

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 3643

By: Dills

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5  
6 AS INTRODUCED

7 An Act relating to schools; amending 70 O.S. 2021,  
8 Section 3-145.3, which relates to duties of the  
9 Statewide Virtual Charter School Board; requiring  
10 compliance with the Oklahoma Charter Schools Act;  
11 modifying limitation on fee for administrative  
12 expenses and support; deleting duplicative language;  
13 subjecting virtual charter schools to the same  
14 compliance requirements as charter schools; updating  
15 statutory language; establishing certain requirements  
16 for virtual charter school governing boards;  
17 prescribing duties for certain personnel; requiring  
18 State Department of Education and sponsor to publish  
19 certain contracts on their websites; subjecting  
20 certain board members to instruction and continuing  
21 education requirements; prohibiting certain conflicts  
22 of interest and pecuniary gain; disallowing certain  
23 appointments or selections of members; designating  
24 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;  
prohibiting certain activities by management  
organizations; amending 70 O.S. 2021, Section 5-200,

1 which relates to management organizations; adding  
2 definition for charter management organization;  
3 requiring amounts paid to certain organizations be  
4 pursuant to contract terms; mandating disclosure  
5 pursuant to certain guidelines; prohibiting  
6 commingling of certain school funds; providing for  
7 codification; providing an effective date; and  
8 declaring an emergency.

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

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

11 Section 3-145.3 A. Subject to the requirements of the Oklahoma  
12 Charter Schools Act, the Statewide Virtual Charter School Board  
13 shall:

14 1. Provide oversight of the operations of statewide virtual  
15 charter schools in this state;

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

21 3. Make publicly available a list of supplemental online  
22 courses which have been reviewed and certified by the Statewide  
23 Virtual Charter School Board to ensure that the courses are high  
24 quality options and are aligned with the subject matter standards

1 adopted by the State Board of Education pursuant to Section 11-103.6  
2 of this title. The Statewide Virtual Charter School Board shall  
3 give special emphasis on listing supplemental online courses in  
4 science, technology, engineering and math (STEM), foreign language  
5 and advanced placement courses. School districts shall not be  
6 limited to selecting supplemental online courses that have been  
7 reviewed and certified by the Statewide Virtual Charter School Board  
8 and listed as provided for in this paragraph; and

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

15 B. Except as otherwise provided by law, each statewide virtual  
16 charter school which has been approved and sponsored by the Board  
17 shall be subject to and comply with the requirements of the Oklahoma  
18 Charter Schools Act. Each statewide virtual charter school which  
19 has been approved and sponsored by the Board or any virtual charter  
20 school for which the Board has assumed sponsorship of as provided  
21 for in Section 3-145.5 of this title shall be considered a statewide  
22 virtual charter school and, except as provided in subsection H of  
23 this section, the geographic boundaries of each statewide virtual  
24 charter school shall be the borders of the state.

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

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

19 E. A virtual charter school shall be subject to the same  
20 reporting requirements, financial audits, audit procedures, and  
21 audit requirements as a school district and compliance requirements  
22 provided in Section 3-136 of this title. The State Department of  
23 Education or State Auditor and Inspector may conduct financial,  
24 program or compliance audits. A virtual charter school shall use

1 the Oklahoma Cost Accounting System (OCAS) to report financial  
2 transactions to the State Department of Education.

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

21 G. Students enrolled full-time in a statewide virtual charter  
22 school sponsored by the Statewide Virtual Charter School Board shall  
23 not be authorized to participate in any activities administered by  
24 the Oklahoma Secondary Schools Activities Association. However, the

1 students may participate in intramural activities sponsored by a  
2 statewide virtual charter school, an online provider for the charter  
3 school or any other outside organization.

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

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

22 3. A public school student may transfer to one statewide  
23 virtual charter school at any time during a school year. For  
24 purposes of this subsection, "school year" shall mean July 1 through

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

23 4. For purposes of this subsection, "parent" shall mean the  
24 parent of the student or person having custody of the student as

1 provided for in paragraph 1 of subsection A of Section 1-113 of this  
2 title.

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

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

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

- 16 a. a temporary on-base billeting facility,
- 17 b. a purchased or leased home or apartment, or
- 18 c. federal government or public-private venture off-base  
19 military housing.

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

22 5. For purposes of this subsection:

- 23 a. "active military duty" means full-time military duty  
24 status in the active uniformed service of the United

1 States including members of the National Guard and  
2 Military Reserve on active duty orders, and

3 b. "military installation" means a base, camp, post,  
4 station, yard, center, homeport facility for any ship  
5 or other installation under the jurisdiction of the  
6 Department of Defense or the United States Coast  
7 Guard.

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

12 K. The decision of the Statewide Virtual Charter School Board  
13 to deny, nonrenew or terminate the charter contract of a statewide  
14 virtual charter school may be appealed to the State Board of  
15 Education within thirty (30) days of the decision by the Statewide  
16 Virtual Charter School Board. The State Board of Education shall  
17 act on the appeal within sixty (60) days of receipt of the request  
18 from the statewide virtual charter school applicant. The State  
19 Board of Education may reverse the decision of the Statewide Virtual  
20 Charter School Board or may remand the matter back to the Statewide  
21 Virtual Charter School Board for further proceeding as directed.

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

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

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

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

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

17       4. Appoint an encumbrance clerk as provided in Section 5-119 of  
18 Title 70 of the Oklahoma Statutes and a treasurer as provided in  
19 Section 5-114 of Title 70 of the Oklahoma Statutes. Upon  
20 appointment, the encumbrance clerk and treasurer shall attend and  
21 complete at least eight (8) hours of instruction offered by an  
22 auditor approved by the State Auditor and Inspector. Each year, the  
23 encumbrance clerk and treasurer shall complete at least three (3)

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1 hours of continuing education offered by an auditor approved by the  
2 State Auditor and Inspector; and

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

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

11 1. Be subject to the instruction and continuing education  
12 requirements as provided in subsection F of Section 3-145.3 of Title  
13 70 of the Oklahoma Statutes;

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

20 3. Not be appointed or selected by any person affiliated with  
21 the educational management organization or charter management  
22 organization.

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

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

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

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

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

1 requirements. The auditor may request additional documentation from  
2 the charter school, educational management organization, or charter  
3 management organization to address any question or potential  
4 discrepancy. The charter school sponsor shall pay for the expenses  
5 related to the review, oversee the review, and provide a full report  
6 of the review to the governing boards of the charter school and the  
7 charter school sponsor.

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

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

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

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

7 D. An educational management organization or charter management  
8 organization shall not:

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

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

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

21 4. Request public employees, including, but not limited to,  
22 teachers and other charter school employees to complete tasks or  
23 perform duties that the educational management organization or  
24 charter management organization has been contracted to fulfill.

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

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

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

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

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

22 C. ~~Any~~ Pursuant to Internal Revenue Service guidelines, any  
23 owner of an educational management organization or charter  
24 management organization shall be required to disclose to the

1 governing board of the school in a public meeting any ownership  
2 position in any business that contracts or proposes to contract with  
3 the same public school that the educational management organization  
4 or charter management organization is managing.

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

8 E. Whenever any person shall enter into a contract with any  
9 school district or public charter school in the state to teach in  
10 such school district or public charter school the contract shall be  
11 binding on the teacher and on the board of education until the  
12 teacher legally has been discharged from the teaching position or  
13 released by the board of education from the contract. Except as  
14 provided in Section 5-106A of ~~Title 70 of the Oklahoma Statutes~~ this  
15 title, until such teacher has been thus discharged or released, the  
16 teacher shall not have authority to enter into a contract with any  
17 other board of education in Oklahoma for the same time covered by  
18 the original contract. If upon written complaint by the board of  
19 education in a district any teacher is reported to have failed to  
20 obey the terms of the contract previously made and to have entered  
21 into a contract with another board of education, including a public  
22 charter school board of education, without having been released from  
23 the former contract except as provided in Section 5-106A of ~~Title 70~~  
24 ~~of the Oklahoma Statutes~~ this title, the teacher, upon being found

1 to be employed full-time for another public school, including a  
2 public charter school in the state, at a hearing held before the  
3 State Board of Education, shall have such teacher's certificate  
4 suspended for the remainder of the term for which the contract was  
5 made.

6 SECTION 5. This act shall become effective July 1, 2022.

7 SECTION 6. It being immediately necessary for the preservation  
8 of the public peace, health or safety, an emergency is hereby  
9 declared to exist, by reason whereof this act shall take effect and  
10 be in full force from and after its passage and approval.

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