding for safe and secure facilities in which to conduct educational services and administrative activities for open-enrollment public charter schools.

**HISTORY:** Acts 2013, No. 1255, § 1.

#### **6-23-902. Funding source -- Procedures.**

(a) The Open-Enrollment Public Charter School Facilities Loan Fund shall be administered and operated by the Division of Public School Academic Facilities and Transportation for the sole purpose of facility assistance for eligible open-enrollment public charter schools.

(b) The fund may be funded by:

(1) General revenues received by the division for the purpose of starting, augmenting, or replenishing the fund;

(2) Grants received by the division for the express purpose of providing open-enrollment public charter school facilities assistance, including grants from the United States Department of Education; and

(3) Donations or bequests from organizations or individuals received by the division that are designated for the fund.

(c) The division shall:

(1) Use rules and forms adopted by the Commission for Arkansas Public School Academic Facilities and Transportation for the administration and operation of the loan program, including without limitation a loan application form that addresses:

(A) A specific description of the project or facility for which funding is needed;

(B) A description of the project or facility for which funding is needed, including the physical location of the project or facility;

(C) The anticipated cost of acquisition, construction, lease, operation, addition, improvement, or repair of the open-enrollment public charter school facility;

(D) An explanation for the open-enrollment public charter school's inability to provide sufficient funding for the project or facility through other resources;

(E) A description of the funds that the open-enrollment public charter school intends to use to collateralize and pledge to secure the loan;

(F) A repayment period of not to exceed ten (10) years from the date the loan is approved;

(G) A resolution from the open-enrollment public charter school's governing board stating the necessity of the requested assistance; and

(H) The repayment terms and conditions of the loan with the repayment interest rate not to exceed one percent (1%) of the interest rate earned by money in the fund; and

(2) Develop a prioritization system to fund projects and facilities if sufficient funding is not available to fully fund all eligible requests.

(d) The division shall dedicate sufficient personnel and resources to administer the loan program in a timely and responsive manner.

(e) All earnings received on the investment of assets held in the Open-Enrollment Public Charter School Facilities Loan Fund shall be used in the following order of priority for the following purposes:

(1) To pay the operating expenses of the Open-Enrollment Public Charter School Facilities Loan Fund administered by the division; and

(2) To fund loans under § 6-23-703 or as permitted by law.

**HISTORY:** Acts 2013, No. 1255, § 1.

### **6-23-903. Purpose of loan.**

An open-enrollment public charter school may borrow and the Division of Public School Academic Facilities and Transportation may lend money from the Open-Enrollment Public Charter School Facilities Loan Fund for:

(1) The construction, lease, or purchase of an academic facility;

(2) The repair, improvement, or addition to an academic facility; or

(3) Credit enhancement for financing academic facility projects under subdivision (1) or (2) of this section.

**HISTORY:** Acts 2013, No. 1255, § 1.

**6-23-904. Loan application.**

(a) The board of directors of an open-enrollment public charter school wanting to borrow money from the Open-Enrollment Public Charter School Facilities Loan Fund, acting through its chair or president and secretary, after approval of such action by full majority approval of the board of directors, shall file a loan application with the Division of Public School Academic Facilities and Transportation.

(b) The loan application shall be on a form promulgated by the Commission for Arkansas Public School Academic Facilities and Transportation and include without limitation:

(1) The name, location, and local education agency number of the open-enrollment public charter school;

(2) The date and location of the board of directors meeting at which action was taken to make a formal application for a loan;

(3) The purpose for which the loan will be used;

(4) The estimated amount of the proposed loan, including any supporting documentation on cost estimates;

(5) Complete financial information, including all current debt obligations;

(6) The method proposed to repay the loan; and

(7) Any additional information requested by the division.

(c) An application shall be executed in duplicate with the original to be filed with the division and the copy to be retained in the files of the open-enrollment public charter school.

**HISTORY:** Acts 2013, No. 1255, § 1.

**6-23-905. Loan decision.**

(a) The Division of Public School Academic Facilities and Transportation shall review and assess the accuracy of the information provided in each loan application within a reasonable time after receiving a loan application.

(b) (1) After reviewing and considering the merits of the application, the division may:

(A) Approve the loan requested for the full amount;

(B) Approve the loan requested for an amount less than requested; or

(C) Deny the loan.

(2) The division shall notify the open-enrollment public charter school in writing of the decision.

(c) An open-enrollment public charter school may apply for and accept a loan from the Open-Enrollment Public Charter School Facilities Loan Fund without prior approval from the Commissioner of Education under § 6-23-401(a)(5).

**HISTORY:** Acts 2013, No. 1255, § 1.

**6-23-906. Rules.**

(a) The Commission for Arkansas Public School Academic Facilities and Transportation shall promulgate rules necessary to administer the Open-Enrollment Public Charter School Facilities Loan Fund, which shall include without limitation a provision for the prioritization of loan applications.

(b) This section is not intended to subject a loan applicant to rules similar to those applicable to school districts under the Arkansas Public School Academic Facilities Funding Act, § 6-20-2501 et seq., and the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq.

**HISTORY:** Acts 2013, No. 1255, § 1.

**6-23-907. Failure to remit payment.**

(a) If an open-enrollment public charter school fails to remit payment for an outstanding loan under the Open-Enrollment Public Charter School Facilities Loan Fund, upon certification of the amount of delinquent funds by the Division of Public School Academic Facilities and Transportation, the amount of delinquent funds including penalties and interest may be deducted from the operating funds designated to the open-enrollment public charter school through the Department of Education and remitted directly by the department to the Open-Enrollment Public Charter School Facilities Loan Fund if requested by the division.

(b) The operating funds from which delinquent funds may be deducted for an open-enrollment public charter school are limited to:

(1) State funding distributed under § 6-20-2305, including without limitation state foundation funding and state categorical funding;

(2) Federal funding to the extent allowed under federal law; and

(3) The net assets of an open-enrollment public charter school deemed property of the state upon revocation or nonrenewal of the charter.

(c) The state shall hold a preferred security interest in the amount of the outstanding loan.

**HISTORY:** Acts 2013, No. 1255, § 1.