

REFERENCE TITLE: charter schools; accounting; procurement; audits

State of Arizona  
Senate  
Fifty-third Legislature  
Second Regular Session  
2018

## **SB 1309**

Introduced by  
Senators Bradley: Cajero Bedford, Contreras, Dalessandro, Farley, Hobbs,  
Mendez, Miranda, Peshlakai, Quezada

AN ACT

AMENDING SECTIONS 15-183, 15-189.02 AND 15-213, ARIZONA REVISED STATUTES;  
RELATING TO CHARTER SCHOOLS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-183, Arizona Revised Statutes, is amended to  
3 read:

4 15-183. Charter schools; application; requirements; immunity;  
5 exemptions; renewal of application; reprisal; fee;  
6 funds; annual reports

7 A. An applicant seeking to establish a charter school shall submit  
8 a written application to a proposed sponsor as prescribed in subsection C  
9 of this section. The application, application process and application  
10 time frames shall be posted on the sponsor's website and shall include the  
11 following, as specified in the application adopted by the sponsor:

- 12 1. A detailed educational plan.
- 13 2. A detailed business plan.
- 14 3. A detailed operational plan.
- 15 4. Any other materials required by the sponsor.

16 B. The sponsor of a charter school may contract with a public body,  
17 private person or private organization for the purpose of establishing a  
18 charter school pursuant to this article.

19 C. The sponsor of a charter school may be either the state board of  
20 education, the state board for charter schools, a university under the  
21 jurisdiction of the Arizona board of regents, a community college district  
22 or a group of community college districts, subject to the following  
23 requirements:

24 1. An applicant may not submit an application for sponsorship to  
25 any person or entity other than those prescribed in this subsection.

26 2. The applicant may submit the application to the state board of  
27 education or the state board for charter schools. Notwithstanding any  
28 other law, neither the state board for charter schools nor the state board  
29 of education shall grant a charter to a school district governing board  
30 for a new charter school or for the conversion of an existing district  
31 public school to a charter school. The state board of education or the  
32 state board for charter schools may approve the application if the  
33 application meets the requirements of this article and may approve the  
34 charter if the proposed sponsor determines, within its sole discretion,  
35 that the applicant is sufficiently qualified to operate a charter school  
36 and that the applicant is applying to operate as a separate charter holder  
37 by considering factors such as whether:

38 (a) The schools have separate governing bodies, governing body  
39 membership, staff, facilities and student population.

40 (b) Daily operations are carried out by different administrators.

41 (c) The applicant intends to have an affiliation agreement for the  
42 purpose of providing enrollment preferences.

43 (d) The applicant's charter management organization has multiple  
44 charter holders serving varied grade configurations on one physical site  
45 or nearby sites serving one community.

1 (e) It is reconstituting an existing school site population at the  
2 same or new site.

3 (f) It is reconstituting an existing grade configuration from a  
4 prior charter holder with at least one grade remaining on the original  
5 site with the other grade or grades moving to a new site. The state board  
6 of education or the state board for charter schools may approve any  
7 charter schools transferring charters. If the state board of education or  
8 the state board for charter schools rejects the preliminary application,  
9 the state board of education or the state board for charter schools shall  
10 notify the applicant in writing of the reasons for the rejection and of  
11 suggestions for improving the application. An applicant may submit a  
12 revised application for reconsideration by the state board of education or  
13 the state board for charter schools. The applicant may request, and the  
14 state board of education or the state board for charter schools may  
15 provide, technical assistance to improve the application.

16 3. The applicant may submit the application to a university under  
17 the jurisdiction of the Arizona board of regents, a community college  
18 district or a group of community college districts. A university, a  
19 community college district or a group of community college districts shall  
20 not grant a charter to a school district governing board for a new charter  
21 school or for the conversion of an existing district public school to a  
22 charter school. A university, a community college district or a group of  
23 community college districts may approve the application if it meets the  
24 requirements of this article and if the proposed sponsor determines, in  
25 its sole discretion, that the applicant is sufficiently qualified to  
26 operate a charter school.

27 4. Each applicant seeking to establish a charter school shall  
28 submit a full set of fingerprints to the approving agency for the purpose  
29 of obtaining a state and federal criminal records check pursuant to  
30 section 41-1750 and Public Law 92-544. If an applicant will have direct  
31 contact with students, the applicant shall possess a valid fingerprint  
32 clearance card that is issued pursuant to title 41, chapter 12,  
33 article 3.1. The department of public safety may exchange this  
34 fingerprint data with the federal bureau of investigation. The criminal  
35 records check shall be completed before the issuance of a charter.

36 5. All persons engaged in instructional work directly as a  
37 classroom, laboratory or other teacher or indirectly as a supervisory  
38 teacher, speech therapist or principal shall have a valid fingerprint  
39 clearance card that is issued pursuant to title 41, chapter 12, article  
40 3.1, unless the person is a volunteer or guest speaker who is accompanied  
41 in the classroom by a person with a valid fingerprint clearance card. A  
42 charter school shall not employ a teacher whose certificate has been  
43 surrendered or revoked, unless the teacher's certificate has been  
44 subsequently reinstated by the state board of education. All other  
45 personnel shall be fingerprint checked pursuant to section 15-512, or the

1 charter school may require those personnel to obtain a fingerprint  
2 clearance card issued pursuant to title 41, chapter 12, article 3.1.  
3 Before employment, the charter school shall make documented, good faith  
4 efforts to contact previous employers of a person to obtain information  
5 and recommendations that may be relevant to a person's fitness for  
6 employment as prescribed in section 15-512, subsection F. The charter  
7 school shall notify the department of public safety if the charter school  
8 or sponsor receives credible evidence that a person who possesses a valid  
9 fingerprint clearance card is arrested for or is charged with an offense  
10 listed in section 41-1758.03, subsection B. A person who is employed at a  
11 charter school that has met the requirements of this paragraph is not  
12 required to meet any additional requirements that are established by the  
13 department of education or that may be established by rule by the state  
14 board of education. The state board of education may not adopt rules that  
15 exceed the requirements for persons qualified to teach in charter schools  
16 prescribed in title I of the every student succeeds act (P.L. 114-95) or  
17 the individuals with disabilities education improvement act of 2004  
18 (P.L. 108-446). Charter schools may hire personnel who have not yet  
19 received a fingerprint clearance card if proof is provided of the  
20 submission of an application to the department of public safety for a  
21 fingerprint clearance card and if the charter school that is seeking to  
22 hire the applicant does all of the following:

23 (a) Documents in the applicant's file the necessity for hiring and  
24 placement of the applicant before receiving a fingerprint clearance card.

25 (b) Ensures that the department of public safety completes a  
26 statewide criminal records check on the applicant. A statewide criminal  
27 records check shall be completed by the department of public safety every  
28 one hundred twenty days until the date that the fingerprint check is  
29 completed or the fingerprint clearance card is issued or denied.

30 (c) Obtains references from the applicant's current employer and  
31 the two most recent previous employers except for applicants who have been  
32 employed for at least five years by the applicant's most recent employer.

33 (d) Provides general supervision of the applicant until the date  
34 that the fingerprint card is obtained.

35 (e) Completes a search of criminal records in all local  
36 jurisdictions outside of this state in which the applicant has lived in  
37 the previous five years.

38 (f) Verifies the fingerprint status of the applicant with the  
39 department of public safety.

40 6. A charter school that complies with the fingerprinting  
41 requirements of this section shall be deemed to have complied with section  
42 15-512 and is entitled to the same rights and protections provided to  
43 school districts by section 15-512.

44 7. If a charter school operator is not already subject to a public  
45 meeting or hearing by the municipality in which the charter school is

1 located, the operator of a charter school shall conduct a public meeting  
2 at least thirty days before the charter school operator opens a site or  
3 sites for the charter school. The charter school operator shall post  
4 notices of the public meeting in at least three different locations that  
5 are within three hundred feet of the proposed charter school site.

6 8. A person who is employed by a charter school or who is an  
7 applicant for employment with a charter school, who is arrested for or  
8 charged with a nonappealable offense listed in section 41-1758.03,  
9 subsection B and who does not immediately report the arrest or charge to  
10 the person's supervisor or potential employer is guilty of unprofessional  
11 conduct and the person shall be immediately dismissed from employment with  
12 the charter school or immediately excluded from potential employment with  
13 the charter school.

14 9. A person who is employed by a charter school and who is  
15 convicted of any nonappealable offense listed in section 41-1758.03,  
16 subsection B or is convicted of any nonappealable offense that amounts to  
17 unprofessional conduct under section 15-550 shall immediately do all of  
18 the following:

19 (a) Surrender any certificates issued by the department of  
20 education.

21 (b) Notify the person's employer or potential employer of the  
22 conviction.

23 (c) Notify the department of public safety of the conviction.

24 (d) Surrender the person's fingerprint clearance card.

25 D. An entity that is authorized to sponsor charter schools pursuant  
26 to this article has no legal authority over or responsibility for a  
27 charter school sponsored by a different entity. This subsection does not  
28 apply to the state board of education's duty to exercise general  
29 supervision over the public school system pursuant to section 15-203,  
30 subsection A, paragraph 1.

31 E. The charter of a charter school shall do all of the following:

32 1. Ensure compliance with federal, state and local rules,  
33 regulations and statutes relating to health, safety, civil rights and  
34 insurance. The department of education shall publish a list of relevant  
35 rules, regulations and statutes to notify charter schools of their  
36 responsibilities under this paragraph.

37 2. Ensure that it is nonsectarian in its programs, admission  
38 policies and employment practices and all other operations.

39 3. Ensure that it provides a comprehensive program of instruction  
40 for at least a kindergarten program or any grade between grades one and  
41 twelve, except that a school may offer this curriculum with an emphasis on  
42 a specific learning philosophy or style or certain subject areas such as  
43 mathematics, science, fine arts, performance arts or foreign language.

44 4. Ensure that it designs a method to measure pupil progress toward  
45 the pupil outcomes adopted by the state board of education pursuant to

1 section 15-741.01, including participation in the statewide assessment and  
2 the nationally standardized norm-referenced achievement test as designated  
3 by the state board and the completion and distribution of an annual report  
4 card as prescribed in chapter 7, article 3 of this title.

5 5. Ensure that, except as provided in this article and in its  
6 charter, it is exempt from all statutes and rules relating to schools,  
7 governing boards and school districts.

8 6. Ensure that, except as provided in this article, it is subject  
9 to the same financial and electronic data submission requirements as a  
10 school district, including the uniform system of financial records as  
11 prescribed in chapter 2, article 4 of this title, procurement rules as  
12 prescribed in section 15-213 and audit requirements. The auditor general  
13 shall conduct a comprehensive review and revision of the uniform system of  
14 financial records to ensure that the provisions of the uniform system of  
15 financial records that relate to charter schools are in accordance with  
16 commonly accepted accounting principles used by private business.

17 ~~A school's charter may include exceptions to the requirements of this~~  
18 ~~paragraph that are necessary as determined by the university, the~~  
19 ~~community college district, the group of community college districts, the~~  
20 ~~state board of education or the state board for charter schools. The~~  
21 ~~department of education or the office of the auditor general may conduct~~  
22 ~~financial, program or compliance audits.~~ NOTWITHSTANDING SECTION 15-213  
23 OR ANY OTHER LAW, THE STATE BOARD FOR CHARTER SCHOOLS SHALL PRESCRIBE AN  
24 ABBREVIATED AUDIT PROCESS FOR CHARTER SCHOOLS WITH A STUDENT COUNT OF  
25 FEWER THAN TWO HUNDRED.

26 7. Ensure compliance with all federal and state laws relating to  
27 the education of children with disabilities in the same manner as a school  
28 district.

29 8. Ensure that it provides for a governing body for the charter  
30 school that is responsible for the policy decisions of the charter school.  
31 Notwithstanding section 1-216, if there is a vacancy or vacancies on the  
32 governing body, a majority of the remaining members of the governing body  
33 constitute a quorum for the transaction of business, unless that quorum is  
34 prohibited by the charter school's operating agreement.

35 9. Ensure that it provides a minimum of one hundred eighty  
36 instructional days before June 30 of each fiscal year unless it is  
37 operating on an alternative calendar approved by its sponsor. The  
38 superintendent of public instruction shall adjust the apportionment  
39 schedule accordingly to accommodate a charter school utilizing an  
40 alternative calendar.

41 F. A charter school shall keep in the personnel file of all current  
42 employees who provide instruction to pupils at the charter school  
43 information about the employee's educational and teaching background and  
44 experience in a particular academic content subject area. A charter  
45 school shall inform parents and guardians of the availability of the

1 information and shall make the information available for inspection on  
2 request of parents and guardians of pupils enrolled at the charter school.  
3 This subsection does not require any charter school to release personally  
4 identifiable information in relation to any teacher or employee, including  
5 the teacher's or employee's address, salary, social security number or  
6 telephone number.

7 G. The charter of a charter school may be amended at the request of  
8 the governing body of the charter school and on the approval of the  
9 sponsor.

10 H. Charter schools may contract, sue and be sued.

11 I. The charter is effective for fifteen years from the first day of  
12 the fiscal year as specified in the charter, subject to the following:

13 1. At least eighteen months before the expiration of the charter,  
14 the sponsor shall notify the charter school that the charter school may  
15 apply for renewal and shall make the renewal application available to the  
16 charter school. A charter school that elects to apply for renewal shall  
17 file a complete renewal application at least fifteen months before the  
18 expiration of the charter. A sponsor shall give written notice of its  
19 intent not to renew the charter school's request for renewal to the  
20 charter school at least twelve months before the expiration of the  
21 charter. The sponsor shall make data used in making renewal decisions  
22 available to the school and the public and shall provide a public report  
23 summarizing the evidence basis for each decision. The sponsor may deny  
24 the request for renewal if, in its judgment, the charter holder has failed  
25 to do any of the following:

26 (a) Meet or make sufficient progress toward the academic  
27 performance expectations set forth in the performance framework.

28 (b) Meet the operational performance expectations set forth in the  
29 performance framework or any improvement plans.

30 (c) Complete the obligations of the contract.

31 (d) Comply with this article or any provision of law from which the  
32 charter school is not exempt.

33 2. A charter operator may apply for early renewal. At least nine  
34 months before the charter school's intended renewal consideration, the  
35 operator of the charter school shall submit a letter of intent to the  
36 sponsor to apply for early renewal. The sponsor shall review fiscal  
37 audits and academic performance data for the charter school that are  
38 annually collected by the sponsor, review the current contract between the  
39 sponsor and the charter school and provide the qualifying charter school  
40 with a renewal application. On submission of a complete application, the  
41 sponsor shall give written notice of its consideration of the renewal  
42 application. The sponsor may deny the request for early renewal if, in  
43 the sponsor's judgment, the charter holder has failed to do any of the  
44 following:

1 (a) Meet or make sufficient progress toward the academic  
2 performance expectations set forth in the performance framework.

3 (b) Meet the operational performance expectations set forth in the  
4 performance framework or any improvement plans.

5 (c) Complete the obligations of the contract.

6 (d) Comply with this article or any provision of law from which the  
7 charter school is not exempt.

8 3. A sponsor shall review a charter at five-year intervals using a  
9 performance framework adopted by the sponsor and may revoke a charter at  
10 any time if the charter school breaches one or more provisions of its  
11 charter or if the sponsor determines that the charter holder has failed to  
12 do any of the following:

13 (a) Meet or make sufficient progress toward the academic  
14 performance expectations set forth in the performance framework.

15 (b) Meet the operational performance expectations set forth in the  
16 performance framework or any improvement plans.

17 (c) Comply with this article or any provision of law from which the  
18 charter school is not exempt.

19 4. In determining whether to renew or revoke a charter holder, the  
20 sponsor must consider making sufficient progress toward the academic  
21 performance expectations set forth in the sponsor's performance framework  
22 as one of the most important factors.

23 5. At least sixty days before the effective date of the proposed  
24 revocation, the sponsor shall give written notice to the operator of the  
25 charter school of its intent to revoke the charter. Notice of the  
26 sponsor's intent to revoke the charter shall be delivered personally to  
27 the operator of the charter school or sent by certified mail, return  
28 receipt requested, to the address of the charter school. The notice shall  
29 incorporate a statement of reasons for the proposed revocation of the  
30 charter. The sponsor shall allow the charter school at least sixty days  
31 to correct the problems associated with the reasons for the proposed  
32 revocation of the charter. The final determination of whether to revoke  
33 the charter shall be made at a public hearing called for such purpose.

34 J. The charter may be renewed for successive periods of twenty  
35 years.

36 K. A charter school that is sponsored by the state board of  
37 education, the state board for charter schools, a university, a community  
38 college district or a group of community college districts may not be  
39 located on the property of a school district unless the district governing  
40 board grants this authority.

41 L. A governing board or a school district employee who has control  
42 over personnel actions shall not take unlawful reprisal against another  
43 employee of the school district because the employee is directly or  
44 indirectly involved in an application to establish a charter school. A  
45 governing board or a school district employee shall not take unlawful



1 reprisal against an educational program of the school or the school  
2 district because an application to establish a charter school proposes the  
3 conversion of all or a portion of the educational program to a charter  
4 school. For the purposes of this subsection, "unlawful reprisal" means an  
5 action that is taken by a governing board or a school district employee as  
6 a direct result of a lawful application to establish a charter school and  
7 that is adverse to another employee or an education program and:

8 1. With respect to a school district employee, results in one or  
9 more of the following:

- 10 (a) Disciplinary or corrective action.
- 11 (b) Detail, transfer or reassignment.
- 12 (c) Suspension, demotion or dismissal.
- 13 (d) An unfavorable performance evaluation.
- 14 (e) A reduction in pay, benefits or awards.
- 15 (f) Elimination of the employee's position without a reduction in  
16 force by reason of lack of monies or work.
- 17 (g) Other significant changes in duties or responsibilities that  
18 are inconsistent with the employee's salary or employment classification.

19 2. With respect to an educational program, results in one or more  
20 of the following:

- 21 (a) Suspension or termination of the program.
- 22 (b) Transfer or reassignment of the program to a less favorable  
23 department.
- 24 (c) Relocation of the program to a less favorable site within the  
25 school or school district.
- 26 (d) Significant reduction or termination of funding for the  
27 program.

28 M. Charter schools shall secure insurance for liability and  
29 property loss. The governing body of a charter school that is sponsored  
30 by the state board of education or the state board for charter schools may  
31 enter into an intergovernmental agreement or otherwise contract to  
32 participate in an insurance program offered by a risk retention pool  
33 established pursuant to section 11-952.01 or 41-621.01 or the charter  
34 school may secure its own insurance coverage. The pool may charge the  
35 requesting charter school reasonable fees for any services it performs in  
36 connection with the insurance program.

37 N. Charter schools do not have the authority to acquire property by  
38 eminent domain.

39 O. A sponsor, including members, officers and employees of the  
40 sponsor, is immune from personal liability for all acts done and actions  
41 taken in good faith within the scope of its authority.

42 P. Charter school sponsors and this state are not liable for the  
43 debts or financial obligations of a charter school or persons who operate  
44 charter schools.

1 Q. The sponsor of a charter school shall establish procedures to  
2 conduct administrative hearings on determination by the sponsor that  
3 grounds exist to revoke a charter. Procedures for administrative hearings  
4 shall be similar to procedures prescribed for adjudicative proceedings in  
5 title 41, chapter 6, article 10. Except as provided in section  
6 41-1092.08, subsection H, final decisions of the state board of education  
7 and the state board for charter schools from hearings conducted pursuant  
8 to this subsection are subject to judicial review pursuant to title 12,  
9 chapter 7, article 6.

10 R. The sponsoring entity of a charter school shall have oversight  
11 and administrative responsibility for the charter schools that it  
12 sponsors. In implementing its oversight and administrative  
13 responsibilities, the sponsor shall ground its actions in evidence of the  
14 charter holder's performance in accordance with the performance framework  
15 adopted by the sponsor. The performance framework shall be publicly  
16 available, shall be placed on the sponsoring entity's website and shall  
17 include:

18 1. The academic performance expectations of the charter school and  
19 the measurement of sufficient progress toward the academic performance  
20 expectations.

21 2. The operational expectations of the charter school, including  
22 adherence to all applicable laws and obligations of the charter contract.

23 3. Intervention and improvement policies.

24 S. Charter schools may pledge, assign or encumber their assets to  
25 be used as collateral for loans or extensions of credit.

26 T. All property accumulated by a charter school shall remain the  
27 property of the charter school.

28 U. Charter schools may not locate a school on property that is less  
29 than one-fourth mile from agricultural land regulated pursuant to section  
30 3-365, except that the owner of the agricultural land may agree to comply  
31 with the buffer zone requirements of section 3-365. If the owner agrees  
32 in writing to comply with the buffer zone requirements and records the  
33 agreement in the office of the county recorder as a restrictive covenant  
34 running with the title to the land, the charter school may locate a school  
35 within the affected buffer zone. The agreement may include any  
36 stipulations regarding the charter school, including conditions for future  
37 expansion of the school and changes in the operational status of the  
38 school that will result in a breach of the agreement.

39 V. A transfer of a charter to another sponsor, a transfer of a  
40 charter school site to another sponsor or a transfer of a charter school  
41 site to a different charter shall be completed before the beginning of the  
42 fiscal year that the transfer is scheduled to become effective. An entity  
43 that sponsors charter schools may accept a transferring school after the  
44 beginning of the fiscal year if the transfer is approved by the  
45 superintendent of public instruction. The superintendent of public

1 instruction shall have the discretion to consider each transfer during the  
2 fiscal year on a case-by-case basis. A charter holder seeking to transfer  
3 sponsors shall comply with the current charter terms regarding assignment  
4 of the charter. A charter holder transferring sponsors shall notify the  
5 current sponsor that the transfer has been approved by the new sponsor.

6 W. Notwithstanding subsection V of this section, a charter holder  
7 on an improvement plan must notify parents or guardians of registered  
8 students of the intent to transfer the charter and the timing of the  
9 proposed transfer. On the approved transfer, the new sponsor shall  
10 enforce the improvement plan but may modify the plan based on performance.

11 X. Notwithstanding subsection Y of this section, the state board  
12 for charter schools shall charge a processing fee to any charter school  
13 that amends its contract to participate in Arizona online instruction  
14 pursuant to section 15-808. The charter Arizona online instruction  
15 processing fund is established consisting of fees collected and  
16 administered by the state board for charter schools. The state board for  
17 charter schools shall use monies in the fund only for the processing of  
18 contract amendments for charter schools participating in Arizona online  
19 instruction. Monies in the fund are continuously appropriated.

20 Y. The sponsoring entity may not charge any fees to a charter  
21 school that it sponsors unless the sponsor has provided services to the  
22 charter school and the fees represent the full value of those services  
23 provided by the sponsor. On request, the value of the services provided  
24 by the sponsor to the charter school shall be demonstrated to the  
25 department of education.

26 Z. Charter schools may enter into an intergovernmental agreement  
27 with a presiding judge of the juvenile court to implement a law-related  
28 education program as defined in section 15-154. The presiding judge of  
29 the juvenile court may assign juvenile probation officers to participate  
30 in a law-related education program in any charter school in the county.  
31 The cost of juvenile probation officers who participate in the program  
32 implemented pursuant to this subsection shall be funded by the charter  
33 school.

34 AA. The sponsor of a charter school shall modify previously  
35 approved curriculum requirements for a charter school that wishes to  
36 participate in the board examination system prescribed in chapter 7,  
37 article 6 of this title.

38 BB. If a charter school decides not to participate in the board  
39 examination system prescribed in chapter 7, article 6 of this title,  
40 pupils enrolled at that charter school may earn a Grand Canyon diploma by  
41 obtaining a passing score on the same board examinations.

42 CC. Notwithstanding subsection Y of this section, a sponsor of  
43 charter schools may charge a new charter application processing fee to any  
44 applicant. The application fee shall fully cover the cost of application  
45 review and any needed technical assistance. Authorizers may approve

1 policies that allow a portion of the fee to be returned to the applicant  
2 whose charter is approved.

3 DD. A charter school may choose to provide a preschool program for  
4 children with disabilities pursuant to section 15-771.

5 EE. Pursuant to the prescribed graduation requirements adopted by  
6 the state board of education, the governing body of a charter school  
7 operating a high school may approve a rigorous computer science course  
8 that would fulfill a mathematics course required for graduation from high  
9 school. The governing body may approve a rigorous computer science course  
10 only if the rigorous computer science course includes significant  
11 mathematics content and the governing body determines the high school  
12 where the rigorous computer science course is offered has sufficient  
13 capacity, infrastructure and qualified staff, including competent teachers  
14 of computer science.

15 FF. A charter school may permit the use of school property,  
16 including school buildings, grounds, buses and equipment, by any person,  
17 group or organization for any lawful purpose, including a recreational,  
18 educational, political, economic, artistic, moral, scientific, social,  
19 religious or other civic or governmental purpose. The charter school may  
20 charge a reasonable fee for the use of the school property.

21 GG. A charter school and its employees, including the governing  
22 body, or chief administrative officer, are immune from civil liability  
23 with respect to all decisions made and actions taken to allow the use of  
24 school property, unless the charter school or its employees are guilty of  
25 gross negligence or intentional misconduct. This subsection does not  
26 limit any other immunity provisions that are prescribed by law.

27 HH. Sponsors authorized pursuant to this section shall submit an  
28 annual report to the auditor general on or before October 1. The report  
29 shall include:

30 1. The current number of charters authorized and the number of  
31 schools operated by authorized charter holders.

32 2. The academic and operational performance of the sponsor's  
33 charter portfolio as measured by the sponsor's adopted performance  
34 framework.

35 3. For the prior year, the number of new charters approved, the  
36 number of charter schools closed and the reason for the closure.

37 4. The sponsor's application, amendment, renewal and revocation  
38 processes, charter contract template and current performance framework as  
39 required by this section.

40 II. The auditor general shall prescribe the format for the annual  
41 report required by subsection HH of this section and may require that the  
42 annual report be submitted electronically. The auditor general shall  
43 review the submitted annual reports to ensure that the reports include the  
44 required items in subsection HH of this section and shall make the annual  
45 reports available on request. If the auditor general finds significant

1 noncompliance or if a sponsor fails to submit the annual report required  
2 by subsection HH of this section, on or before December 31 of each year  
3 the auditor general shall report to the governor, the president of the  
4 senate, the speaker of the house of representatives and the chairs of the  
5 senate and house education committees or their successor committees, and  
6 the legislature shall consider revoking the sponsor's authority to sponsor  
7 charter schools.

8 Sec. 2. Section 15-189.02, Arizona Revised Statutes, is amended to  
9 read:

10 15-189.02. Charter schools; public bidding

11 ~~A. A charter school's procurement is exempt from SUBJECT TO THE~~  
12 ~~SAME COMPETITIVE public bidding requirements if the aggregate dollar~~  
13 ~~amount of the procurement does not exceed the maximum amount of the~~  
14 ~~exemption authorized by title 41, chapter 23 or pursuant to rules adopted~~  
15 ~~by the director of the department of administration AS SCHOOL DISTRICTS.~~

16 ~~B. Notwithstanding subsection A, the state board for charter~~  
17 ~~schools may authorize an exemption from public bidding requirements that~~  
18 ~~exceeds the maximum exemption prescribed in subsection A of this section~~  
19 ~~for any charter school sponsored by the state board for charter schools.~~

20 Sec. 3. Section 15-213, Arizona Revised Statutes, is amended to  
21 read:

22 15-213. Procurement practices of school districts and charter  
23 schools; definitions

24 A. The state board of education shall adopt rules prescribing  
25 procurement practices for all school districts in this state as follows:

26 1. The state board shall submit to the auditor general proposed  
27 rules consistent with the procurement practices prescribed in title 41,  
28 chapter 23, modifying the provisions for public notice of invitation for  
29 bids, requests for proposals and requests for qualifications to allow a  
30 governing board to give public notice of the invitation for bids, requests  
31 for proposals and requests for qualifications by publication in the  
32 official newspaper of the county as ~~defined~~ PRESCRIBED in section 11-255,  
33 modifying the provisions relating to disposal of materials to comply with  
34 section 15-342, paragraph 18, providing for governing board delegation of  
35 procurement authority and modifying as necessary other provisions that the  
36 state board determines are not appropriate for school districts. The  
37 rules shall include provisions specifying that school districts are not  
38 required to engage in competitive bidding in order to make the decision to  
39 participate in programs pursuant to section 15-382 and that a program  
40 authorized by section 15-382 is not required to engage in competitive  
41 bidding for the services necessary to administer the program or for  
42 purchase of insurance or reinsurance. The rules shall include provisions  
43 specifying that school districts are not required to engage in competitive  
44 bidding in order to place a pupil in a private school that provides  
45 special education services if such placement is prescribed in the pupil's

1 individualized education program and the private school has been approved  
2 by the department of education division of special education pursuant to  
3 section 15-765, subsection D. This placement is not subject to rules  
4 adopted by the state board of education before November 24, 2009 pursuant  
5 to this section. The rules for procurement of construction projects shall  
6 include provisions specifying that surety bonds furnished as bid security  
7 and performance and payment bonds shall be executed and furnished as  
8 required by title 34, chapter 2 or 6, as applicable. The rules shall  
9 specify the total cost of a procurement that is subject to invitations for  
10 bids, requests for proposals and requests for clarification, using the  
11 aggregate dollar amount limits for procurements prescribed in section  
12 41-2535.

13 2. The state board of education shall adopt rules for procurements  
14 involving construction not exceeding one hundred fifty thousand dollars,  
15 which shall be known as the simplified school construction procurement  
16 program. At a minimum, the rules for a simplified construction  
17 procurement program shall require that:

18 (a) A list be maintained by each county school superintendent of  
19 persons who desire to receive solicitations to bid on construction  
20 projects to which additions shall be permitted throughout the year.

21 (b) The list of persons be available for public inspection.

22 (c) A performance bond and a payment bond as required by this  
23 section be provided for contracts for construction by contractors.

24 (d) All bids for construction be opened at a public opening and the  
25 bids shall remain confidential until the public opening.

26 (e) All persons desiring to submit bids be treated equitably and  
27 the information related to each project be available to all eligible  
28 persons.

29 (f) Competition for construction projects under the simplified  
30 school construction procurement program be encouraged to the maximum  
31 extent possible. At a minimum, a school district shall submit information  
32 on each project to all persons listed with the county school  
33 superintendent by any school district within that county.

34 (g) A provision, covenant, clause or understanding in, collateral  
35 to or affecting a construction contract that makes the contract subject to  
36 the laws of another state or that requires any litigation, arbitration or  
37 other dispute resolution proceeding arising from the contract to be  
38 conducted in another state is against this state's public policy and is  
39 void and unenforceable.

40 3. The state board of education shall adopt rules for the  
41 procurement of goods and information services by school districts and  
42 charter schools using electronic, online bidding. The rules adopted by  
43 the state board shall include the use of reverse auctions and shall be  
44 consistent with the procurement practices prescribed in title 41, chapter  
45 23, article 13, modifying as necessary those provisions and the rules

1 adopted pursuant to that article that the state board determines are not  
2 appropriate for school districts and charter schools. Until the rules are  
3 adopted, school districts and charter schools may procure goods and  
4 information services pursuant to title 41, chapter 23, article 13 using  
5 the rules adopted by the department of administration in implementing that  
6 article.

7 4. The auditor general shall review the proposed rules to determine  
8 whether the rules are consistent with the procurement practices prescribed  
9 in title 41, chapter 23 and any modifications are required to adapt the  
10 procedures for school districts.

11 5. If the auditor general approves the proposed rules, the auditor  
12 general shall notify the state board in writing and the state board shall  
13 adopt such rules.

14 6. If the auditor general objects to the proposed rules, the  
15 auditor general shall notify the state board of the objections in writing  
16 and the state board, in adopting the rules, shall conform the proposed  
17 rules to meet the objections of the auditor general or revise the proposed  
18 rules to which an objection has been made and submit the revisions to the  
19 auditor general for approval.

20 B. After the bids submitted in response to an invitation for bids  
21 are opened and the award is made or after the proposals or qualifications  
22 are submitted in response to a request for proposals or a request for  
23 qualifications and the award is made, the governing board shall make  
24 available for public inspection all information, all bids, proposals and  
25 qualifications submitted and all findings and other information considered  
26 in determining whose bid conforms to the invitation for bids and will be  
27 the most advantageous with respect to price, conformity to the  
28 specifications and other factors or whose proposal or qualifications are  
29 to be selected for the award. The invitation for bids, request for  
30 proposals or request for qualifications shall include a notice that all  
31 information and bids, proposals and qualifications submitted will be made  
32 available for public inspection. The rules adopted by the state board  
33 shall prohibit the use in connection with procurement of specifications in  
34 any way proprietary to one supplier unless the specification includes all  
35 of the following:

36 1. A statement of the reasons why no other specification is  
37 practicable.

38 2. A description of the essential characteristics of the specified  
39 product.

40 3. A statement specifically permitting an acceptable alternative  
41 product to be supplied.

42 C. No project or purchase may be divided or sequenced into separate  
43 projects or purchases in order to avoid the limits prescribed by the state  
44 board under subsection A of this section.

1 D. A contract for the procurement of construction or construction  
2 services shall include a provision that provides for negotiations between  
3 the school district and the contractor for the recovery of damages related  
4 to expenses incurred by the contractor for a delay for which the school  
5 district is responsible, that is unreasonable under the circumstances and  
6 that was not within the contemplation of the parties to the contract.  
7 This subsection shall not be construed to void any provision in the  
8 contract that requires notice of delays, provides for arbitration or any  
9 other procedure for settlement or provides for liquidated damages.

10 E. The auditor general may conduct discretionary reviews,  
11 investigations and audits of the financial and operational procurement  
12 activities of school districts, ~~nonexempt~~ charter schools and school  
13 purchasing cooperatives. The auditor general has final review and  
14 approval authority over all school district, ~~nonexempt~~ charter school and  
15 school purchasing cooperative audit contracts and any audit reports issued  
16 in accordance with this section.

17 F. In addition to the requirements of sections 15-914 and  
18 15-914.01, school districts, ~~nonexempt~~ charter schools and school  
19 purchasing cooperatives, in connection with any audit conducted by a  
20 certified public accountant, shall contract for a systematic review of  
21 purchasing practices using methodology consistent with sampling guidelines  
22 established by the auditor general. The auditor general shall consider  
23 cost when establishing guidelines pursuant to this subsection and to the  
24 extent possible shall attempt to minimize the cost of the review. The  
25 purpose of the review is to determine whether the school district,  
26 ~~nonexempt~~ charter school or school purchasing cooperative is in compliance  
27 with the procurement laws and applicable procurement rules of this state.  
28 A copy of the review shall be submitted on completion to the auditor  
29 general. The auditor general may conduct discretionary reviews of school  
30 districts, ~~nonexempt~~ charter schools and school purchasing cooperatives  
31 not required to contract for independent audits.

32 G. The attorney general or county attorney has jurisdiction to  
33 enforce this section. The attorney general or county attorney may seek  
34 relief for any violation of this section through an appropriate civil or  
35 criminal action in superior court, including an action to enjoin a  
36 threatened or pending violation of this section and including an action to  
37 enforce compliance with any request for documents made by the auditor  
38 general pursuant to this section.

39 H. The department of education shall enact policies and procedures  
40 for the acceptance and disposition of complaints from the public regarding  
41 school procurement practices and shall forward all school procurement  
42 complaints to the attorney general. Notwithstanding rules adopted by the  
43 state board, school districts shall not be required to prepare or submit  
44 an annual report on the benefits associated with the use of



1 construction-manager-at-risk, design-build, qualified select bidders list  
2 and job-order-contracting methods.

3 I. The state board of education shall adopt, and the auditor  
4 general shall review, rules authorizing school districts to procure  
5 construction services by construction-manager-at-risk, design-build,  
6 qualified select bidders list and job-order-contracting methods of project  
7 delivery. The rules shall not require school districts to obtain bid  
8 security for the construction-manager-at-risk method of project delivery.

9 J. A school district or charter school may evaluate United States  
10 general services administration contracts for materials and services. The  
11 governing board or governing body may authorize purchases under a current  
12 contract for materials or services without complying with the requirements  
13 of the procurement rules adopted by the state board of education if the  
14 governing board or governing body determines in writing that all of the  
15 following apply:

16 1. The price for materials or services is equal to or less than the  
17 contractor's current federal supply contract price with the general  
18 services administration.

19 2. The contractor has indicated in writing that the contractor is  
20 willing to extend the current federal supply contract pricing, terms and  
21 conditions to the school district or charter school.

22 3. The purchase order adequately identifies the federal supply  
23 contract on which the order is based.

24 4. The purchase contract is cost effective and is in the best  
25 interests of the school district or charter school.

26 K. Unless otherwise provided by law, multiterm contracts for  
27 materials or services and contracts for job-order-contracting construction  
28 services may be entered into if the duration of the contract and the  
29 conditions of renewal or extension, if any, are included in the invitation  
30 for bids or the request for proposals and if monies are available for the  
31 first fiscal period at the time the contract is executed. The duration of  
32 contracts for materials or services and contracts for  
33 job-order-contracting construction services shall be limited to no more  
34 than five years unless the governing board determines in writing before  
35 the procurement solicitation is issued that a contract of longer duration  
36 would be advantageous to the school district. Payment and performance  
37 obligations for succeeding fiscal periods are subject to the availability  
38 and appropriation of monies.

39 L. Notwithstanding the rules adopted by the state board of  
40 education, the maximum dollar amount of an individual job order for  
41 job-order-contracting construction services shall be one million dollars  
42 or a higher or lower amount prescribed by the governing board in a policy  
43 adopted in a public meeting held pursuant to title 38, chapter 3,  
44 article 3.1. Requirements shall not be artificially divided or fragmented

1 in order to constitute a job order that satisfies the requirements of this  
2 subsection.

3 M. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE RULES ADOPTED  
4 BY THE STATE BOARD OF EDUCATION FOR CHARTER SCHOOLS SHALL INCLUDE THE SAME  
5 REQUIREMENTS PRESCRIBED IN SECTION 41-2533.

6 N. ANY PROCUREMENT CONTRACT EXECUTED BETWEEN A CHARTER SCHOOL AND  
7 ANOTHER PERSON OR ENTITY IS A PUBLIC RECORD THAT IS SUBJECT TO TITLE 39,  
8 CHAPTER 1, ARTICLE 2 WHEN THE CONTRACT IS EXECUTED.

9 ~~M.~~ 0. For the purposes of this section:

10 ~~1. "Nonexempt charter school" means a charter school that is not~~  
11 ~~exempted from procurement laws pursuant to section 15-183, subsection E,~~  
12 ~~paragraph 6.~~

13 ~~2.~~ 1. "School purchasing cooperative" means an entity engaged in  
14 cooperative purchasing as defined in section 41-2631.

15 ~~3.~~ 2. "Total cost" means the cost of all materials and services,  
16 including the cost of labor performed by employees of the school district,  
17 for all construction as provided in subsection A of this section.