

TITLE 33  
EDUCATION

CHAPTER 52  
PUBLIC CHARTER SCHOOLS

33-5201. SHORT TITLE. This chapter shall be known and may be cited as the "Accelerating Public Charter Schools Act."

[33-5201, added 2024, ch. 9, sec. 2, p. 62.]

33-5202. LEGISLATIVE INTENT. It is the intent of the legislature to provide opportunities for students, parents, teachers, and community members to attend, establish, and maintain public charter schools that operate independently from the existing traditional school district structure but within the existing public school system. Public charter schools are hereby authorized as part of the state's program of public education and they shall have equal access and authority to participate in all state and federal programs to the same extent as a traditional public school, irrespective of the instructional delivery method. The legislature aims to:

- (1) Improve student learning;
- (2) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students;
- (3) Include the use of different and innovative teaching methods;
- (4) Utilize virtual and hybrid learning;
- (5) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site;
- (6) Provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system;
- (7) Hold public charter schools accountable for meeting measurable student educational standards;
- (8) Reward public charter schools that meet their accountability measures with enhanced autonomy and freedom from regulatory burden; and
- (9) Foster and support charter schools through best practices, development, educational, and operational assistance.

[33-5202, added 2024, ch. 9, sec. 4, p. 62.]

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

- (1) "Application" means the document submitted to the authorizer to request the creation of a public charter school.
- (2) "Authorizer" means any of the following:
  - (a) A local board of trustees of a school district;
  - (b) The public charter school commission;
  - (c) An Idaho public college, university, or community college; or
  - (d) A private, nonprofit, Idaho-based, nonsectarian college or university that is accredited by the same organization that accredits Idaho public colleges and universities.
- (3) "Charter" means the grant of authority approved by the authorizer to the charter holder.
- (4) "Charter holder" means the public charter school's board of directors to which a charter is granted.

(5) "Educational services provider" means a nonprofit or for-profit entity that contracts with a public charter school for a fee to provide educational services and resources, including administrative support and educational design, implementation, or management.

(6) "Founder" means a person who makes a material contribution toward the establishment of a public charter school and who is designated as such by the charter holder.

(7) "Performance certificate" means a fixed-term, renewable certificate between a public charter school and an authorizer that outlines the negotiated roles, powers, responsibilities, and performance expectations for each party to the certificate.

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

(9) "Public charter school commission" or "commission" means the public charter school commission established pursuant to section [33-5213](#), Idaho Code.

(10) "Traditional public school" means any school that is operated and controlled by a school district in this state.

(11) "Virtual school" means a public charter school that delivers a full-time, sequential program of synchronous and/or asynchronous instruction primarily through the use of technology via the internet in a distributed environment. Schools classified as virtual must have an online component to their school with online lessons and tools for student and data management. Students enrolled in a virtual school may meet at the same location and time while receiving virtual instruction.

[33-5202A, added 2024, ch. 9, sec. 6, p. 63.]

33-5203. APPROVAL OF PUBLIC CHARTER SCHOOLS. (1) No whole school district may be converted to a charter district or any configuration that includes all schools as public charter schools.

(2) (a) The authorizer must receive an application no later than September 1 for a new public charter school to be eligible to begin instruction the first complete school year following receipt of the application, unless the authorizer agrees to a later date; and

(b) To begin operations, a newly chartered public school must be authorized by no later than January 1 of the previous school year, unless the authorizer agrees to a later date.

(3) Any authorizer may approve a public charter school formed by creating a new public charter school or by replicating an existing public charter school. Converting an existing traditional public school to a public charter school may only be approved by the board of trustees of the school district in which the existing public school is located.

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

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

(b) For a for-profit entity; provided, however, nothing in this section shall prevent the board of directors of a public charter school from legally contracting with an educational service provider that provides comprehensive educational administrative and management services or with for-profit entities for the provision of products or services that aid in the operation of the school; or

(c) By the board of trustees of a school district if the public charter school's physical location is outside the boundaries of the authorizing school district.

(5) A charter holder may not operate enterprises unrelated to the educational purposes for which the public charter school has been authorized. In cases of related enterprises, including but not limited to daycare and after school programs, no state education funding authorized pursuant to this chapter may be used to subsidize such related enterprises.

(6) (a) Each authorized public charter school is hereby designated as a local education agency (LEA) as such term is defined in 34 CFR 300.28, unless the charter holder and authorizer agree that:

(i) Public charter schools authorized by the board of trustees of a school district may be included in that district's LEA; or

(ii) Entities with multiple charters may operate as a single LEA.

(b) Notice of an agreement pursuant to paragraph (a) of this subsection must be provided to the state department of education by no later than February 1 of the proceeding school year.

[33-5203, added 2024, ch. 9, sec. 8, p. 64.]

33-5204. NONPROFIT CORPORATION -- LIABILITY -- INSURANCE. (1) A public charter school shall be organized and managed pursuant to the Idaho non-profit corporation act, [chapter 30, title 30](#), Idaho Code. The board of directors of a public charter school shall be deemed public agents authorized to operate and control the public charter school.

(2) For the purposes of section [59-1302](#) (15), Idaho Code, a public charter school created pursuant to this chapter is deemed a governmental entity. Pursuant to the provisions of section [63-36220](#), Idaho Code, sales to or purchases by a public charter school are exempt from payment of the sales and use tax. Pursuant to section [63-602A](#) (1), Idaho Code, property belonging to a public charter school is exempt from taxation. Every employee and member of the board of directors of the charter holder is subject to the provisions of and shall comply with:

(a) Sections [18-1351](#) through [18-1362](#), Idaho Code, on bribery and corrupt influence, except as provided by section [74-405](#), Idaho Code;

(b) Chapters 1, 2, 4, and 5, [title 74](#), Idaho Code; and

(c) Professional codes and standards approved by the state board of education, including standards for ethics or conduct. In the event any code or standard pursuant to this paragraph conflicts with any other section of Idaho Code, then Idaho Code shall govern.

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

(4) Nothing in this chapter prevents the charter holder from borrowing money to finance the purchase or lease of school building facilities, equipment, and furnishings. Subject to the terms of a contractual agreement between the board and a lender, nothing in this section shall prevent the charter holder from using the facility or its equipment and furnishings as collateral for the loan.

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

(6) The receiving, soliciting, or acceptance of moneys of a public charter school for deposit in any bank or trust company or the lending of moneys by any bank or trust company to any public charter school shall not be deemed to be a contract or other transaction pertaining to the maintenance or conduct of a public charter school and authorizer within the meaning of this section; nor shall the payment of compensation by any public charter school board of directors to any bank or trust company for services rendered in the transaction of any banking business with such public charter school board of directors be deemed the payment of any reward or compensation to any officer or director of any such bank or trust company within the meaning of this section.

(7) Each charter holder shall adopt a policy that is consistent with section [33-507](#), Idaho Code, regarding the hiring of family members, to avoid any nepotism in hiring and supervision. The policy shall require, among other things, a disclosure to the board of any potential nepotism in hiring and supervision. Any party with such a conflict shall not be involved in the hiring decision or supervision of a potential employee.

[33-5204, added 2024, ch. 9, sec. 10, p. 65.]

33-5205. APPLICATION TO ESTABLISH A PUBLIC CHARTER SCHOOL -- HEARING -- APPLICATION DECISION -- APPEAL PROCEDURE -- TERM. (1) A public charter school application may be submitted to only one (1) authorizer at a time. If an application has been denied by an authorizer or an application is withdrawn by the applicant, then the applicant may resubmit an application to another authorizer.

(2) (a) Authorizers shall develop a transparent application process to establish a new public charter school. The application shall require applicants to provide descriptions of the following key features of the prospective public charter school:

(i) The educational program, including educational philosophy, student academic proficiency and growth standards, measurement methods, any mission-specific standards that may be unique to the school, and strategies for meeting the needs of specific student populations, including English language learners, at-risk students, and special education or gifted and talented students;

(ii) The financial and facilities plan with a pre-opening budget, three (3) year operating budget, break-even analysis and cash flow projection, evidence of existing and anticipated funds, and projected facility costs;

(iii) Board capacity and governance structure, including copies of the articles of incorporation and corporate bylaws;

(iv) Student demand and primary attendance area, including a description of the population of students the proposed school intends to serve and the target enrollment by grade level; and

(v) Use of educational service providers, including the contracts, fees and terms, and recent contracts that the entity has executed with other charter schools.

(b) Upon review of the completed application, representatives of the authorizer may request from applicants additional information actually necessary to clarify the contents.

(3) An application for a virtual school must also contain statements describing the following:

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

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

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

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

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

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

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

(h) Any financial agreement that will require an education service provider to assume a virtual school's financial risk when the virtual school does not have sufficient residual funds to pay the education service provider, to the extent there is such an agreement. Such financial agreement will be favorably considered during the application process. Where this paragraph is applicable, the education service provider shall make its audited financial statements available unless the education service provider already makes such audited financial statements publicly available for compliance with other federal or state laws; and

(i) A plan for ensuring equal access for all students, including the provision of necessary hardware, software, and internet connectivity required for participation in online coursework, and utilization of remote testing, proctoring, and administration procedures for state-required assessments.

(4) The authorizer shall afford applicants a hearing prior to making a decision, with an opportunity in a public forum for local residents to learn about and provide input on each application. The authorizer shall provide each applicant with its detailed analysis of the application and grant the applicant at least fourteen (14) days to provide additional materials to address any identified deficiencies.

(5) No later than ninety (90) days after an application is submitted, the authorizer shall decide to approve or deny the charter application, unless the applicant agrees to a later date. The authorizer shall adopt by resolution all charter approval or denial decisions in an open meeting of the authorizer's governing board and, in the case of a denial, include all reasons for denial in the resolution adopted by the governing board.

(a) An application may be approved by the authorizer without condition or with specific and relevant pre-opening conditions the authorizer finds necessary in the applicant's unique case to ensure the school can meet its academic and financial requirements.

(b) If an application is denied, then the authorizer must prepare a written notice of its decision within fourteen (14) days, including all of the reasons for the denial and a statement that explains the criteria and standards considered relevant by the authorizer in its denial, the relevant contested facts relied upon, and the rationale for the decision based on the applicable statutory provisions and factual information presented to the authorizer.

(6) If an authorizer denies an application for the establishment of a public charter school for any reason, then such decision may be appealed to the office of administrative hearings within thirty (30) days of the date of the written decision at the request of the applicant whose request for a new charter was denied.

(a) The office of administrative hearings shall, within thirty (30) days of receipt of the request, review the full record regarding the charter application and convene a public hearing regarding the appeal. Within ten (10) days of the public hearing, the hearing officer shall submit a written recommendation to the authorizer and to the persons requesting the review. The recommendation by the hearing officer either to affirm or reverse the decision of the authorizer shall be based on the full record regarding the charter application, including the standards and criteria contained in this chapter. The recommendation shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the recommendations based on the applicable statutory provisions and factual information contained in the record.

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

(c) If, upon reconsideration of a decision to deny an application for a public charter school, the authorizer:

(i) Reverses its initial decision and approves the public charter school application, then there shall be no further appeal; or

(ii) Affirms its initial decision denying the public charter school application, then the board of directors of the nonprofit corporation may appeal as set forth in [chapter 52, title 67](#), Idaho Code.

(d) There shall be no appeal of a decision by a local school board of trustees that denies the conversion of an existing traditional public school within that district to a public charter school or a decision by an authorizer that approves an application for a public charter school.

(7) (a) An approved initial charter shall be granted for a term of six (6) operating years. The charter shall include the beginning and ending dates of the charter term. An approved school may delay its opening for one (1) school year to plan and prepare for the school's opening. A

delay greater than one (1) school year requires an extension from the school's authorizer.

(b) In order to incubate innovative charter schools, an authorizer may instead grant a pilot charter with an initial term of three (3) operating years to test an innovative or novel model. This pilot charter shall be used in limited instances and the authorizer must provide sufficient documentation to justify the shorter term.

[33-5205, added 2024, ch. 9, sec. 13, p. 66.]

33-5205A. TRANSFER OF CHARTER. (1) A charter may be transferred to, and placed under the chartering authority of, any authorizer if the receiving authorizer and the charter holder agree to such transfer. The receiving authorizer and charter holder may agree to revisions to the charter and performance certificate as required by such transfer.

(2) Upon request for a transfer, the current authorizer has seventy-five (75) days to approve the transfer request or to provide written justification for not approving such request.

(3) If the current authorizer does not approve the request, then the matter may be appealed to the office of administrative hearings and be subject to judicial review as a contested case pursuant to [chapter 52, title 67](#), Idaho Code.

[33-5205A, added 2024, ch. 9, sec. 15, p. 68.]

33-5205B. PERFORMANCE-BASED ACCOUNTABILITY. (1) Within seventy-five (75) days of approval of a charter application, the authorizer and the charter holder shall negotiate and execute a performance certificate that clearly sets forth the agreed-upon academic and operational performance expectations and measures, consistent with those outlined by the public charter school in its application. The performance expectations and measures set forth in the performance certificate shall include:

- (a) Student academic proficiency;
- (b) Student academic growth;
- (c) College and career readiness (for high schools);
- (d) The actual and potential at-risk and economically disadvantaged makeup of the student body population as defined in section [33-1001](#), Idaho Code, for all grade levels; and
- (e) Board performance and stewardship, including compliance with all applicable laws, regulations, and terms of the performance certificate.

(2) The performance certificate shall be signed by the designated representatives of the authorizer's governing board and the charter holder.

(3) No public charter school may commence operations without an executed performance certificate.

(4) An authorizer shall continually monitor the performance and legal compliance of the public charter schools it oversees, including collecting and analyzing data, and may conduct prearranged site visits, if needed, to support ongoing evaluation according to the performance certificate. Every authorizer shall have the authority to conduct oversight activities that enable the authorizer to fulfill its responsibilities, including conducting appropriate inquiries and investigations, as long as those activities are consistent with the intent of this chapter and do not unduly inhibit the autonomy granted to public charter schools. If an authorizer has reason to

believe that a charter holder or public charter school has violated any provision of law, it shall notify the charter holder and the entity responsible for administering said law of the possible violation.

(5) A charter holder or the authorizer may enter into negotiations to revise a charter or performance certificate at any time. If a charter holder applies to revise its charter or performance certificate, the authorizer's review of the application shall be limited in scope solely to the proposed revisions.

(6) The charter holder shall be responsible for promptly notifying the authorizer of the following with appropriate documentation:

(a) If the charter holder becomes aware that the school is not operating in substantial compliance with the terms and conditions of its performance certificate;

(b) If any revisions or amendments are made to the articles of incorporation or bylaws;

(c) If the school's accrediting body finds that the school has failed to meet or maintain full accreditation requirements;

(d) If any complaints are filed against the school, including but not limited to lawsuits and complaints filed with the Idaho professional standards commission relating to school employees;

(e) If there are changes to any school board members or their contact information; or

(f) If there are any early warning signs of distress as outlined in the performance certificate, including any excessive reductions in enrollment of all students or at-risk students, excessive staff turnover, or excessive governance board turnover of the charter holder in any school year or between school years.

[33-5205B, added 2024, ch. 9, sec. 17, p. 69.]

33-5205C. PUBLIC CHARTER SCHOOL REPLICATION. (1) Public charter schools that have successfully completed at least one (1) renewal without condition may apply for fast-tracked replication.

(2) Replication public charter schools must have the same operational model and serve the same, or a subset of the same, grades as the public charter school being replicated.

(3) An abridged application for replication shall narrowly focus on:

(a) A description of the capacity of the charter holder to successfully replicate an additional school;

(b) A description of how the charter holder will manage multiple charter schools while maintaining a high level of academic and fiscal performance in the original public charter school and the replication school; and

(c) Location-specific information for the new replication charter school.

(4) Replication applications shall be considered by an authorizer within forty-five (45) days of submission unless the replication applicant agrees to a later date.

[33-5205C, added 2024, ch. 9, sec. 19, p. 70.]

33-5206. REQUIREMENTS FOR OPERATING A PUBLIC CHARTER SCHOOL. (1) A public charter school shall be nonsectarian in its programs, affiliations, admission policies, employment practices, and all other operations, shall



not charge tuition, levy taxes, or issue bonds, and shall not discriminate against any student on any basis prohibited by the federal or state constitution or any federal, state, or local law. Public charter schools shall comply with the federal individuals with disabilities education act. Admission to a public charter school shall not be determined according to the place of residence of the student or of the student's parent or guardian within the district.

(2) No board of trustees of a public school district may require:

- (a) Any employee of the school district to be involuntarily assigned to work in a public charter school; or
- (b) Any student enrolled in the school district to attend a public charter school.

(3) Employment of charter school teachers and administrators shall be on written contract.

(4) Administrators may be certified pursuant to the requirements set forth in [chapter 12, title 33](#), Idaho Code, pertaining to traditional public schools or may hold a charter school administrator certificate, which requires that the administrator:

- (a) Holds a bachelor's degree from an accredited four (4) year institution;
- (b) Submits to a criminal history check as described in section [33-130](#), Idaho Code;
- (c) Completes a course consisting of a minimum of three (3) semester credits in the statewide framework for teacher evaluations, which shall include a laboratory component;
- (d) Submits a letter of support from a charter holder; and
- (e) Has one (1) or more of the following:
  - (i) Four (4) or more years of experience administering a public charter school;
  - (ii) A postbaccalaureate degree and a minimum of five (5) years of experience in school administration, public administration, business administration, or military administration;
  - (iii) Successful completion of a nationally recognized charter school leaders fellowship; or
  - (iv) Four (4) or more years of teaching experience and a commitment from an administrator at a charter school in academic, operational, and financial good standing, according to its authorizer's most recent review, to mentor the applicant for a minimum of one (1) year.

(5) A charter school administrator certificate is valid for five (5) years and renewable thereafter. Administrators shall be subject to oversight by the professional standards commission. Certificates may be revoked pursuant to the provisions of section [33-1208](#), Idaho Code. Issuance of a certificate to any applicant may be refused for such reason as would have constituted grounds for revocation.

(6) Certified teachers in a public charter school shall be considered public school teachers. Educational experience shall accrue for service in a public charter school and be counted by any school district for any teacher who has been employed in a public charter school. The staff of the public charter school shall be considered a separate unit for the purposes of collective bargaining.

(7) Charter school teachers may be certified pursuant to the requirements set forth in [chapter 12, title 33](#), Idaho Code, pertaining to tradi-

tional public school districts or may hold a charter school-specific teaching certificate.

(a) Criteria for a charter school-specific teaching certificate shall be in writing and require that teachers satisfy the provisions set forth in section [33-1202](#) 1., 3., and 4., Idaho Code, and meet the following minimum educational or professional qualifications:

- (i) Hold a bachelor's degree from an accredited institution; or
- (ii) If instructing students in the fields of career technical education, satisfy the provisions of section [33-2205](#) (6) (a), Idaho Code. Career technical education programs taught by teachers with a charter school-specific teaching certificate shall receive added-cost funding set forth in section [33-2215](#), Idaho Code, in an amount equal to programs taught by teachers with an occupational specialist teaching certificate.

(b) Teachers with a charter school-specific teaching certificate shall receive mentoring and professional development as approved by the charter holder.

(c) The state board of education shall issue charter school-specific teaching certificates to teachers upon recommendation of the individual charter school, unless denied on the grounds set forth in section [33-1208](#), Idaho Code.

(d) For teachers holding a charter school-specific teaching certificate, a charter school may substitute its own ongoing education and professional development requirements in place of those set forth in rule by the state board of education if the same number of credit hours is required as that of teachers holding a standard instructional certificate.

(8) Public charter schools may contract with educational services providers subject to the following provisions:

(a) Educational services providers shall be third-party entities separate from the public charter schools with which they contract and shall not be considered governmental entities, provided that such contracts may be evaluated by the authorizer;

(b) No more than one-third (1/3) of the public charter school's board membership may be comprised of nonprofit educational services provider representatives. Nonprofit educational services provider representatives may not be employees of the public charter school or the educational services provider and may not hold office as president or treasurer on the public charter school's board. For-profit educational services providers may not have representatives on the public charter school's board of directors;

(c) Charter holders shall annually disclose any existing and potential conflicts of interest, pecuniary or otherwise, with affiliated educational services providers;

(d) Charter holders shall retain accountability for academic, fiscal, and organizational operations and outcomes of the school and may not relinquish this responsibility to any other entity;

(e) Contracts must ensure that school boards retain the right to terminate the contract for failure to meet defined performance standards after notice and a reasonable cure period has expired and if material deficiencies have not been cured prior to that time period expiring;

(f) Contracts must ensure that assets purchased by educational services providers on behalf of the school, using public funds, shall

remain assets of the school. The provisions of this paragraph shall not prevent educational services providers from acquiring assets using revenue acquired through management fees;

(g) Charter holders shall consult legal counsel independent of the party with whom they are contracting for purposes of reviewing the school's management contract and facility lease or purchase agreements to ensure compliance with applicable state and federal law, including requirements that state entities not enter into contracts that obligate them beyond the terms of any appropriation of funds by the state legislature;

(h) Charter holders must ensure that their facility contracts are separate from management contracts; and

(i) A virtual school shall be deemed financially sufficient if there is an agreement that requires an educational services provider to assume the virtual school's financial risk when it does not have sufficient residual funds to pay the educational services provider. Where this paragraph is applicable, the educational services provider shall make its audited financial statements available, unless the educational services provider already makes such audited financial statements publicly available for compliance with other federal or state laws.

(9) Admission procedures, including provision for over-enrollment, shall provide that the initial admission procedures for a public charter school will be determined by lottery or other random method, except as otherwise provided in this section. A charter holder shall strive to ensure that citizens in the primary attendance area are made aware of the enrollment opportunities and deadline. The public notice must include the enrollment deadline, the public charter school's total enrollment capacity for the next school year, and an advisory that all prospective students will be given the opportunity to enroll in the public charter school regardless of race, color, national origin, ethnicity, religion, gender, socioeconomic status, or special needs.

(a) If initial capacity is insufficient to enroll all pupils who submit a timely application, then the admission procedures may provide that preference shall be given in the following order: first, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school; second, to siblings of pupils already selected by the lottery or other random method; third, to pupils seeking to transfer from another Idaho public charter school or authorizer at which they have been enrolled for at least one (1) year, provided that this admission preference shall be subject to an existing written agreement for such preference between the subject charter schools or authorizer; fourth, to students residing within the primary attendance area of the public charter school; and fifth, by an equitable selection process such as a lottery or other random method. A public charter school may weight the school's lottery to preference admission for the following educationally disadvantaged students: students living at or below one hundred eighty-five percent (185%) of the federal poverty level, students who are homeless or in foster care, children with disabilities as defined in section [33-2001](#), Idaho Code, students with limited English proficiency, and students who are at-risk as defined in section [33-1001](#), Idaho Code. A public charter school may include the children of full-time employees

of the public charter school within the first priority group, subject to the limitations therein.

(b) If capacity is insufficient to enroll all pupils who submit a timely application for subsequent school terms, then the admission procedures may provide that preference shall be given in the following order: first, to pupils returning to the public charter school in the second or any subsequent year of its operation; and then as provided in paragraph (a) of this subsection. The sibling preference in subsequent school years applies to siblings of a returning pupil and of a pupil selected by the lottery or other random method. A new lottery shall be conducted each year to fill vacancies that become available. A public charter school may weight the school's lottery to preference admission as provided in this paragraph and paragraph (a) of this subsection and for children who attended the public charter school within the previous three (3) school years but withdrew as a result of the relocation of a parent or guardian due to an academic sabbatical or an employer or military transfer or reassignment.

(c) Each public charter school shall establish a process under which a child may apply for enrollment or register for courses, regardless of where such child resides at the time of application or registration, if the child is a dependent of a member of the United States armed forces who has received transfer orders to a location in Idaho and will, upon such transfer, reside in an area served by the public charter school. If capacity is insufficient as described in paragraph (a) or (b) of this subsection, a child described in this paragraph shall be treated as a student residing within the primary attendance area of the public charter school for purposes of preference. Otherwise, such children shall be included in the highest priority group for which they would otherwise be eligible.

(d) Admission to a public charter school shall be determined by a selection process held within seven (7) days of the enrollment deadlines established by the charter holder. The selection process must take place in a public setting, the date and time of which must be noticed to the public at least forty-eight (48) hours in advance.

(e) Within seven (7) days after conducting the selection process, the charter holder shall send an offer to the legal guardian who submitted a written request for admission on behalf of a student notifying such person that the student has been selected for admission to the public charter school. An offer must be signed by such student's parent or guardian and returned to the public charter school by the date designated in such offer letter. Remaining students shall be notified that they may be eligible for admission at a later date if a seat becomes available.

(f) If a school exceeds its projected student count in a lottery and a sufficient wait list exists, the school may increase enrollment by adding additional students per grade, not to exceed the total amount of students authorized by the charter.

[33-5206, added 2024, ch. 9, sec. 21, p. 70.]

33-5207. PUBLIC CHARTER SCHOOL FINANCIAL SUPPORT. (1) Except as otherwise provided for in this section, the state department of education shall make the following apportionment to each charter school for each fiscal year based on attendance figures submitted in a manner and time as required by the state department of education.

(2) Per student support. Computation of support units for each public charter school shall be calculated as if it were a separate school according to the schedules in section [33-1002](#)(4), Idaho Code, except that public charter schools with fewer than one hundred (100) secondary ADA shall use a divisor of twelve (12) and the minimum units shall not apply. No public charter school shall receive an increase in support units that exceeds the support units it received in the prior year by more than forty (40), except in cases of state declared emergencies that have been approved by the authorizer as having an impact on public education. Funding from the state educational support program shall be equal to the total distribution factor, plus the salary-based apportionment provided in [chapter 10, title 33](#), Idaho Code. Provided, however, any public charter school that is formed by the conversion of an existing traditional public school shall be assigned divisors, pursuant to section [33-1002](#), Idaho Code, that are no lower than the divisors of the school district in which the traditional public school is located, for each category of pupils listed.

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

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

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

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

(b) The student resides within fifteen (15) miles by road of the public charter school. The limitations placed by this subsection on the reimbursement of transportation costs for certain students shall not apply to public virtual schools.

(6) Facilities funds.

(a) The state department of education shall distribute facilities funds to public charter schools for each student in which a majority of the student's instruction is received at a physical facility that is owned or leased by the public charter school. Such funds shall be used to defray the costs associated with payments for real property used

by the students or employees of the public charter school for educational or administrative purposes. Such funds shall be distributed at four hundred dollars (\$400) per attending student pursuant to section [33-1003A](#), Idaho Code. For the purposes of this paragraph, beginning in state fiscal year 2025, "attending student" means each student in average daily attendance in kindergarten through grade 12 at such physical charter school facilities where the student is enrolled; except that, upon formal approval by the state board of education, a charter school may receive an exemption to the physical facility requirement pursuant to the provisions of this paragraph if the student would have attended a physical facility if not for a stated emergency.

(b) For those public charter schools that do not receive facilities funds for all enrolled students, the school may submit to the state department of education a reimbursement claim for any costs for which facilities funds may be used. The state department of education shall reduce such claim by the greater of fifty percent (50%) or the percentage of the school's enrolled students for which the school receives facilities funds and shall pay the balance. Provided, however, that the total reimbursements paid to a public charter school, in combination with any facilities stipend received by the school, shall not exceed the amount of facilities funds that would have been received by the school had the school received facilities funds for all students in average daily attendance pursuant to section [33-1003A](#), Idaho Code. For the purposes of this subsection, the term "real property" shall be used as defined in section [63-201](#), Idaho Code. A virtual public charter school authorized by the public charter school commission or authorized by a public school district on or after March 1, 2024, shall not be eligible for funds appropriated pursuant to the provisions of this subsection.

(7) Payment schedule. The state department of education is authorized to make an advance payment of twenty-five percent (25%) of a public charter school's estimated annual apportionment for its first year of operation, and each year thereafter, provided the public charter school is serving more grades or at least ten percent (10%) more classes than the previous year, to assist the school with initial start-up costs or payroll obligations. For a public charter school entering at least its second year of operation, the state department of education may require documentation establishing the need for such an advance payment, including comparative class schedules and proof of a commensurate increase in the number of employees.

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

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

(c) All subsequent payments, taking into account the onetime advance payment made for the first year of operation, shall be made to the public charter school in the same manner as other traditional public schools in accordance with the provisions of section [33-1009](#), Idaho Code. A public charter school shall comply with all applicable fiscal requirements of law, except that the following provisions shall not be applicable to public charter schools: that portion of section [33-1004](#), Idaho Code,

relating to reduction of the administrative and instructional staff allowance and the pupil service staff allowance when there is a discrepancy between the number allowed and the number actually employed; and section [33-1004E](#), Idaho Code, for calculation of district staff indices.

(8) If an authorizer has reason to believe that a public charter school cannot remain fiscally sound for the remainder of its certificate term, it shall provide the state department of education with written notification of such concern. Upon receiving such notification, the state department of education shall have the authority to modify the percentage of the total appropriation to be paid to the public charter school pursuant to the provisions of section [33-1009](#) 1., Idaho Code, such that equal percentages are paid on each of the prescribed dates.

(9) Each public charter school shall pay an authorizer fee to its authorizer, not to initially exceed twenty thousand dollars (\$20,000), or, in the case of existing charter schools, up to a five-percent (5%) increase of the previous year's fee. Authorizers shall annually set the authorizer's fee and in doing so shall document the fees to actual expenditures associated with authorizing.

(10) Nothing in this chapter shall prevent a public charter school from:

(a) Applying for federal grant moneys or for career technical education funding of any source; or

(b) Receiving funding or other financial assistance for the establishment or operation of a public charter school from any private person or organization.

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

(12) All federal educational funds shall be administered and distributed to public charter schools, including public virtual schools, that have been designated as a local education agency (LEA), as provided in section [33-5203](#), Idaho Code.

(13) Nothing in this section prohibits separate face-to-face learning activities or services. In order to be eligible for career technical education essential components funding, virtual schools may be required to offer some face-to-face instruction in order to meet industry standards, licensing requirements, work-based learning requirements, or other requirements set forth by law.

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

[33-5207, added 2024, ch. 9, sec. 23, p. 74; am. 2024, ch. 302, sec. 5, p. 1015.]

33-5209A. CHARTER RENEWALS. (1) A charter may be renewed for successive terms. An authorizer may grant renewal with specific written conditions for necessary improvements to a public charter school and a date by which the conditions must be met.

(2) No later than September 1, the authorizer shall issue a public charter school performance report and charter renewal application guidance to any charter holder with a public charter school whose charter will expire the following year. The performance report shall summarize the public charter



school's performance record to date, based on the performance certificate, and shall provide notice of any weaknesses or concerns that may jeopardize renewal, if not timely rectified. The charter holder shall have thirty (30) days to respond to the performance report and submit any corrections or clarifications for the report.

(3) The renewal application guidance shall, at a minimum, provide an opportunity for the charter holder to:

- (a) Present additional evidence, beyond the data contained in the performance report, supporting its case for charter renewal; and
- (b) Describe improvements undertaken or planned for the school.

(4) The renewal application guidance shall include or refer explicitly to the criteria that will guide the authorizer's renewal decisions, which shall be based on independent fiscal audits and the performance framework set forth in the performance certificate.

(5) No later than December 15, the charter holder seeking renewal shall submit a renewal application to the authorizer pursuant to the renewal application guidance issued by the authorizer. The authorizer shall vote on the renewal application no later than March 15; if the authorizer does not vote by March 15, the application shall be deemed approved.

(6) In making charter renewal decisions, every authorizer shall:

- (a) Ground its decisions in evidence of the school's performance over the term of the performance certificate;
- (b) Ensure that data used in making renewal decisions are available to the school and the public;
- (c) Take into consideration the actual and potential at-risk and economically disadvantaged makeup of the student body population as defined in section [33-1001](#), Idaho Code, for all grade levels;
- (d) Provide a public report summarizing the evidence basis for each decision.

(7) An authorizer shall renew any charter in which the public charter school met all of the terms of its performance certificate at the time of renewal for a term of twelve (12) years or, in the case of a pilot charter, a renewal term of six (6) years. An authorizer may renew for a six (6) year term or choose not to renew any charter in which the public charter school failed to meet one (1) or more of the terms of its performance certificate.

(8) A decision not to renew a charter or to deny a revision of a charter may be appealed to the office of administrative hearings and is subject to judicial review as a contested case as set forth in [chapter 52, title 67](#), Idaho Code.

[33-5209A, added 2024, ch. 9, sec. 26, p. 77; am. 2024, ch. 302, sec. 6, p. 1018.]

33-5209C. REVOCATION OF A CHARTER. (1) A charter may be revoked by the authorizer if, after fair and specific notice from the authorizer, the public charter school:

- (a) Commits a material and substantial violation of any of the terms, conditions, standards, or procedures required by this chapter or the performance certificate;
- (b) Fails to meet generally accepted standards for fiscal management; or
- (c) Substantially violates any material provision of law from which the public charter school was not exempted.



(2) Revocation may not occur until the charter holder has been afforded a public hearing, unless the authorizer determines that the continued operation of the public charter school presents an imminent public safety issue, in which case the charter may be revoked immediately. Public hearings shall be conducted by the authorizer or such other person or persons appointed by the authorizer to conduct public hearings and receive evidence as a contested case in accordance with the provisions of section [67-5242](#), Idaho Code. Notice and opportunity to reply shall include, at a minimum, written notice setting out the basis for consideration of revocation, a period of not less than thirty (30) days within which the charter holder can reply in writing, and a public hearing within thirty (30) days of the receipt of the written reply. If a charter holder does not reply by the date set in the notice, a public hearing shall be held no later than sixty (60) days after the date the notice was sent by the authorizing charter entity.

(3) If an authorizer revokes a charter, the authorizer in a resolution of its governing body shall clearly state the reasons for the revocation. The authorizer shall take into consideration whether the charter school has been enrolled in the Idaho building capacity program and any progress reported by the state department of education.

(4) Within fourteen (14) days of taking action to revoke a charter, the authorizer shall report to the state board of education the action taken and shall provide a copy of the report to the charter holder at the same time. The report shall include a copy of the authorizer's resolution setting forth the action taken, reasons for the decision, and assurances as to compliance with the requirements set forth in this chapter.

(5) A decision to revoke a charter may be appealed to the office of administrative hearings and is subject to judicial review as a contested case as set forth in [chapter 52, title 67](#), Idaho Code.

[33-5209C, added 2024, ch. 9, sec. 29, p. 78.]

33-5210. APPLICATION OF SCHOOL LAW -- EXEMPTION FROM STATE RULES. (1) All public charter schools are under the general supervision of the state board of education.

(2) Each public charter school shall comply with the financial reporting requirements of section [33-701](#) 5. through 10., Idaho Code, in the same manner as those requirements are imposed upon school districts and shall comply with laws governing safety, including but not limited to sections [33-122](#) and [33-130](#), Idaho Code, and [chapter 2, title 33](#), Idaho Code, and rules promulgated thereunder.

(3) Other than as specified in this section, each public charter school is exempt from rules governing school districts promulgated by the state board of education, with the exception of state rules relating to:

- (a) Teacher certification as necessitated by the provisions of section [33-5206](#), Idaho Code;
- (b) Accreditation of the school as necessitated by the provisions of section [33-119](#), Idaho Code;
- (c) Qualifications of a student for attendance at an alternative school as necessitated by the provisions of section [33-5207](#), Idaho Code; and
- (d) Rules promulgated pursuant to section [33-1612](#), Idaho Code.

[33-5210, added 2024, ch. 9, sec. 31, p. 78.]

33-5211. TECHNICAL SUPPORT AND INFORMATION. (1) Upon request, the state department of education shall provide technical assistance to persons or authorizers preparing or reviewing charter applications or performance certificates and to existing public charter schools in the same manner as such assistance is provided to traditional public schools and school districts.

(2) The state department of education shall annually offer a public charter school workshop and make a recording available to the public.

(3) The state department of education shall collaborate with authorizers to enroll charter schools in need of improvement in support and development programs, including but not limited to the Idaho building capacity program.

[33-5211, added 2024, ch. 9, sec. 33, p. 79.]

33-5212. SCHOOL CLOSURE AND DISSOLUTION. (1) Authorizers shall have a public charter school closure protocol to ensure timely notification to parents, orderly transition of students and student records to new schools, and proper disposition of school funds, property, and assets in accordance with the requirements of this chapter. The protocol shall specify tasks, timelines, and responsible parties, including delineating the respective duties of the school and the authorizer. In the event of a public charter school closure for any reason, the authorizer shall oversee and work with the closing school to ensure a smooth and orderly closure and transition for students and parents, as guided by the closure protocol. The closing school's charter holder shall be responsible for executing the school's closure.

(2) In the event of a public charter school closure, the assets of the school shall be distributed first to satisfy outstanding payroll obligations for employees of the school, including any tax, public employee retirement system, and other employee benefit obligations, then to creditors of the school, and then to the authorizer in the case of a public charter school authorized by the board of a local school district. In the case of a public charter school authorized by any other authorizer, any remaining assets shall be distributed to the public school income fund. Assets purchased using federal funds shall be returned to the authorizer for redistribution among other public charter schools. If the assets of the school are insufficient to pay all parties to whom the school owes compensation, the prioritization of the distribution of assets may be determined by decree of a court of law.

[33-5212, added 2024, ch. 9, sec. 35, p. 79.]

33-5213. PUBLIC CHARTER SCHOOL COMMISSION. (1) There is hereby created an independent public charter school commission under the state board of education. The commission is hereby authorized to appoint a director who shall serve at the pleasure of the commission and shall receive such salary as fixed by the commission. It shall be the responsibility and duty of the director acting at the direction of the commission to administer and enforce the provisions of this chapter and to foster and support charter schools through effective partnerships with other state agencies. The director shall hire such staff as may be necessary to assist in carrying out the provisions of this chapter.

(2) The public charter school commission shall adopt policies regarding the governance and administration of the commission consistent with legislative intent and section [67-5207A](#), Idaho Code.

(3) The commission shall be composed of seven (7) members appointed by the governor, subject to the advice and consent of the senate.

(4) The term of office for commission members shall be four (4) years. In making such appointments, the governor shall consider regional balance without reference to party affiliation. Members appointed to the commission shall collectively possess strong experience and expertise in public and nonprofit governance, management and finance, public school leadership, assessment, curriculum and instruction, and public education law. All members of the commission shall have demonstrated understanding of and commitment to charter schools as a strategy for strengthening public education by providing additional education choices from which parents can choose. Members of the commission shall hold office until the expiration of the term to which the member was appointed and until a successor has been duly appointed, unless sooner removed for cause by the governor. Whenever a vacancy occurs, the governor shall appoint a qualified person to fill the vacancy for the unexpired portion of the term.

(5) All members of the commission shall be citizens of the United States and residents of the state of Idaho for no less than two (2) years.

(6) The members of the commission shall elect a chair and a vice chair every two (2) years. The chair shall preside at meetings of the commission, and the vice chair shall preside at such meetings in the absence of the chair.

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

[33-5213, added 2024, ch. 9, sec. 37, p. 80.]

33-5214. PUBLIC CHARTER SCHOOL AUTHORIZERS FUND. There is hereby created in the state treasury a fund to be known as the public charter school authorizers fund. All authorizer fees paid for public charter schools under the governance of the public charter school commission shall be deposited in this fund and be subject to appropriation.

[33-5214, added 2024, ch. 9, sec. 39, p. 80.]

33-5216. MILITARY LEAVE. Public charter schools shall comply with the provisions of section [33-527](#), Idaho Code.

[33-5216, added 2024, ch. 50, sec. 2, p. 260.]

33-5217. PUBLIC CHARTER SCHOOL REVOLVING LOAN FUND. (1) There is hereby established in the state treasury the public charter school revolving loan fund to assist qualifying charter schools in obtaining financing for facility purchases, improvements, and construction. The fund shall consist of moneys made available through appropriations, fees, grants, gifts, interest earned on idle moneys in the fund, and any other source to fulfill the purposes of this section. Moneys in the fund are hereby continuously appropriated for the purposes of this section and shall be expended only for the purposes stated in this section.

(2) Loan issuer. The Idaho housing and finance association shall issue all loans under this section. A public charter school seeking to use the public charter school revolving loan fund must apply for and receive approval

from the Idaho housing and finance association to receive a loan under this section. The Idaho housing and finance association shall establish guidelines and procedures for the application, approval, allocation, and repayment of loans issued under this section, consistent with the criteria in this section.

(3) Public charter school eligibility. A public charter school shall be eligible to use the public charter school revolving loan fund only upon satisfaction of the guidelines and procedures established by the Idaho housing and finance association pursuant to subsection (2) of this section and upon satisfaction of the following conditions, as determined by the Idaho housing and financing association:

- (a) The public charter school must demonstrate it has obtained one (1) of the following for the remainder of the financing:
  - (i) A letter of commitment from a national or state-chartered financial institution;
  - (ii) A letter of commitment from a nonprofit corporation;
  - (iii) A letter of commitment from a community development financial institution; or
  - (iv) A letter of commitment from a qualified underwriter or an investment firm;
- (b) The public charter school must provide annual budgets and cash flow statements and must also provide:
  - (i) Projected future budgets throughout the term of the loan, cash flows, and operating reserves to support a debt service coverage greater than 1.20x;
  - (ii) Facility operation cost estimates, including debt service, occupancy cost, and other facilities-related expenses, which are not to exceed twenty percent (20%) of revenue; and
  - (iii) Certification from a school administrator that projected future budgets and cash flows are based on reasonable assumptions related to level or increasing projected enrollment or waitlist and projected total income, including any matching funds and donations contingent on receipt of a loan under this section;
- (c) The public charter school must have a minimum of one million dollars (\$1,000,000) in private or public grant support available for use supporting the school budget prior to loan issuance;
- (d) The public charter school must demonstrate that the letter of commitment it obtained pursuant to paragraph (a) of this subsection includes a commitment from a lender to provide a minimum of twenty percent (20%) of project financing subordinate to the loan provided by this section; and
- (e) At the time of loan issuance, the public charter school must be in the preopening stage or in the first or second year serving students.

(4) Loan terms and conditions. The Idaho housing and finance association shall develop and publish the general terms and conditions of loans issued under this section.

(5) Maximum loan amount. Public charter schools that satisfy the guidelines and procedures established by the Idaho housing and finance association shall receive approval from the Idaho housing and finance association to rely on the public charter school revolving loan fund for assistance in obtaining favorable financing for facility improvements and construction, as long as sufficient moneys exist pursuant to subsection (1) of this section. Eligible schools shall receive approval on a

first-come, first-served basis, according to the date of the completed application, in an amount not to exceed two million five hundred thousand dollars (\$2,500,000). Upon certification by the Idaho housing and finance association to the state treasurer that a public charter school has received approval from the Idaho housing and finance association, the state treasurer shall authorize funding in the amount of the approved loan to be withdrawn from the public charter school revolving loan fund and distributed to the approved public charter school.

(6) Intercept. As a requirement to participate in the public charter school revolving loan fund, a participating public charter school shall provide a directive to the state department of education that all payments to the school pursuant to the state educational support program shall be paid directly to all affected lenders, including the Idaho housing and finance association, according to the loan documents. All remaining funds shall be forwarded to the public charter school. The payment directive required in this subsection may not be revoked or amended.

(7) Annual fee. Schools participating in the public charter school revolving loan fund shall pay a onetime fee in an amount equal to one-half percent (0.5%) of the loan amount at the time of issuance, which may be included in the loan and paid to the Idaho housing and finance association for costs related to the making of the loan. Participating public charter schools shall also annually pay an amount not to exceed thirty (30) basis points of the principal amount of the loan, which may be used to cover costs the Idaho housing and finance association incurred in managing the public charter school revolving loan fund.

[33-5217, added 2023, ch. 117, sec. 2, p. 337; am. 2024, ch. 43, sec. 1, p. 249.]

33-5218. PUBLIC CHARTER SCHOOL FACILITIES PROGRAM. (1) Legislative intent. It is the intent of the legislature, in recognition that providing Idaho students with a thorough education is an essential public purpose of the state, to support public charter schools by providing a mechanism to obtain favorable financing on bonds so that less money is obligated toward interest payments and more money remains in public charter schools for the benefit of Idaho's students. There is hereby created the public charter school facilities program to assist qualifying charter schools in obtaining favorable financing on bonds for facility improvements and construction.

(2) Eligibility. A public charter school seeking to use the public charter school facilities program must receive approval from the Idaho housing and finance association pursuant to requirements for issuance of nonprofit facility bonds and to satisfaction of the criteria set forth in this section. To qualify, a public charter school must submit the following documentation to the Idaho housing and finance association:

(a) A letter of commitment from one (1) of the following:

- (i) A national or state chartered financial institution;
- (ii) A community development financial institution; or
- (iii) A qualified underwriter or an investment firm;

(b) Evidence that the public charter school has been in academic, operational, and financial good standing according to its authorizer for each of the previous three (3) years;

(c) Annual budgets and cash flow statements projecting that the cost to operate the proposed facility, including future debt service, future

occupancy cost, and facility operating expenses, will not exceed twenty percent (20%) of ongoing revenues;

(d) Evidence that the school has operating reserves greater than sixty (60) days of cash on hand and a debt service coverage ratio equal to or greater than one and two-tenths (1.2);

(e) An audit opinion or opinions demonstrating:

(i) An unqualified audit opinion, or a qualified opinion qualified only on the basis of not reporting the actuarial value of the PERSI sick leave plan pursuant to statement no. 45 of the governmental accounting standards board;

(ii) An audit devoid of significant findings and conditions, material weakness, or significant internal control weakness; and

(iii) An audit that does not include a going concern disclosure in the notes or an explanatory paragraph within the audit report for three (3) consecutive years;

(f) Certification from a public charter school's board chair or treasurer that projected future budgets and cash flows are based on reasonable assumptions related to level or increasing projected enrollment or waitlist and projected total income, including any matching funds and donations contingent on receipt of a loan under this section;

(g) Evidence of strong academic results, including above state average growth or proficiency on the Idaho standards achievement test. A public charter school with enrollment comprised of one hundred percent (100%) at-risk students as defined by section [33-1001](#)(3), Idaho Code, is exempt from this requirement; and

(h) Any additional information requested by the Idaho housing and finance association.

(3) Approval to participate. Upon receipt of documentation satisfying the criteria set forth in subsection (2) of this section, the Idaho housing and finance association shall notify the public charter school and the state treasurer that the school has been approved to participate in the public charter school facilities program if:

(a) The public charter school complies with the requirements set forth in subsection (4) of this section; and

(b) The public charter school's participation would not cause a violation of the limitations set forth in subsection (8) of this section.

Additional requirements and security interests may be imposed by agreement of the school and bondholder or trustee.

(4) Restricted debt service reserve account.

(a) A school participating in the public charter school facilities program shall agree to have deposited a minimum of twelve (12) months' payment on principal and interest in a restricted debt service reserve account established and held by the bondholder or trustee.

(b) Except as provided in paragraph (c) of this subsection, money in a participating public charter school's restricted debt service reserve account may not be withdrawn if the amount withdrawn would reduce the level of money in the account to less than twelve (12) months' payment on principal and interest.

(c) As long as applicable bonds issued under the facilities program remain outstanding, money in a restricted debt service reserve account may be withdrawn in an amount that would reduce the level to less than twelve (12) months' payment on principal and interest, if the money is withdrawn for the purpose of:

(i) Paying the principal, redemption price, or interest on a bond when due if the state payments intercepted pursuant to subsection (5) of this section, plus funded grants and other revenues pledged by the participating public charter school for payment of the bond, are insufficient to make the payment; or

(ii) Paying any redemption premium required to be paid when the bonds are redeemed prior to maturity if no bonds will remain outstanding.

(5) Intercept. As a requirement to participate in the public charter school facilities program, a participating public charter school shall provide a directive to the Idaho department of education that all payments to the school pursuant to the state educational support program shall be paid directly to the bond trustee to set aside funds in accordance with the bond indenture. All remaining funds shall be forwarded to the public charter school. The payment directive required in this subsection may not be revoked or amended.

(6) Public charter school facilities program fund. There is hereby established in the state treasury the public charter school facilities program fund, which shall consist of moneys made available through appropriations, fees, grants, gifts, or any other source to fulfill the purposes of this section. Moneys in the fund are hereby continuously appropriated for the purposes of this section and shall only be expended for the purposes stated herein. Any interest earned on the investment of idle moneys in the public charter school facilities program fund shall be returned to the public charter school facilities program fund. Schools participating in the public charter school facilities program shall pay a onetime fee in an amount equal to one-half percent (0.5%) of par at the time of issuance and an annual fee in an amount equal to seventy-five thousandths percent (0.075%) on the outstanding balance, which shall be deposited in the public charter school facilities program fund.

(7) Nonpayment.

(a) If a public charter school participating in the public charter school facilities program has defaulted on its obligation to pay, a draw on its restricted debt service reserve account shall be made, then the following shall occur:

(i) The bond trustee shall exercise its remedies under the bond indenture and loan agreement.

(ii) Within ten (10) days following the withdrawal from the restricted debt service account, the bondholder or trustee shall notify the Idaho housing and finance association, the state treasurer, and the state controller of the shortfall in the school's restricted debt service reserve account.

(iii) Within fifteen (15) days of the notice provided pursuant to subparagraph (ii) of this paragraph, the controller shall transfer, from the public charter school facilities program fund set forth in subsection (6) of this section, to the public school income fund and then to the school's restricted debt service reserve account an amount equal to one (1) month's interest on the bonds based on the interest payments for which the draw on the restricted debt service reserve account occurred. Moneys transferred to the public school income fund pursuant to this subparagraph shall be continuously appropriated for such purposes.

(iv) By December 1 of each year, the treasurer shall submit to the governor a letter certifying the amount, if any, required to restore amounts on deposit in the restricted debt service reserve accounts of participating public charter schools and the public charter school facilities program fund. The governor shall send to the legislature a statement of the expenditure of moneys from the public charter school facilities program fund as specified in section 8, article IV of the Idaho constitution and report the amount needed to restore funds in the restricted debt service reserve accounts to the amount required in subsection (4) (b) of this section. The legislature may appropriate money to restore amounts on deposit in the restricted debt service reserve account of a defaulting public charter school to the amounts required in subsection (4) (b) of this section or to redeem all outstanding bonds issued for a defaulting public charter school, the source of which may be the public charter school facilities program fund or any other available funds. The legislature may also appropriate money to restore amounts withdrawn from the public charter school facilities program fund.

(b) Repayment. If money has been withdrawn from the public charter school facilities program fund pursuant to paragraph (a) of this subsection, the school shall repay the fund from the school's allocation of facilities funds pursuant to section [33-5208](#) (5), Idaho Code, at a time agreed to by the superintendent of public instruction over a period of years until the amount so withdrawn has been repaid to the public charter school facilities program fund, as long as the repayment does not cause an event of default on a facility lease or loan.

(8) Limitations.

(a) Bonds issued for the benefit of public charter schools using the public charter school facilities program shall not be indebtedness of the state, but are special obligations payable solely from:

- (i) Revenues or other funds pledged by the qualifying public charter school; and
- (ii) Amounts appropriated by the legislature pursuant to subsection (7) of this section.

(b) The Idaho housing and finance association may not use the public charter school facilities program when issuing bonds for a public charter school under the facilities program if the total par amount outstanding under the facilities program as of the proposed closing date of the bonds to be issued, plus the par amount of the bonds to be issued, would exceed the percentage of all Idaho public school students attending public charter schools as of July 15 of the prior calendar year multiplied by two (2) and then multiplied by the par amount of the bonds guaranteed under the Idaho school bond guaranty act as of June 30 of the prior calendar year.

(c) Bonds issued under the public charter school facilities program shall not be subordinate to any other obligations used to finance the same project.