

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 COMMITTEE SUBSTITUTE
4 FOR
5 HOUSE BILL NO. 3643

By: Dills

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to schools; amending 70 O.S. 2021,
9 Section 3-145.3, which relates to duties of the
10 Statewide Virtual Charter School Board; requiring
11 compliance with the Oklahoma Charter Schools Act;
12 modifying limitation on fee for administrative
13 expenses and support; deleting duplicative language;
14 subjecting virtual charter schools to the same
15 compliance requirements as charter schools; updating
16 statutory language; establishing certain requirements
17 for virtual charter school governing boards;
18 prescribing duties for certain personnel; requiring
19 State Department of Education and sponsor to publish
20 certain contracts on their websites; subjecting
21 certain board members to instruction and continuing
22 education requirements; prohibiting certain conflicts
23 of interest and pecuniary gain; disallowing certain
24 appointments or selections of members; designating
certain funds as public funds; prohibiting transfer
or conversion of state funds to private funds;
clarifying provision; requiring payments from charter
schools to comply with certain provisions; directing
organization to provide certain documents; subjecting
certain funds to audit, transparency, oversight and
financial reporting; requiring certain funds to
remain public funds; prescribing assignment of grade
for participation in certain extracurricular or
educational activities; declaring certain property to
remain public property of the charter school;
mandating an operating agreement review of certain
charter schools; establishing procedures for review;
requiring written agreement for certain expenditures;
mandating criminal history record checks for certain
personnel; prescribing process and payment of checks;

1 prohibiting certain activities by management
2 organizations; amending 70 O.S. 2021, Section 5-200,
3 which relates to management organizations; adding
4 definition for charter management organization;
5 requiring amounts paid to certain organizations be
6 pursuant to contract terms; mandating disclosure
7 pursuant to certain guidelines; prohibiting
8 commingling of certain school funds; amending 70 O.S.
9 2021, Section 18-118, which relates to State Aid
10 audits; requiring return of state monies which are
11 illegally apportioned, disbursed, or expended by
12 certain organizations; specifying when state funds
13 shall be withheld; requiring suits to recover
14 illegally apportioned state monies; providing for
15 codification; providing an effective date; and
16 declaring an emergency.

17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. AMENDATORY 70 O.S. 2021, Section 3-145.3, is
19 amended to read as follows:

20 Section 3-145.3 A. Subject to the requirements of the Oklahoma
21 Charter Schools Act, the Statewide Virtual Charter School Board
22 shall:

23 1. Provide oversight of the operations of statewide virtual
24 charter schools in this state;

2. Establish a procedure for accepting, approving and
disapproving statewide virtual charter school applications and a
process for renewal or revocation of approved charter school
contracts which minimally meet the procedures set forth in the
Oklahoma Charter Schools Act;

1 3. Make publicly available a list of supplemental online
2 courses which have been reviewed and certified by the Statewide
3 Virtual Charter School Board to ensure that the courses are high
4 quality options and are aligned with the subject matter standards
5 adopted by the State Board of Education pursuant to Section 11-103.6
6 of this title. The Statewide Virtual Charter School Board shall
7 give special emphasis on listing supplemental online courses in
8 science, technology, engineering and math (STEM), foreign language
9 and advanced placement courses. School districts shall not be
10 limited to selecting supplemental online courses that have been
11 reviewed and certified by the Statewide Virtual Charter School Board
12 and listed as provided for in this paragraph; and

13 4. In conjunction with the Office of Management and Enterprise
14 Services, negotiate and enter into contracts with supplemental
15 online course providers to offer a state rate price to school
16 districts for supplemental online courses that have been reviewed
17 and certified by the Statewide Virtual Charter School Board and
18 listed as provided for in paragraph 3 of this subsection.

19 B. Except as otherwise provided by law, each statewide virtual
20 charter school which has been approved and sponsored by the Board
21 shall be subject to and comply with the requirements of the Oklahoma
22 Charter Schools Act. Each statewide virtual charter school which
23 has been approved and sponsored by the Board or any virtual charter
24 school for which the Board has assumed sponsorship of as provided

1 for in Section 3-145.5 of this title shall be considered a statewide
2 virtual charter school and, except as provided in subsection H of
3 this section, the geographic boundaries of each statewide virtual
4 charter school shall be the borders of the state.

5 C. Each statewide virtual charter school approved by the
6 Statewide Virtual Charter School Board shall be eligible to receive
7 federal funds generated by students enrolled in the charter school
8 for the applicable year. Each statewide virtual charter school
9 shall be considered a separate local education agency for purposes
10 of reporting and accountability.

11 D. As calculated as provided for in Section 3-142 of this
12 title, a statewide virtual charter school shall receive the State
13 Aid allocation and any other state-appropriated revenue generated by
14 students enrolled in the virtual charter school for the applicable
15 year, less up to ~~five percent (5%)~~ three percent (3%) of the State
16 Aid allocation, which may be retained by the Statewide Virtual
17 Charter School Board for administrative expenses and to support the
18 mission of the Board. A statewide virtual charter school shall be
19 eligible for any other funding any other charter school is eligible
20 for as provided for in Section 3-142 of this title. ~~Each statewide~~
21 ~~virtual charter school shall be considered a separate local~~
22 ~~education agency for purposes of reporting and accountability.~~

23 E. A virtual charter school shall be subject to the same
24 reporting requirements, financial audits, audit procedures, and

1 audit requirements as a school district and compliance requirements
2 provided in Section 3-136 of this title. The State Department of
3 Education or State Auditor and Inspector may conduct financial,
4 program or compliance audits. A virtual charter school shall use
5 the Oklahoma Cost Accounting System (OCAS) to report financial
6 transactions to the State Department of Education.

7 F. A virtual charter school governing ~~body~~ board shall be
8 responsible for the policies that govern the operational decisions
9 of the virtual charter school. The governing ~~body~~ board of a
10 virtual charter school shall be subject to the same conflict of
11 interest requirements as a member of a local school board including,
12 but not limited to, Sections 5-113 and 5-124 of this title. Members
13 appointed to the governing ~~body~~ board of a virtual charter school
14 ~~after July 1, 2019,~~ shall be subject to the same instruction and
15 continuing education requirements as a member of a local school
16 board and pursuant to Section 5-110 of this title, complete twelve
17 (12) hours of instruction within fifteen (15) months of appointment
18 to the governing ~~body~~ board, and pursuant to Section 5-110.1 of this
19 title, attend continuing education. Members appointed to the
20 governing board of a virtual charter school prior to July 1, 2019,
21 shall comply with the requirements of this subsection and, within
22 fifteen (15) months of the effective date of this act, shall
23 complete twelve (12) hours of instruction pursuant to Section 5-110
24 of this title.

1 G. Students enrolled full-time in a statewide virtual charter
2 school sponsored by the Statewide Virtual Charter School Board shall
3 not be authorized to participate in any activities administered by
4 the Oklahoma Secondary Schools Activities Association. However, the
5 students may participate in intramural activities sponsored by a
6 statewide virtual charter school, an online provider for the charter
7 school or any other outside organization.

8 H. 1. Beginning with the 2021-2022 school year, a public
9 school student who wishes to enroll in a virtual charter school
10 shall be considered a transfer student from their resident school
11 district. A virtual charter school shall pre-enroll any public
12 school student whose parent expresses intent to enroll in the
13 ~~district~~ virtual charter school. Upon pre-enrollment, the State
14 Department of Education shall initiate a transfer on a form to be
15 completed by the receiving virtual charter school. Upon approval of
16 the receiving virtual charter school, the student may begin
17 instructional activities. Upon notice that a public school student
18 has transferred to a virtual charter school, the resident school
19 district shall transmit the student's records within three (3)
20 school days.

21 2. The State Department of Education shall notify the
22 Legislature and Governor if it determines that the information
23 technology infrastructure necessary to process the transfer of
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1 students to a virtual charter school is inadequate and one (1)
2 additional school year is needed for implementation.

3 3. A public school student may transfer to one statewide
4 virtual charter school at any time during a school year. For
5 purposes of this subsection, "school year" shall mean July 1 through
6 the following June 30. After one statewide virtual charter school
7 transfer during a school year, no public school student shall be
8 permitted to transfer to any other statewide virtual charter school
9 without the concurrence of both the resident school district and the
10 receiving virtual charter school. A student shall have a grace
11 period of fifteen (15) school days from the first day of enrollment
12 in a statewide virtual charter school to withdraw without academic
13 penalty and shall continue to have the option of one virtual charter
14 school transfer without the concurrence of both districts during
15 that same school year. A statewide virtual charter school student
16 that has utilized the allowable one transfer pursuant to this
17 subsection shall not be permitted to transfer to another district or
18 other statewide virtual charter school without first notifying his
19 or her resident district and initiating a new transfer. Upon
20 cancellation of a transfer the virtual charter school shall transmit
21 the student's records to the student's new school district within
22 three (3) school days. Students enrolled in a statewide virtual
23 charter school shall not be required to submit a virtual charter
24 transfer for consecutive years of enrollment. Any student enrolled

1 in a statewide virtual charter school the year prior to the
2 implementation of this section shall not be required to submit a
3 transfer in order to remain enrolled.

4 4. For purposes of this subsection, "parent" shall mean the
5 parent of the student or person having custody of the student as
6 provided for in paragraph 1 of subsection A of Section 1-113 of this
7 title.

8 I. 1. A student shall be eligible to enroll in a statewide
9 virtual charter school if he or she is a student whose parent or
10 legal guardian is transferred or is pending transfer to a military
11 installation within this state while on active military duty
12 pursuant to an official military order.

13 2. A statewide virtual charter school shall accept applications
14 by electronic means for enrollment and course registration for
15 students described in paragraph 1 of this subsection.

16 3. The parent or legal guardian of a student described in
17 paragraph 1 of this subsection shall provide proof of residence in
18 this state within ten (10) days after the published arrival date
19 provided on official documentation. A parent or legal guardian may
20 use the following addresses as proof of residence:

- 21 a. a temporary on-base billeting facility,
- 22 b. a purchased or leased home or apartment, or
- 23 c. federal government or public-private venture off-base
24 military housing.

1 4. The provisions of paragraph 3 of subsection H shall apply to
2 students described in paragraph 1 of this subsection.

3 5. For purposes of this subsection:

4 a. "active military duty" means full-time military duty
5 status in the active uniformed service of the United
6 States including members of the National Guard and
7 Military Reserve on active duty orders, and

8 b. "military installation" means a base, camp, post,
9 station, yard, center, homeport facility for any ship
10 or other installation under the jurisdiction of the
11 Department of Defense or the United States Coast
12 Guard.

13 J. A virtual charter school shall not accept or deny a transfer
14 based on ethnicity, national origin, gender, income level, disabling
15 condition, proficiency in the English language, measure of
16 achievement, aptitude or athletic ability.

17 K. The decision of the Statewide Virtual Charter School Board
18 to deny, nonrenew or terminate the charter contract of a statewide
19 virtual charter school may be appealed to the State Board of
20 Education within thirty (30) days of the decision by the Statewide
21 Virtual Charter School Board. The State Board of Education shall
22 act on the appeal within sixty (60) days of receipt of the request
23 from the statewide virtual charter school applicant. The State
24 Board of Education may reverse the decision of the Statewide Virtual

1 Charter School Board or may remand the matter back to the Statewide
2 Virtual Charter School Board for further proceeding as directed.

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3-145.9 of Title 70, unless
5 there is created a duplication in numbering, reads as follows:

6 A. Beginning with the 2022-2023 school year, any governing
7 board of a charter school which contracts with an educational
8 management organization or charter management organization as
9 defined in Section 5-200 of Title 70 of the Oklahoma Statutes shall:

10 1. Consist of a minimum of five (5) members, including one
11 member who shall be a parent, grandparent, legal guardian, or
12 learning coach of a student who attends the charter school. As used
13 in this paragraph, "learning coach" means a designated person who
14 has the primary responsibility of being actively involved in all
15 school-related work and activities of a student. The bylaws of the
16 charter school shall set specific terms of service for charter
17 school governing board members;

18 2. Meet at least one (1) time per month;

19 3. Adopt a charter which shall ensure compliance with the same
20 requirements and guidelines as provided in Section 3-136 of Title 70
21 of the Oklahoma Statutes;

22 4. Appoint an encumbrance clerk as provided in Section 5-119 of
23 Title 70 of the Oklahoma Statutes and a treasurer as provided in
24 Section 5-114 of Title 70 of the Oklahoma Statutes. Upon

1 appointment, the encumbrance clerk and treasurer shall attend and
2 complete at least eight (8) hours of instruction offered by an
3 auditor approved by the State Auditor and Inspector. Each year, the
4 encumbrance clerk and treasurer shall complete at least three (3)
5 hours of continuing education offered by an auditor approved by the
6 State Auditor and Inspector; and

7 5. Submit to the State Department of Education copies of any
8 contract executed between the charter school governing board or
9 charter school sponsor governing board and an educational management
10 organization or charter management organization. The Department and
11 the sponsor shall publish the contracts on their websites.

12 B. Beginning with the 2022-2023 school year, members of a
13 charter school governing board which contracts with an educational
14 management organization or charter management organization shall:

15 1. Be subject to the instruction and continuing education
16 requirements as provided in subsection F of Section 3-145.3 of Title
17 70 of the Oklahoma Statutes;

18 2. Be subject to the same conflict of interest requirements as
19 a member of a local school board including, but not limited to,
20 Sections 5-113 and 5-124 of Title 70 of the Oklahoma Statutes. No
21 member shall receive pecuniary gain, incidentally or otherwise, from
22 the earnings of the educational management organization, charter
23 management organization, or school; and

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1 3. Not be appointed or selected by any person affiliated with
2 the educational management organization or charter management
3 organization.

4 SECTION 3. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 3-145.10 of Title 70, unless
6 there is created a duplication in numbering, reads as follows:

7 A. 1. State funds appropriated to any charter school which
8 contracts with an educational management organization or charter
9 management organization as defined in Section 5-200 of Title 70 of
10 the Oklahoma Statutes, including the State Aid allocation and any
11 other state-appropriated revenue pursuant to Section 3-142 of Title
12 70 of the Oklahoma Statutes, shall remain public funds maintained in
13 public accounts subject to audit, transparency, oversight, and
14 financial reporting and shall not be transferred or converted in any
15 way to private funds except for funds which are paid for charter
16 school expenses and funds which are paid to the educational
17 management organization or charter management organization from the
18 charter school pursuant to the terms of the contract and in
19 accordance with state law and Internal Revenue Service requirements.
20 If there is any question or potential discrepancy regarding use of
21 funds paid to the educational management organization or charter
22 management organization by the State Department of Education,
23 charter school governing board or charter school sponsor, the
24 educational management organization or charter management

1 organization shall provide invoices and financial documentation to
2 the requesting entity proving the educational management
3 organization or charter management organization is following the
4 terms of the contract and is in compliance with the law.

5 2. Any state funds which are designated as student funds are
6 appropriated for the benefit of the student, including
7 extracurricular and educational activity funds, and shall remain
8 public funds maintained in public accounts subject to audit,
9 transparency, oversight and financial reporting and expended in
10 accordance with purchasing requirements provided in Section 5-135 of
11 Title 70 of the Oklahoma Statutes. Students shall receive a grade
12 for participation in extracurricular or educational activities as
13 described in this subsection.

14 3. Any property purchased with public funds pursuant to this
15 section may be assigned to employees or students of the charter
16 school for charter school employment, extracurricular, or
17 educational purposes, but shall remain public property of the
18 charter school.

19 B. In the third year of the charter school contract term, an
20 auditor selected from a list of auditors approved and maintained by
21 the State Auditor and Inspector shall conduct an operating agreement
22 review of each charter school which contracts with an educational
23 management organization or charter management organization to verify
24 the charter school and the educational management organization or

1 charter management organization are following the terms of the
2 contract and complying with state law and Internal Revenue Service
3 requirements. The auditor may request additional documentation from
4 the charter school, educational management organization, or charter
5 management organization to address any question or potential
6 discrepancy. The charter school sponsor shall pay for the expenses
7 related to the review, oversee the review, and provide a full report
8 of the review to the governing boards of the charter school and the
9 charter school sponsor.

10 C. Every provider or entity that contracts with a charter
11 school for expenditure of state funds pursuant to paragraph 2 of
12 subsection A of this section shall:

13 1. Have an agreement in writing with the charter school which
14 clearly states the goods or services being provided by the provider
15 or entity pursuant to the contract and the costs thereof and that
16 such goods, services, and employees of the provider or entity comply
17 with federal and state laws; and

18 2. Have on file with the State Department of Education a
19 current Oklahoma criminal history record check from the Oklahoma
20 State Bureau of Investigation or equivalent criminal history record
21 check from another state as well as a national criminal history
22 record check as defined in Section 150.9 of Title 74 of the Oklahoma
23 Statutes for every owner and employee of the provider or entity who
24 will have contact with students pursuant to the contract. Upon

1 receipt of the Oklahoma criminal history record check or equivalent
2 criminal history record check from another state, the provider or
3 entity may begin extracurricular or educational activities until
4 receipt of the national criminal history record check. The provider
5 or entity shall be responsible for the cost of the criminal history
6 record checks. Results of the checks shall be included as a
7 requirement of the contract and reported to the governing board of
8 the charter school.

9 D. An educational management organization or charter management
10 organization shall not:

11 1. Manage or control the governing board of a charter school,
12 including, but not limited to, setting meeting agendas, adopting
13 charter school policies, or making budget decisions on behalf of the
14 charter school;

15 2. Employ a charter school superintendent who is also an owner
16 of the educational management organization or charter management
17 organization, unless the ownership stake of the superintendent is
18 less than ten percent (10%);

19 3. Employ legal counsel who also represents the charter school
20 or charter school governing board which has an agreement with the
21 educational management organization or charter management
22 organization; and

23 4. Request public employees, including, but not limited to,
24 teachers and other charter school employees to complete tasks or

1 perform duties that the educational management organization or
2 charter management organization has been contracted to fulfill.

3 SECTION 4. AMENDATORY 70 O.S. 2021, Section 5-200, is
4 amended to read as follows:

5 Section 5-200. A. As used in this ~~section,~~ "educational title:

6 1. "Educational management organization" means a for-profit ~~or~~
7 ~~nonprofit~~ organization that receives public funds to provide
8 administration and management services for a charter school,
9 statewide virtual charter school, or traditional public school; and

10 2. "Charter management organization" means a nonprofit
11 organization that receives public funds to provide administration
12 and management services for a charter school, statewide virtual
13 charter school, or traditional public school.

14 B. A charter school that contracts with an educational
15 management organization or charter management organization shall use
16 the Oklahoma Cost Accounting System (OCAS) to report the total
17 amount paid to an educational management organization or charter
18 management organization pursuant to the terms of the contract as
19 well as actual itemized expenditure information for the goods or
20 services provided by the management organization as defined by OCAS
21 expenditure codes, including the total compensation package of the
22 superintendent including the base salary, insurance, retirement and
23 other fringe benefits.

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1 C. Any Pursuant to Internal Revenue Service guidelines, any
2 owner of an educational management organization or charter
3 management organization shall be required to disclose to the
4 governing board of the school in a public meeting any ownership
5 position in any business that contracts or proposes to contract with
6 the same public school that the educational management organization
7 or charter management organization is managing.

8 D. An educational management organization or a charter
9 management organization which contracts with more than one school
10 district shall not commingle funds of the school districts.

11 E. Whenever any person shall enter into a contract with any
12 school district or public charter school in the state to teach in
13 such school district or public charter school the contract shall be
14 binding on the teacher and on the board of education until the
15 teacher legally has been discharged from the teaching position or
16 released by the board of education from the contract. Except as
17 provided in Section 5-106A of ~~Title 70 of the Oklahoma Statutes~~ this
18 title, until such teacher has been thus discharged or released, the
19 teacher shall not have authority to enter into a contract with any
20 other board of education in Oklahoma for the same time covered by
21 the original contract. If upon written complaint by the board of
22 education in a district any teacher is reported to have failed to
23 obey the terms of the contract previously made and to have entered
24 into a contract with another board of education, including a public

1 charter school board of education, without having been released from
2 the former contract except as provided in Section 5-106A of ~~Title 70~~
3 ~~of the Oklahoma Statutes~~ this title, the teacher, upon being found
4 to be employed full-time for another public school, including a
5 public charter school in the state, at a hearing held before the
6 State Board of Education, shall have such teacher's certificate
7 suspended for the remainder of the term for which the contract was
8 made.

9 SECTION 5. AMENDATORY 70 O.S. 2021, Section 18-118, is
10 amended to read as follows:

11 Section 18-118. A. The State Auditor and Inspector shall
12 approve auditors who shall audit the funds of the public school
13 districts and the use made of the monies thereof, and shall make
14 such other audits as may be required by the State Auditor and
15 Inspector.

16 B. School districts and officers and employees thereof who
17 divert any monies received by a district from the purpose for which
18 the monies were apportioned to the district shall be jointly and
19 severally liable for any such diversion.

20 C. If audits disclose that state monies have been illegally
21 apportioned to, or illegally disbursed or expended by, a school
22 district or any of its officers or employees or an educational
23 management organization or charter management organization as
24 defined in Section 5-200 of this title or any of its owners or

1 employees, the State Board of Education shall make demand that the
2 monies be returned to the State Treasurer by ~~such~~ the school
3 district or educational management organization or charter
4 management organization. If the monies are illegally apportioned to
5 or disbursed or expended by a school district or any of its officers
6 or employees and the monies are not returned, the State Board of
7 Education shall withhold the unreturned amount from subsequent
8 allocations of state funds otherwise due the district.

9 D. The State Board of Education shall cause suit to be
10 instituted to recover for the state any monies illegally
11 apportioned, disbursed, or expended, if not otherwise recovered as
12 provided herein.

13 SECTION 6. This act shall become effective July 1, 2022.

14 SECTION 7. It being immediately necessary for the preservation
15 of the public peace, health or safety, an emergency is hereby
16 declared to exist, by reason whereof this act shall take effect and
17 be in full force from and after its passage and approval.

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