



Wyoming Department of Education

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MEMORANDUM NO. 2009-114

TO: School District Superintendents

FROM: Mary Kay Hill, Director
Administration Unit 

DATE: August 14, 2009

SUBJECT: Chapter 32 – Emergency Rules for Charter Schools

FOR YOUR INFORMATION

Please find an updated table of contents, final rules and a signed emergency certification page for Chapter 32 Emergency Rules Governing Charter Schools. Emergency rules are only in effect for 120 days while permanent rules are being promulgated. Please replace your existing rules with these.

If you have any questions or need more information, please contact Wynema Kucera at (307) 777-7690. Thank you.

MKH: jd

Enclosure



**Certification Page
Regular and Emergency Rules**

1. General Information

a. Agency/Board Name *See attached list for references*
Department of Education

b. Agency/Board Address 2300 Capitol Avenue, Hathaway Building 2nd Floor	c. Agency/Board City Cheyenne	d. Agency/Board Zip Code 82002
e. Name of Contact Person Wynema Kucera	f. Contact Telephone Number 777-7690	
g. Contact Email Address wkucer@educ.state.wy.us		h. Adoption Date:

i. Program(s) *See attached list for references*
General Agency, Board or Commission Rules

2. Rule Type and Information

a. These rules are: **Emergency Rules** *(After completing all of Section 2, proceed to Section 5 below)* **Regular Rules**

b. Choose all that apply: **New Rules*** **Amended Rules** **Repealed Rules**
** "New" rules means the first set of regular rules to be promulgated by the Agency after the Legislature adopted a new statutory provision or significantly amended an existing statute.*

If "New," provide the Enrolled Act number and year enacted: **HB62 Enrolled Act 60**

c. Provide the Chapter Number, and Short Title of Each Chapter being Created/Amended/Repealed *(if more than 5 chapters are being created/amended/repealed, please use the Additional Rule Information form and attach it to this certification)*

Chapter Number: 32	Short Title: Charter Schools
Chapter Number:	Short Title:

d. The Statement of Reasons is attached to this certification.

e. If applicable, describe the emergency which requires promulgation of these rules without providing notice or an opportunity for a public hearing:

The Superintendent in conjunction with the State Board of Education undertook an effort to substantively revise Chapter 32 rules in light of the changes made by legislature. The 2009 legislative changes provided a more regimented application process which involves the district superintendent and a mediation process to be established by the State Superintendent in the instance of an impasse between the district and charter school applicant. It is the intent of the WDE to engage in the permanent rule making process simultaneously with the promulgation of these emergency rules.

3. State Government Notice of Intended Rulemaking

a. Date on which the Notice of Intent containing all of the information required by W.S. 16-3-103(a) was filed with the Secretary of State:

b. Date on which the Notice of Intent and proposed rules in strike and underscore format were provided to the Legislative Service Office:

c. Date on which the Notice of Intent and proposed rules in strike and underscore format were provided to the Attorney General:

JUL 31 2009

4. Public Notice of Intended Rulemaking

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice. Yes No N/A

b. A public hearing was held on the proposed rules. Yes No

If "Yes:"	Date:	Time:	City:	Location:

5. Final Filing of Rules

a. Date on which the Certification Page with original signatures and final rules were sent to the Attorney General's Office for the Governor's signature: **July 27, 2009**

b. Date on which final rules were sent to the Legislative Service Office: **July 27, 2009**

c. Date on which a PDF of the final rules was electronically sent to the Secretary of State: **July 27, 2009**

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct.

Signature of Authorized Individual	<i>Mary Kay Hill / Jim McBride</i>
Printed Name of Signatory	Mary Kay Hill / Jim McBride, ED.D
Signatory Title	Wyoming State Board of Education Liaison/State Superintendent of Public Instruction
Date of Signature	July 27, 2009

7. Governor's Certification

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

Governor's Signature	<i>Wade Pinckney</i>
Date of Signature	<i>7/30/09</i>

Distribution List:

Attorney General

1. Statement of Reasons;
2. Original Certification Page;
3. Summary of Comments (regular rules);
4. Hard copy of rules: clean and strike/underscore; and
5. Memo to Governor documenting emergency (emergency rules).

LSO

1. Statement of Reasons;
2. Copy of Certification Page;
3. Summary of Comments (regular rules);
4. Hard copy of rules: clean and strike/underscore;
5. Electronic copy of rules: clean and strike/underscore; and
6. Memo to Governor documenting emergency (emergency rules).

SOS

1. PDF of clean copy of rules; and
2. Hard copy of Certification Page as delivered by the AG.

STATE OF WYOMING }
 Office of the Secretary
 Filed the 31st day of July
2009 at 10:00 A.M.
 Max Maxfield
 Secretary of State

STATEMENT OF REASONS

The State Superintendent of Public Instruction (Superintendent) and the Wyoming State Board of Education (State Board) are charged with overseeing the charter school application, renewal, and appeals process. See W.S. § 21-3-301 through 21-3-314. Both the State Board and the Superintendent are given general rulemaking authority as necessary for the proper and effective administration of the state educational system or to carry out its responsibilities under the Education Code. See W.S. § 21-2-202(a)(i) and § 21-2-302(a)(i).

In 2007 and 2009, the Wyoming Legislature made substantive changes to the legislation governing the operation, application and appeals process for charter schools in Wyoming. In 2007, the Legislature revised the law to provide a waiting period of a year for charter school applicants after denial of an application by a district board. In addition, it gave the State Board an additional fifteen (15) days to make a final decision in the instance of an appeal. See 2007 WYO. SESS. LAWS, Ch. 84, Section 1 (HB 31). In 2009, the Legislature again undertook revision of the statutes concerning charter schools and provided for a more regimented application process which involves the district superintendent and a mediation process to be established by the State Superintendent in the instance of impasse between the district and the charter school applicant.

The Superintendent in conjunction with the State Board undertook an effort to substantively revise the Chapter 32 Rules in light of the changes made by the Wyoming Legislature. It is the intent of the Wyoming Department of Education to engage in the permanent rulemaking process, simultaneous with the promulgation of emergency rules for Chapter 32.

Chapter 32

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CHAPTER 32

CHARTER SCHOOLS

Section 1. Authority.

These rules are promulgated by the Wyoming State Board of Education under the authority of W.S. § 21-2-304(a)(i) and §§ 21-3-301 through 21-3-314 and the Superintendent of Public Instruction under the authority of W.S. § 21-2-202(a)(i) and § 21-3-307(d).

It is within authority of the Wyoming State Board of Education to promulgate rules and regulations to identify a process and procedure for charter school applicants to request and receive waivers of certain statutory and regulatory items within its control and to identify the requirements, process and procedure to appeal a decision of a district board in relation to a charter school application to the Wyoming State Board of Education.

The Superintendent of Public Instruction has authority to promulgate rules and regulations relating to the contents of the charter school application, the phased application process and procedure, including, but not limited to, the preliminary review by a district superintendent of a charter school application and the mediation process that is available to the district superintendent and a charter school applicant. In addition, the Superintendent of Public Instruction's rulemaking authority includes the ability to prescribe a process and procedure for notification in instances of approval by a district board for operation.

Section 2. Purpose and Applicability of Rules.

These Rules are intended to provide a uniform and understandable process for the creation, application, and operation of charter schools in Wyoming.

This Chapter shall apply to all charter school applicants, parties wishing to appeal a decision of a district board concerning a charter school, Wyoming school districts, the Wyoming Department of Education, the Wyoming State Board of Education, and the Superintendent of Public Instruction.

Section 3. Promulgation, Amendment or Repeal of Rules.

These Rules shall become effective when signed by the Governor and filed with the Secretary of State. Any amendment or repeal of these rules shall become effective as provided by the Wyoming Administrative Procedures Act (W.S. §§ 16-3-101 through 16-3-115).

These are emergency rules. Emergency rules are no longer in effect one hundred and twenty (120) days after filing with the Secretary of State.

Section 4. Definitions.

As referenced in these rules the following definitions shall apply:

(a) "A charter school within a school" means a charter school operating within a facility or portion of a facility currently operated by the district as a public school or operated as an adjunct to a public school or schools with students attending both the charter school and the public school;

(b) "A converted charter school" means a charter school converted from an existing public school operating within the district;

(c) "Charter school" means a public, non-sectarian, non-religious, non-home-based school which operates in accordance with the provisions of its approved application and contract within a public school district in Wyoming;

(d) "Charter School Board of Directors" means the governing body of a charter school;

(e) "Conditional Approval" means the district superintendent has determined that a charter school applicant has addressed all areas required in Section 7 of these Rules in its application and has met the minimum standards for the five (5) areas listed in Section 8(e)(ii)(A-E) of these Rules and needs to work with the district superintendent to improve the application in an effort to receive Preliminary Approval;

(f) "Incomplete with the option of resubmission" means the district superintendent has determined a charter school application is missing substantive portions or items as listed in Section 7 of these Rules or the creation of the charter school is prohibited by the law and the application cannot move forward with presentation to the district board for Final Approval/Denial Status;

(g) "District board" means the board of trustees of a school district elected as the governing body of the school district in the district in which the charter school applicant is applying for operation; this term is used interchangeably with "school district".

(h) "District superintendent" means the superintendent of the district in which the charter school applicant is applying for operation;

(i) "Evaluation Rubric" means the document used by a district board and a district superintendent to evaluate the charter school application which provides a systematic means of measuring the completeness of the application for purposes of conducting the Preliminary Evaluation of Readiness and determining the Final Approval/Denial Status and includes measurable indicators of each of the components of the application as required by Wyoming Statute and Section 7 of these Rules;

(j) "Final Approval/Denial Status" means the decision reached by the district board after presentation of an application by the charter school applicant that has received Preliminary Approval from the district superintendent;

(k) "Local district staff" means professional staff employed in the administrative offices of a local school district;

(l) "New charter school" means a charter school established within the district which is located in a facility or a portion of a facility which is not currently being operated by the district as a public school;

(m) "Preliminary Approval" means the district superintendent has determined a charter school applicant has addressed all areas required in Section 7 in sufficient detail to warrant presentation to the district board for a determination of Final Approval/Denial Status;

(n) "Pupil outcomes" means the extent to which all pupils of the school demonstrate attainment of the skills and knowledge specified as goals in the school's educational program and shall include performance on state assessments and standards;

(o) "Recognized accrediting agency" means an accrediting agency recognized by the United States Department of Education;

(p) "Superintendent of Public Instruction" means the State Superintendent entrusted with the general oversight and operation of the public schools in Wyoming as created by WYO. CONST. Art. 7, § 14;

(q) "Teacher" means any person employed by or under contract by the board of trustees of a school district or a charter school as a certified professional employee that meets all state and federal requirements, legislation, statutes and rules and regulations including, but not limited to, W.S. § 21-7-303 and No Child Left Behind, P.L. 107-110;

(r) "Wyoming Professional Teaching Standards Board" means the Board that regulates the certification of teachers and school personnel as appointed by W.S. § 21-2-801;

(s) "Wyoming State Board of Education" means the State Board as created by W.S. § 21-2-301, herein referred to as the State Board.

Section 5. Charter School Applicants and Applications.

(a) Any person may apply to a district board for the establishment of a new charter school or a charter school within a school to be located within a school district.

(b) Application for conversion of an existing public school operating within a school district to a charter school must be made by:

(i) Administrators and teachers employed by the district, parents of students enrolled in the district, and any special district advisory group comprised of district residents; and

(ii) An application filed under this subsection shall demonstrate the support of not less than fifty percent (50%) of the teachers employed by the school district that teach at the school that is proposed to be converted, and not less than fifty percent (50%) of the parents of all the students attending the school proposed to be converted.

(c) A district board and a charter school applicant may by mutual agreement establish a charter school within a school instead of applying under subsection (a) or (b) of this Section.

(d) No charter school application shall be granted if it is determined that its sole purpose is to avoid consolidation or closure of any school or district.

(e) No charter school application shall be considered from any person, group or organization proposing to convert a private school or a non-public home-based educational program into a charter school.

(f) For applications filed on and after July 1, 2007, a charter school application shall not be considered from any person, group or organization that has previously filed a charter school application within a twelve (12) month period and the application was subsequently denied. Computation of the twelve (12) month period shall begin on the date the denied application was filed with the district board after receiving Preliminary Approval from the district superintendent.

Section 6. Letter of Intent.

(a) All charter school applicants shall submit a letter of intent to the district superintendent that includes the following:

- (i) Contact information for the charter school applicant;
- (ii) Geographic area to be served by the charter school;
- (iii) Grades to be served by the charter school; and
- (iv) Date the school plans to open.

(b) Within ten (10) days of receiving a letter of intent, the district superintendent shall designate a point of contact for the charter school applicant, provide an application package to the applicant, and supply the charter school applicant with the evaluation rubric that will be used by the district superintendent and district board to evaluate the application and charter school application status.

Section 7. Application Contents.

(a) A charter school application shall be in the form and manner prescribed by the district board, but at a minimum shall contain the following:

- (i) Rationale for the proposed school and evidence of support, including:
 - (A) A narrative demonstrating evidence of need and/or demand for the proposed school, including a description of the community the school hopes to serve; and
 - (B) Evidence of support for the school that includes following elements:
 - (I) A description of the way in which community groups that represent parents, teachers, pupils or any combination thereof were involved during the planning process of the charter school;
 - (II) A description of the business arrangements and partnerships with other organizations that represent parents, teachers, pupils or any combination thereof including five (5) letters of support from the organizations;
 - (III) Evidence that one (1) or more public meetings were held, supported by a copy of the meeting notice, a list of attendees, and a meeting summary; and
 - (IV) A roster of students committed to attend the school that can be verified with letters of intent upon request.
- (ii) Description of the long range vision and philosophy for education, including:
 - (A) A short narrative of the long range vision for the school;
 - (B) The educational philosophy to be employed, including:
 - (I) How the educational philosophy will support the long range vision;
 - (II) How the school plans to improve student learning;
 - (III) How the school will encourage the use of different and innovative teaching methods;
 - (IV) How the school will create new professional opportunities for teachers; and
 - (V) How the proposed school will provide parents and students with expanded choices in the types of educational opportunities;
 - (C) How the rationale for the proposed school was incorporated into in the vision and philosophy;
- (iii) Description of the educational program to be offered, including:

following: (A) Identification of target population(s) to be educated including the

charter; and (I) The grades to be served each year for the full length of the

(II) Estimated enrollment projections.

(B) A description of how learning will occur including:

(I) Information on the academic program being offered with supporting research and evidence;

(II) Compliance of the academic program with uniform standards, content and performance; and

(III) Alignment of the academic program to state standards at each grade level and in each content area.

(C) Goals regarding how the school plans to improve student learning and enable students to become self-motivated, competent, life-long learners;

(D) A description of extracurricular activities and/or after school activities, if appropriate;

(E) A description of the school/student discipline plans including suspension and expulsion policies;

(F) The method of accreditation and a description of the accreditation process to be used;

(G) Evidence that the charter school will operate in a manner to meet and/or exceed accreditation standards; and

(H) Explanation of the delivery of appropriate educational services to special education populations;

(iv) Identification of measurable pupil outcomes, including:

(A) An explanation of how the school will establish first year benchmarks and eventual goals after two (2) years of performance;

(B) An explanation of how all students will demonstrate attainment of the skills and knowledge specified as goals in the school educational program, including meeting state assessments and standards;

(C) A description of the method by which pupil progress will be measured;

(v) Governance structure of the school, including:

(A) Organizational documents including articles, by-laws, or similar organizational documents that include:

(I) Roles and responsibilities of the Charter School Board of Directors;

(II) Roles and responsibilities of school leadership and non-instructional management positions; and

(III) An organizational chart of the school administrative structure;

(B) Human resource and personnel documents, including:

(I) Employment policies;

(II) Explanation of the relationship between the charter school and its employees, including evidence that the terms and conditions of employment have been addressed with affected employees and their recognized representative, if any;

(III) Staff qualification requirements to be met by individuals employed by the school;

(IV) Job descriptions;

(V) Employee rights including a description of the rights of any employee of a school district upon commencing work for the charter school;

(VI) Employee reviews;

(VII) Procedures for reprimands and firing;

(VIII) Coverage under the Wyoming retirement system and federal social security; and

(IX) A description of the rights of any school district employee when leaving the district to work in the charter school and of any rights upon returning to the school district after employment at a charter school;

(C) Insurance coverage and liability issues including the agreement between the charter school and the district regarding their respective legal liability and applicable insurance coverage;

- privacy issues;
- (D) Matters pertaining to student and employee records retention and
 - (E) Health and safety procedures for students and staff;
 - (F) Plans for parental and community involvement;
 - (G) Procurement processes including a list of services anticipated for contracting; and
 - (H) Evidence that the school is indemnified to the fullest extent possible;

(vi) Facilities Plans, including:

- (A) A description of the geographic location;
- (B) A minimum of three (3) options for the proposed school site; and
- (C) Sufficient evidence to show the availability of the proposed site(s);

(vii) Admission and enrollment policies, including:

- (A) The period for when admissions will be accepted;
- (B) The lottery process by which students will be admitted, if applicable;
- (C) The waiting list policy, if applicable;

and

(viii) Financial information, including:

- (A) Enrollment projections including the minimum planned and maximum enrollment for each year of the charter;
- (B) A budget for the term of the charter;
- (C) A budget narrative that provides:
 - (I) Evidence of economic soundness; and
 - (II) A description of private and public funds;
- (D) A financial feasibility statement providing evidence of viability following the first three (3) years of the charter operation; and
- (E) An explanation of financial oversight, including;

(I) A description of proposed financial policies and how the school will implement internal financial controls;

(II) A description of the financial reports, including format and frequency; and

(III) The method for an annual audit of the financial and programmatic operations of the school, including any services provided by the school district;

(ix) Description of the transportation plan the charter school plans to use, if any including an explanation of how the lack of transportation will not impede the ability of students to attend the school; and

(x) A plan for the displacement of pupils, teachers and other employees who will not attend or be employed in the charter school.

Section 8. Preliminary Evaluation of Readiness.

(a) The charter school applicant must submit the charter school application to the district superintendent with all the required elements referenced in Section 7 for a Preliminary Evaluation of Readiness.

(b) Review by the district superintendent in accordance with this Section and a determination of Preliminary Approval are required prior to any formal review by the district board and presentation for Final Approval/Denial Status in accordance with Section 10 of these Rules.

(c) Upon receipt of the charter school application, the district superintendent shall within forty (40) calendar days:

(i) Evaluate the application;

(ii) Complete the evaluation rubric provided to the charter school applicant and grant the charter school applicant one (1) of the following:

(A) Conditional Approval;

(B) Preliminary Approval; or

(C) Incomplete with the option of resubmission;

(iii) Schedule and conduct a meeting with the charter school applicant to discuss the merits of the application; and

(iv) Provide written notification to the charter school applicant of the decision reached which includes:

(A) A copy of the completed evaluation;

(B) Any documentation that was relevant or pertinent to the decision reached; and

(C) An explanation which supports the decision reached and provides the charter school applicant with sufficient detail to improve the application for resubmittal if the application is deemed incomplete or lists the areas of improvement if the application is granted Conditional Approval.

(d) Preliminary Approval shall be granted if an application is complete and addresses each of the items in Section 7 in detail and a determination has been made that the application is ready for evaluation by the district board for official action in accordance with Section 10 of these Rules. The district superintendent's granting of Preliminary Approval shall not prevent the district superintendent from making subsequent recommendations to, or from opposing the application before, the district board.

(e) Conditional Approval shall be granted if:

(i) All the required elements referenced in Section 7 are addressed in some detail; and

(ii) The following sections meet the minimum standard as determined by the district superintendent:

(A) Financial information;

(B) Rationale and evidence of support;

(C) Description of the educational program;

(D) Identification of measurable student outcomes; and

(E) Governance structure.

(f) If a charter school applicant is granted Conditional Approval, the charter school applicant and the district superintendent shall compile a work list to improve the deficient areas. The goal of the work list shall be to improve the application to gain Preliminary Approval and shall include, but not be limited to, the following:

(i) Contact persons for the local district and the charter school applicant;

(ii) A list of the application elements that require revisions before the application can be granted Preliminary Approval by the district superintendent;

(iii) A timeline that includes completion dates and the persons responsible for completing the listed revisions; and

(iv) Resources from the local district and the charter applicant that may assist in completing the revisions;

(g) Incomplete with the option of resubmission shall be granted if:

(i) The application is missing substantive portions or items as listed in Section 7;
or

(ii) The creation of the proposed charter school is prohibited by a provision of law.

Section 9. Mediation Process

(a) If the district superintendent and the charter school applicant reach an impasse during the Preliminary Evaluation of Readiness, either party may request mediation as outlined herein.

(b) A request for mediation shall be limited to the application components as referenced in Section 7;

(c) Only persons of the appropriate authority and with the ability to negotiate and make decisions on behalf of the district superintendent and the charter applicant shall request mediation and participate in the mediation process. Participation shall be limited to essential personnel from both parties;

(d) The request for mediation shall be made in writing to the State Superintendent of Public Instruction, 2300 Capitol Avenue, Hathaway Building, 2nd Floor, Cheyenne, Wyoming 82002-0050. Service can be made in person, by U.S. Mail or received by facsimile at (307)777-6234 during regular business hours. Any request received after regular business hours will be treated as received during the regular business hours of the next working day. It is the responsibility of the requesting party to ensure receipt by the State Superintendent if U.S. Mail or facsimile is the method utilized for delivery.

(e) The party making the request shall also send a copy of the original to the other parties involved in the mediation upon sending the document to the State Superintendent.

(f) The request shall include the following:

(i) The names and addresses of each party, or authorized designee(s);

(ii) Information sufficient to establish that the dispute for which mediation is requested relates to the components or submission of the application as outlined in Section 7 of these Rules; and

(iii) Copies and/or explanation of pertinent information related to the disputed issue.

(g) Upon receipt of a request for mediation, the State Superintendent or his or her designee shall provide the parties with a list of the names, mailing addresses, and qualifications of the mediators on file with the State Superintendent within five (5) business days of the receipt of the mediation request.

(h) The parties shall within five (5) business days of receipt of the list provide the State Superintendent with three (3) names from the list that would be acceptable to conduct the mediation via certified letter to the above address in Section 9 (d) of these Rules.

(i) The State Superintendent or his designee shall review the list and if a common mediator is identified, the State Superintendent or his or her designee shall assign the mediation to a commonly identified mediator. In the event the lists provided by the parties do not contain a common name, or if the parties fail to respond within the allotted time, the State Superintendent or his or her designee shall choose a mediator from the list on file to mediate the proceeding. The State Superintendent shall notify the parties in writing of the selection of a mediator within five (5) business days of receipt of the list.

(j) The State Superintendent shall maintain a list of mediators qualified to conduct mediations in accordance with this Section. Application by those wishing to serve as mediators shall be made to the State Superintendent in the manner and form he or she prescribes.

(k) At a minimum a mediator shall have the following qualifications to be considered for addition to the list of qualified mediators:

(i) Certification of attending a combined total of at least thirty (30) hours of course work in mediation, alternative dispute resolution, issue and/or problem framing and solving;

(ii) Familiarity and knowledge of educational issues and Wyoming charter school laws, rules and regulations; and

(iii) Impartiality and a third party not involved in the conflict, dispute or situation.

(l) The overarching responsibilities of mediators conducting mediations in accordance with this Section shall include, but are not limited to, the following:

(i) Listen to the disputing parties desiring to be heard;

(ii) Attempt to mediate between the disputing parties;

- (iii) Remain neutral;
 - (iv) Assist the disputing parties in attempting to arrive at an agreement for the future conduct of working relations among them;
 - (v) Comply with all provisions of Federal and Wyoming Statutes and rules and regulations; and
 - (vi) Endeavor to create a climate conducive to the resolution of the differences of the parties.
- (m) Prior to conducting the mediation, the mediator shall:
- (i) Convene parties for an Initial Consultation within ten (10) business days of receiving notification by the State Superintendent or his or her designee of selection. During the Initial Consultation, the mediator shall discuss scheduling of the proposed mediation, the process to be undertaken, and identify a location for the proceedings that works best for all parties. The Initial Consultation may be conducted via telephone or in-person at the discretion of the mediator.
 - (ii) Within ten (10) business days after the Initial Consultation, the mediator shall provide the parties with a proposed service agreement setting forth the terms, conditions, timelines, and estimated cost for the mediations services to be provided. The agreement shall:
 - (A) Be signed by all parties and the assigned mediator;
 - (B) Include a statement setting forth the guidelines and ground rules under which the mediation proceedings will be conducted;
 - (C) Provides a tentative timeline and outline for conducting the mediation and any preliminary activities necessary;
 - (D) Describe hourly fees and compensation for travel, per diem and/or other necessary expenses that may be incurred in conducting the mediation proceeding; and
 - (E) Outline the process for invoicing and receiving compensation for services to be provided.
- (n) With the exception of the Initial Consultation, all meetings and mediation activities shall be conducted in-person unless extenuating circumstances impose extreme hardship and personal attendance of the parties cannot be accomplished.
- (o) With the exception of the mandatory duties and obligations contained herein, the mediator shall have discretion in choosing the best process and options to resolve the disputed

matters at hand. The process shall be tentatively outlined in the service agreement and may include the following activities:

(i) Submission of independent mediation briefs outlining the disputed portions of the application and the positions of each party. The briefs should include any and all documents, research and/or other documentation supportive of the position of the party and sufficiently identify the issues and facts in an effort to reach a resolution;

(ii) A joint session attended by all parties to summarize the positions of the parties using whatever means are most effective and necessary including, but not limited to, oral explanation, documentation and visual aids. The goal of the joint session is clarify the position of the parties for the benefit of the mediator and the other parties involved in an effort to sufficiently identify the issues in an effort to reach a resolution. A joint session can be utilized at the inception of the mediation and after conducting separate caucuses to summarize the terms of the negotiated agreement.

(iii) Separate caucuses following the first joint session to allow the mediator to meet separately and privately with each party. Separate caucuses may be utilized in instances where the parties may not be comfortable disclosing certain information in direct negotiations or when the mediator deems it in the best interest of the parties. Any and all information revealed to the mediator during separate caucuses shall be confidential, and shall not be shared with the other party participating in the mediation, unless permission is specifically granted to share information disclosed in separate caucuses. The mediator should strive to assist the parties in identifying the strengths and weaknesses in the case from an independent and unbiased position. Separate caucuses allow the mediator to discuss the issue at hand in a frank and honest manner, without compromising either party's position in negotiation.

(p) The mediator shall have discretion to revise the schedule and mediation process outlined in the signed service agreement if necessary. The mediator shall inform all parties of any modification or revision of the schedule and mediation process by written notification.

(q) Upon completion of a successful mediation, the mediator shall draft an agreement for the parties to sign which outlines the process and steps agreed upon for overcoming the disputed areas of the application in an effort to gain Preliminary Approval from the district superintendent for presentation of the application to the district board.

(r) In accordance with the provisions of W.S. § 1-43-102 and § 1-43-103, any communication within the context of mediation shall be confidential unless one (1) of the following conditions is met:

(i) All the parties involved provide written consent to disclose;

(ii) The communication involved the contemplation of a future crime or harmful act;

(iii) The communication was otherwise discoverable prior to mediation; or

(iv) One of the parties seeks judicial enforcement of the mediated agreement.

(s) The administrative bodies of both the local district and the charter school applicant shall be bound by the confidentiality provisions contained herein and/or Wyoming Statute;

(t) All costs associated with conducting a mediation shall be borne equally by the local district and the charter school applicant;

(u) If either party refuses to mediate, the dispute may be appealed to the State Board as provided by W.S. § 21-3-310 and Section 25 of these Rules and Regulations.

Section 10. District Board Hearings and Approval of Charter School Applications.

(a) The district board shall hold a public hearing within thirty (30) days after receiving an application for any charter school to consider the application.

(b) The following requirements shall apply to all hearings conducted by the district board as a result of W.S. § 21-3-308 and this Section:

(i) Appropriate notice of the hearing shall be given to the public in accordance with the Wyoming Public Meetings Act (W.S. §§ 16-4-401 through 16-4-408);

(ii) A quorum of the district board shall attend the hearing;

(iii) The proceeding, including all testimony, shall be reported verbatim stenographically or by any other means determined appropriate by the district board or officer presiding at the hearing; and

(iv) The Wyoming Administrative Procedure Act (W.S. § 16-3-101 et seq.) shall govern the hearings to consider the approval or denial of charter school applications.

(c) The district board shall at a minimum consider the following in considering the application for any charter school:

(i) The level of community and parental support for the application if the application is for a new charter school or the level of teacher and parental support if the application is for a converted or a charter school within a school; and

(ii) The purpose of the charter school, including whether it is to provide teachers, parents, pupils and community members with the ability to establish and maintain a school that operates independently from the existing school district as a method to:

- (A) Improve pupil learning;
- (B) Increase learning opportunities for all pupils, with special emphasis on expanded learning experiences;
- (C) Encourage the use of different and innovative teaching methods;
- (D) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site; and
- (E) Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system.

(d) District boards shall utilize an Evaluation Rubric as outlined in these Rules to assist in the consideration of the application and make a determination as to the Final Approval/Denial Status of the application.

(e) The district board shall make a decision to approve or deny the application within sixty (60) days of receipt of the application.

(i) Upon request by the applicant, subject to provisions of W.S. § 21-3-308(a) and (c), the district board may approve the charter school application subject to specified conditions which provide the applicant sufficient time to acquire necessary funding for securing or otherwise finalizing arrangements for facilities or equipment necessary for the operation of the proposed school.

(ii) Prior to approving a charter school application the board shall approve and adopt the contents and terms of the contract as provided by W.S. § 21-3-308(a).

(f) If the district board denies a charter school application, the district board shall notify the applicant in writing, including the reasons or basis for the denial, within forty-five (45) days of its decision.

(g) To operate in the upcoming school year the charter school application shall be approved and the contract shall be executed, including any waivers by the State Board that may be necessary, on or before March 1 of the previous school year.

Section 11. Contract between the District Board and Charter School Applicant.

(a) The approved application shall serve as the basis of the contract between the charter school applicant and the district board.

(b) The contract shall contain the provisions mutually agreed to by the district board and the charter school applicant and shall address the following:

- (i) All items noted in Section 7 of these Rules;
 - (ii) Any and all waivers granted by the district board or requested of the State Board; and
 - (iii) A provision which requires that upon the closure of the charter school any charter school assets purchased with public funds will become the property of the local district.
- (c) Any material revision to the contract after the original execution shall be effective only upon the approval and mutual agreement of the district board and the governing body of the charter school.
- (d) No contract shall be executed or signed by a district board which includes waivers that must be granted by the State Board without following the process outlined in Section 13 of these Rules and obtaining approval by the State Board.

Section 12. Revocation and Renewal of Charter School Applications.

- (a) A charter school renewal application shall be in the form and manner prescribed by the district board, but at a minimum shall contain the following:
- (i) A report on the progress of the charter school in achieving the goals, objectives, public performance standards, content standards and other terms of the approved charter school application; and
 - (ii) A financial statement that discloses the costs of administration, instruction and other spending categories for the charter school that is understandable to the general public and will allow comparison of such costs to other schools or other comparable organizations.
- (b) An application for renewal for the operation of a charter school shall be presented in the same manner as an initial application and shall include a Preliminary Evaluation of Readiness and a determination of Preliminary Approval by the district superintendent prior to presentation to the district board for Final Approval/Denial Status of the renewal of the charter school application.
- (c) A charter may be revoked or not renewed if the district board finds the charter school has engaged in any of the following activities:
- (i) Committed a material violation of any of the conditions, standards or procedures set forth in the approved charter school application;
 - (ii) Failed to meet or make reasonable progress toward achievement of the content standards or pupil performance standards identified in the approved charter school application;
 - (iii) Failed to meet generally accepted standards of fiscal management; or

(iv) Violated any provision of the law from which the charter school was not exempt.

(d) A charter shall not be renewed upon a determination by the district board that it is not in the interest of the pupils residing within the school district to continue the operation of the charter school.

(e) The district board shall state its reasons in writing if it decides to revoke or not renew a charter school application.

(f) A district board's decision to revoke or not renew a charter school application may be appealed to the State Board pursuant to W.S. § 21-3-310 and Section 25 of these Rules.

Section 13 Waiver of District Requirements by District Board.

(a) A district board may waive locally imposed school district requirements subject to the following:

(i) A district board shall not waive any requirements imposed by Wyoming Statute or any rule and regulation promulgated by the State Board or the Wyoming Department of Education; and

(ii) All waivers granted shall be incorporated into the contract as executed by the district board and the charter school applicant.

(b) Any waivers granted by the district board of locally imposed school district requirements shall be effective for the term of the charter.

Section 14. Waivers of State Statutes and Rules and Regulations by State Board.

(a) Approval of the State Board shall be required for the waiver of any State statutory requirements or rules and regulations promulgated by the State Board.

(b) The district board shall notify the State Board of any requests for release from State statutes and/or regulations within ten (10) business days after the contract is approved by the district board but prior to signature and/or execution.

(c) The request shall provide adequate written justification for a waiver of each statute and/or rule and regulation to enable the State Board to make a decision whether waiver is necessary and appropriate. Notification shall include copies of all supporting documentation and evidence.

(d) The request for release shall be made in writing to the State Board of Education, 2300 Capitol Avenue, Hathaway Building, 2nd Floor, Cheyenne, Wyoming 82002-0050. Service can be made in person, by U.S. Mail or received by facsimile at (307)777-6234 during regular business hours. Any request received after regular business hours will be treated as received

during the regular business hours of the next working day. It is the responsibility of the requesting party to ensure receipt by the State Superintendent if U.S. Mail or facsimile is the method utilized for delivery.

(e) Within forty-five (45) days after receipt of the request by the district board, the State Board shall notify the district board and the charter school applicant of its decision as to the approval or denial of the charter school applicant's request(s) for a waiver. Notice shall be given in the following manner:

(i) If the request is granted, the State Board shall notify the district board and the charter school applicant of the waiver. Notification of approval may be written or verbal. However, written notification is the preferred method of communication of any approval.

(ii) If the request for a waiver or release is denied, the State Board shall notify the district board and the charter school applicant of the denial in writing, via certified mail return receipt requested, and the notice shall include the following:

(A) The specific reasons for the denial; and

(B) If the denial includes multiple State statutes or regulations, the State Board shall specify the State statutes and regulations for which the waiver or release is denied, and the denial shall apply only to the statutes and regulations cited in the notification.

(iii) If the State Board fails to respond within forty-five (45) days after submittal of the request for waiver or release, the request shall be deemed granted and the waiver shall be included within the contract as executed between the district board and the charter school applicant.

(f) The State Board may only waive statutes and rules and regulations within its statutory authority or control. No waiver shall be made of any provision or regulation that is within the authority of the State Superintendent, the Wyoming Department of Education, the Professional Teaching Standards Board and any other state agency or entity.

(g) The State Board shall not waive any statute or rule relating to the assessments or standards required to be administered, including but not limited to the uniform educational program standards imposed upon public schools by W.S. §§ 21-9-101 and 21-9-102, the uniform student and content and performance standards prescribed by the rules and regulation of the State Board and the requirements of the statewide assessment system as promulgated pursuant to W.S. § 21-2-304(a)(v). In addition, the State Board shall not waive any statute or rule which relates to district or school accreditation, teacher certification or health and safety.

(h) Any waiver granted by the State Board with regard to any State statutes or regulations shall be reviewed every two (2) years and may be revoked if the waiver is deemed no longer necessary by the State Board.

Section 15. Notification of State Superintendent by District Board.

(a) The district board shall notify the State Superintendent of the approval of any charter school application, any modification to an existing contract or approved charter school application and/or any renewal of a charter school application.

(b) The notice shall be sent in accordance with the provisions of Section 9(d) of these Rules to the State Superintendent.

(c) A copy of the following documents shall accompany the notification:

(i) The application as approved by the district board;

(ii) The contract as executed, including any attachments or extraneous documents, if applicable; and

(iii) The official minutes of the district board meeting that evidence the approval of the application or any modification or amendments of the terms of the contract as executed by the district board and the charter school applicant.

Section 16. Annual Report on Charter Schools to State Board.

(a) Each district board that grants a charter school application shall report to the State Board annually on each charter school operating within the district.

(b) The report and all accompanying documentation shall be in the manner and form as prescribed by the Wyoming Department of Education with the consultation of the State Board of Education.

(c) The report, at a minimum, shall include the following items:

(i) An assurance with supporting documentation, evidence or data that students attending the charter school are receiving an education consistent with the educational opportunities available to all students within the school district;

(ii) A school description that provides a portrait of the school during the period of the report that at a minimum includes the following:

(A) Guiding philosophy;

(B) School programming;

(C) School staff;

(D) Student characteristics/demographics;

(E) School governance;

(F) Financial report in the format identified as appropriate by the Wyoming Department of Education; and

(G) Facilities updates and information;

(iii) A school performance report on what has been learned about the schools performance plan against the goals contained in its charter, including:

(A) Evidence and analysis of performance and progress;

(B) Actions that are being taken to use accountability information to improve the schools programs, practices and performance;

(C) Unique accomplishments;

(D) An audit report; and

(E) Verification of accreditation status from a recognized accreditation agency;

(d) The report and accompanying documentation shall be submitted to the Wyoming Department of Education on or before March 15th of each school year for presentation to the State Board.

Section 17. Length of Operation for Charter School.

(a) A charter school application may be granted for a period not to exceed five (5) years.

(b) Upon presentation and approval of the district board in accordance with Section 12 of these Rules, charter school applications may be renewed for successive five (5) year periods.

Section 18. Complaints Concerning Charter Schools.

(a) Complaints concerning charter schools shall be in writing, signed and delivered to the district board in the district within which the charter school operates.

(b) Any and all complaints received shall be investigated and resolved in accordance with the policies and procedures established by the district board.

Section 19. Discrimination of Charter Schools by District Board.

(a) No school district shall discriminate against a charter school in publicizing the district's educational options, including but not limited via advertisement, direct mail, and the availability of mailing lists or other informational activities.

Section 20. General Operating Procedures for Charter Schools.

(a) A charter school shall comply with the provisions set forth in its approved charter school application and the contract as executed with the district board.

(b) A charter school shall be a public school within the school district that grants its charter and shall be accountable to the district board for all purposes of ensuring compliance with applicable laws and charter provisions and the requirements of the Wyoming Constitution.

(c) A charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry or need for special education services.

(d) A charter school shall have standing to sue and be sued in its own name for the enforcement of any contract created pursuant to the applicable statutes and rules and regulations.

(e) Enrollment decisions shall not be made:

(i) In a discriminatory manner as specified by the charter school applicant in the charter school application, which includes that at-risk or special program students may not be discriminated against; and

(ii) Solely on academic abilities or achievements, including test scores or intelligence quotient scores.

(f) Tuition shall not be charged by a charter school.

(g) A charter school shall be responsible for its own operation including, but not limited to, preparation of a budget, contracting for services and personnel.

(h) A charter school shall be authorized to offer any educational programs that may be offered by a school district unless expressly prohibited by its charter or by Wyoming law.

(i) Any charter school shall participate in the Wyoming retirement system to the extent required if it were a public school within a district.

(j) The school district shall be the owner of all records of the charter school, including student, staff and public affairs records of charter school operations. Upon closure of the charter school, all charter school records shall be promptly delivered to the school district.

Section 21. Charter School Personnel.

(a) All teachers and personnel employed by charter schools shall be subject to the same requirements with respect to certification by the Wyoming Professional Teaching Standards Board and other qualifications as any other teachers or personnel authorized to teach in Wyoming public schools.

(b) A teacher employed by a charter school shall be considered to be on a one (1) year leave of absence from the school district for the first year of employment with the charter school.

(i) The leave shall commence on the first day of services for the charter school;

(ii) The one (1) year leave of absence shall be renewed twice, for a total of three (3) years, upon mutual agreement of the teacher and the school district; and

(iii) At the end of the three (3) year period, the district and the teacher shall determine the relationship of the teacher to the district and the district shall provide the teacher with written notice of its determination.

(c) The employment status of school district employees employed by the charter school who seek to return to the employment with non-charter schools in the school district shall be negotiated and such treatment shall be addressed and explained within the charter school application as approved by the district board.

Section 22. Charter School Contracts.

(a) A charter school may contract for the provision of services and property subject to following:

(i) The contract shall be executed in the same manner and subject to the same restrictions as contracts executed by public schools and school districts;

(ii) The charter school shall be subject to all competitive bidding laws which apply to school districts;

(iii) The contract shall not exceed the funds available to the charter school;

(iv) The contract shall not exceed the remaining length of operation for which the charter school was approved by the district board; and

(v) With the approval of the school district, the charter school may delegate the authority to negotiate the contract or execute the contract, or both, to the school district.

(b) A charter school may negotiate and contract with a school district, the governing body of a state college or university, or any third party for:

(i) The use of a school building and grounds;

(ii) The operation and maintenance thereof; or

(iii) The provision of any service, activity or undertaking that the charter school is required to perform in order to carry out the educational program described in its charter.

(b) Any services for which a charter school contracts with a school district shall be provided by the district at cost.

(c) No charter school shall enter into a contract with an independent management company without the prior written consent of the district board. The school district shall be a third-party beneficiary to any management contract approved by the district board.

Section 23. Facilities for Charter Schools.

(a) A charter school shall not be required to pay rent for space which is deemed available, as negotiated by contract, in school district facilities. All other costs for the improvement, modification, operation and maintenance of the facilities used by the charter school shall be subject to negotiation between the charter school and the district board.

(b) All decisions regarding the planning, siting and inspection of charter school facilities shall be made in accordance with law and as specified by contract with the district board.

Section 24. Charter School Funding.

(a) All charter schools shall be funded in accordance with Wyoming Statute and the applicable rules and regulations of the Wyoming Department of Education and the Wyoming State Board of Education.

(b) The applicable statutes and rules include, but are not limited to, the following:

(i) W.S. §§ 21-3-314, 21-13-101 et seq. and 21-13-301 et seq.; and

(ii) Chapter 8, *Rules and Regulations of the School Foundation Program*, Wyoming Department of Education Rules and Regulations.

Section 25. Appeal of District Board Decisions to the State Board.

(a) In accordance with the provisions contained in this Section, except in the instance of an appeal relating to refusal to participate in mediation, any person, including a charter school applicant, may appeal a decision of a district board concerning a charter school to the State Board. If the appeal involves a refusal to participate in mediation, only the district superintendent or the charter school applicant may request an appeal under this Section.

(b) The following requirements shall apply to all hearings conducted by the State Board in accordance with this Section:

(i) Appropriate notice of the hearing shall be given to the public in accordance with the Wyoming Public Meetings Act (W.S. §§ 16-4-401 through 16-4-408);

(ii) A quorum of the State Board shall attend the hearing;

(iii) The Wyoming Administrative Procedure Act (W.S. § 16-3-101 et seq.) and Chapter 3 of the Wyoming Department of Education's Rules and Regulations governing the Practice and Procedure for Contested Cases shall apply to the hearings held in accordance with this Section; and

(iv) The proceeding, including all testimony, shall be reported verbatim stenographically or by any other means determined appropriate by the State Board or officer presiding at the hearing.

(c) Notice shall be provided to the State Board and the district board of any appeal within thirty (30) days after the decision of the district board.

(d) The notice to the State Board shall be sent in accordance with the provisions of Section 14(c) of these Rules.

(e) The State Board shall hold a public hearing within sixty (60) days after receipt of the first notice of appeal or upon the motion of the State Board.

(i) If as a result of the hearing, the State Board finds that the district board's decision was contrary to the best interests of the pupils, the school district or the community, it shall remand the decision to the district board with written instructions for reconsideration of the previous decision.

(f) Within thirty (30) days after the decision by the State Board to remand a decision to the district board, the district board shall hold a second public hearing to reconsider its decision.

(i) The hearing shall be held in accordance with the provisions of Section 10 of these Rules.

(g) If the district board's decision remains to deny, refuse to renew or revoke a charter or to unilaterally impose conditions unacceptable to the charter school applicant after the second hearing, a second notice of appeal may be filed by any person to appeal a decision of a district board concerning a charter school with the State Board within thirty (30) days of the district board's decision.

(i) The State Board shall hold a hearing within thirty (30) days following the receipt of the second notice of appeal or the making of a motion for a second review by the State

Board to determine whether the final decision of the district board was contrary to the best interests of the pupils, school district or community.

(ii) If the State Board finds a second time that the district board's decision was contrary to the best interests of the pupils, school district or community, it shall remand the final decision to the district board with instructions to approve the charter application.

(h) The decision by the State Board may require changes to the contract to be executed between the charter school applicant and the district board.