

IN THE SENATE

SENATE BILL NO. 1291, As Amended

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5206, IDAHO CODE,
2 TO PROVIDE FOR CERTAIN ALTERNATIVE CERTIFICATION METHODS FOR TEACHERS;
3 AMENDING SECTION 33-5209C, IDAHO CODE, TO PROVIDE A CORRECT CODE REFER-
4 ENCE; AMENDING SECTION 33-5210, IDAHO CODE, TO PROVIDE A CORRECT CODE
5 REFERENCE; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 33-5206, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 33-5206. REQUIREMENTS AND PROHIBITIONS OF A PUBLIC CHARTER
11 SCHOOL. (1) In addition to any other requirements imposed in this chapter, a
12 public charter school shall be nonsectarian in its programs, affiliations,
13 admission policies, employment practices, and all other operations, shall
14 not charge tuition, levy taxes or issue bonds, and shall not discriminate
15 against any student on any basis prohibited by the federal or state constitu-
16 tion or any federal, state or local law. Public charter schools shall comply
17 with the federal individuals with disabilities education act. Admission to
18 a public charter school shall not be determined according to the place of
19 residence of the student, or of the student's parent or guardian within the
20 district, except that a new replication or conversion public charter school
21 established under the provisions of this chapter shall adopt and maintain a
22 policy giving admission preference to students who reside within the con-
23 tiguous and compact primary attendance area of that public charter school.

24 (2) No board of trustees shall require any employee of the school dis-
25 trict to be involuntarily assigned to work in a public charter school.

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

32 (4) Employment of charter school teachers and administrators shall be
33 on written contract conditioned upon a valid certificate being held by such
34 professional personnel at the time of entering upon the duties thereunder.

35 (5) Administrators may be certified pursuant to the requirements set
36 forth in chapter 12, title 33, Idaho Code, pertaining to traditional public
37 schools, or may hold a charter school administrator certificate. An appli-
38 cant is eligible for a charter school administrator certificate if the ap-
39 plicant:

40 (a) Holds a bachelor's degree from an accredited four (4) year institu-
41 tion;

1 (b) Submits to a criminal history check as described in section 33-130,
2 Idaho Code;

3 (c) Completes a course consisting of a minimum of three (3) semester
4 credits in the statewide framework for teacher evaluations, which shall
5 include a laboratory component;

6 (d) Submits a letter from a charter school board of directors stating
7 that the board of directors has carefully considered the applicant's
8 candidacy, has chosen to hire the applicant, and is committed to over-
9 seeing the applicant's performance; and

10 (e) Has one (1) or more of the following:

11 (i) Five (5) or more years of experience administering a public
12 charter school;

13 (ii) A post-baccalaureate degree and a minimum of five (5) years
14 of experience in school administration, public administration,
15 business administration, or military administration;

16 (iii) Successful completion of a nationally recognized charter
17 school leaders fellowship; or

18 (iv) Five (5) or more years of teaching experience and a commit-
19 ment from an administrator at a charter school in academic, opera-
20 tional, and financial good standing according to its authorizer's
21 most recent review to mentor the applicant for a minimum of one (1)
22 year.

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

29 (6) Charter school teachers may be certified pursuant to the require-
30 ments set forth in chapter 12, title 33, Idaho Code, pertaining to tradi-
31 tional public school districts, or may hold a charter school-specific teach-
32 ing certificate. A charter school-specific teaching certificate shall be
33 valid only for teachers teaching at a public charter school.

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

38 (i) Hold a bachelor's degree from an accredited institution; or

39 (ii) If instructing students in the fields of career technical ed-
40 ucation, satisfy the provisions of section 33-2205(6) (a), Idaho
41 Code.

42 (b) Teachers with a charter school-specific teaching certificate shall
43 receive mentoring and professional development as approved by the char-
44 ter school board of directors. The charter school board of directors
45 may impose additional requirements.

46 (c) The state board of education shall issue charter school-specific
47 teaching certificates to teachers upon recommendation of the individ-
48 ual charter school, unless denied on the grounds set forth in section
49 33-1208, Idaho Code.

1 (d) Charter school-specific teaching certificates shall not be trans-
2 ferable to a traditional public school district, but may be transfer-
3 able to another public charter school at the election of the subsequent
4 public charter school.

5 (e) For teachers holding a charter school-specific teaching certifi-
6 cate, a charter school may substitute its own ongoing education and pro-
7 fessional development requirements in place of those set forth in rule
8 by the state board of education if the same number of credit hours is
9 required as that of teachers holding a standard instructional certifi-
10 cate.

11 (57) No board of trustees shall require any student enrolled in the
12 school district to attend a public charter school.

13 (68) Authorized chartering entities may establish reasonable
14 pre-opening requirements or conditions to monitor the start-up progress of
15 newly approved public charter schools and ensure that they are prepared to
16 open smoothly on the date agreed, and to ensure that each school meets all
17 building, health, safety, insurance and other legal requirements for school
18 opening.

19 (79) Each public charter school shall annually submit the audit of its
20 fiscal operations to the authorized chartering entity.

21 (810) A public charter school or the authorized chartering entity may
22 enter into negotiations to revise a charter or performance certificate at
23 any time. If a public charter school petitions to revise its charter or
24 performance certificate, the authorized chartering entity's review of the
25 revised petition shall be limited in scope solely to the proposed revisions.
26 Except for public charter schools authorized by a school district board of
27 trustees, when a non-virtual public charter school submits a proposed char-
28 ter revision to its authorized chartering entity and such revision includes
29 a proposal to increase such public charter school's approved student enroll-
30 ment cap by ten percent (10%) or more, the authorized chartering entity shall
31 hold a public hearing on such petition. The authorized chartering entity
32 shall provide the board of the local school district in which the public
33 charter school is physically located notice in writing of such hearing no
34 later than thirty (30) days prior to the hearing. The public hearing shall
35 include any oral or written comments that an authorized representative of
36 the school district in which the public charter school is physically located
37 may provide regarding the impact of the proposed charter revision upon the
38 school district. Such public hearing shall also include any oral or written
39 comments that any petitioner may provide regarding the impact of the pro-
40 posed charter revision upon such school district.

41 (911) When a charter is nonrenewed pursuant to the provisions of sec-
42 tion 33-5209B, Idaho Code, revoked pursuant to section 33-5209C, Idaho Code,
43 or the board of directors of the public charter school terminates the char-
44 ter, the assets of the public charter school remaining after all debts of the
45 public charter school have been satisfied must be returned to the authorized
46 chartering entity for distribution in accordance with applicable law.

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

49 (a) Educational services providers, whether for-profit or nonprofit,
50 shall be third-party entities separate from the public charter schools

1 with which they contract. Educational services providers shall not be
2 considered governmental entities.

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

11 (c) Public charter school board of director members shall annually dis-
12 close any existing and potential conflicts of interest, pecuniary or
13 otherwise, with affiliated educational services providers.

14 (d) Charter holders shall retain responsibility for academic, fiscal
15 and organizational operations and outcomes of the school and may not re-
16 linquish this responsibility to any other entity.

17 (e) Contracts must ensure that school boards retain the right to termi-
18 nate the contract for failure to meet defined performance standards.

19 (f) Contracts must ensure that assets purchased by educational ser-
20 vices providers on behalf of the school, using public funds, shall
21 remain assets of the school. The provisions of this paragraph shall
22 not prevent educational services providers from acquiring assets using
23 revenue acquired through management fees.

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

31 (h) Charter holders must ensure that their facility contracts are sepa-
32 rate from any and all management contracts.

33 (i) Prior to approval of the charter petition indicating the school
34 board's intention to contract with an educational services provider,
35 authorized chartering entities shall conduct a thorough evaluation of
36 the academic, financial and organizational outcomes of other schools
37 that have contracted with the educational services provider and evi-
38 dence of the educational services provider's capacity to successfully
39 grow the public charter school while maintaining quality management and
40 instruction in existing schools.

41 (~~11~~3) Admission procedures, including provision for overenrollment,
42 shall provide that the initial admission procedures for a new public charter
43 school or replication public charter school will be determined by lottery or
44 other random method, except as otherwise provided herein.

45 (a) If initial capacity is insufficient to enroll all pupils who submit
46 a timely application, then the admission procedures may provide that
47 preference shall be given in the following order: first, to children
48 of founders, provided that this admission preference shall be limited
49 to not more than ten percent (10%) of the capacity of the public charter
50 school; second, to siblings of pupils already selected by the lottery

1 or other random method; third, to pupils seeking to transfer from an-
2 other Idaho public charter school at which they have been enrolled for
3 at least one (1) year, provided that this admission preference shall be
4 subject to an existing written agreement for such preference between
5 the subject charter schools; fourth, to students residing within the
6 primary attendance area of the public charter school; and fifth, by an
7 equitable selection process such as a lottery or other random method.
8 If so stated in its petition, a public charter school may weight the
9 school's lottery to preference admission for the following education-
10 ally disadvantaged students: students living at or below one hundred
11 eighty-five percent (185%) of the federal poverty level, students who
12 are homeless or in foster care, children with disabilities as defined
13 in section 33-2001, Idaho Code, students with limited English profi-
14 ciency, and students who are at-risk as defined in section 33-1001,
15 Idaho Code. If so stated in its petition, a new public charter school or
16 replication public charter school may include the children of full-time
17 employees of the public charter school within the first priority group
18 subject to the limitations therein. Otherwise, such children shall be
19 included in the highest priority group for which they would otherwise be
20 eligible.

21 (b) If capacity is insufficient to enroll all pupils who submit a timely
22 application for subsequent school terms, then the admission procedures
23 may provide that preference shall be given in the following order:
24 first, to pupils returning to the public charter school in the second or
25 any subsequent year of its operation; second, to children of founders,
26 provided that this admission preference shall be limited to not more
27 than ten percent (10%) of the capacity of the public charter school;
28 third, to siblings of pupils already enrolled in the public charter
29 school; fourth, to pupils seeking to transfer from another Idaho pub-
30 lic charter school at which they have been enrolled for at least one
31 (1) year, provided that this admission preference shall be subject to
32 an existing written agreement for such preference between the subject
33 charter schools; fifth, to students residing within the primary at-
34 tendance area of the public charter school; and sixth, by an equitable
35 selection process such as a lottery or other random method. There shall
36 be no carryover from year to year of the list maintained to fill vacan-
37 cies. A new lottery shall be conducted each year to fill vacancies that
38 become available. If so stated in its petition, a public charter school
39 may weight the school's lottery to preference admission for the follow-
40 ing educationally disadvantaged students: students living at or below
41 one hundred eighty-five percent (185%) of the federal poverty level,
42 students who are homeless or in foster care, children with disabilities
43 as defined in section 33-2001, Idaho Code, students with limited Eng-
44 lish proficiency, and students who are at-risk as defined in section
45 33-1001, Idaho Code. If so stated in its petition, a public charter
46 school may include the following children within the second priority
47 group subject to the limitations therein:

48 (i) The children of full-time employees of the public charter
49 school; and

1 (ii) Children who attended the public charter school within the
2 previous three (3) school years, but who withdrew as a result of
3 the relocation of a parent or guardian due to an academic sabbati-
4 cal, employer or military transfer or reassignment.

5 (c) Each public charter school shall establish a process under which a
6 child may apply for enrollment or register for courses, regardless of
7 where such child resides at the time of application or registration, if
8 the child is a dependent of a member of the United States armed forces
9 who has received transfer orders to a location in Idaho and will, upon
10 such transfer, reside in an area served by the public charter school.
11 If capacity is insufficient as described in paragraph (a) or (b) of this
12 subsection, a child described in this paragraph shall be treated as a
13 student residing within the primary attendance area of the public char-
14 ter school for purposes of preference.

15 Otherwise, such children shall be included in the highest priority
16 group for which they would otherwise be eligible.

17 (124) Public charter schools shall comply with section 33-119, Idaho
18 Code, as it applies to secondary school accreditation.

19 (135) Public charter school students shall be tested with the same stan-
20 dardized tests as other Idaho public school students.

21 SECTION 2. That Section 33-5209C, Idaho Code, be, and the same is hereby
22 amended to read as follows:

23 33-5209C. ENFORCEMENT -- REVOCATION -- APPEAL. (1) An authorized
24 chartering entity shall continually monitor the performance and legal com-
25 pliance of the public charter schools it oversees, including collecting and
26 analyzing data to support ongoing evaluation according to the performance
27 certificate. Every authorized chartering entity shall have the authority
28 to conduct or require oversight activities that enable the authorized char-
29 tering entity to fulfill its responsibilities pursuant to the provisions
30 of this chapter, including conducting appropriate inquiries and investi-
31 gations, as long as those activities are consistent with the intent of this
32 chapter, adhere to the terms of the performance certificate and do not unduly
33 inhibit the autonomy granted to public charter schools.

34 (2) Each authorized chartering entity shall annually publish and make
35 available to the public a performance report for each public charter school
36 it oversees, in accordance with the performance framework set forth in the
37 performance certificate and section 33-5209A, Idaho Code. The authorized
38 chartering entity may require each public charter school it oversees to sub-
39 mit an annual report to assist the authorized chartering entity in gather-
40 ing complete information about each school consistent with the performance
41 framework. Each public charter school shall publish its annual performance
42 report on the school's website.

43 (3) If an authorized chartering entity has reason to believe that a
44 public charter school cannot remain fiscally sound for the remainder of its
45 certificate term, it shall provide the state department of education with
46 written notification of such concern. Upon receiving such notification,
47 the state department of education shall have the authority to modify the
48 percentage of the total appropriation to be paid to the public charter school
49 pursuant to the provisions of section 33-1009(1), Idaho Code, such that

1 equal percentages are paid on each of the prescribed dates. If documents
2 filed with an authorized chartering entity pursuant to section 33-5206(79),
3 Idaho Code, establish that a public charter school that is not a virtual
4 school and that has been open for more than two (2) years had less than fif-
5 teen (15) days' worth of cash on hand on June 30 of the current calendar year,
6 then by November 30 of that year the authorized chartering entity shall no-
7 tify the school that the school has until June 30 of the subsequent year to
8 cure the deficiency. If on June 30 of the subsequent year the school again
9 has less than fifteen (15) days' worth of cash on hand, then by November 30 of
10 that year the authorized chartering entity shall begin revocation proceed-
11 ings pursuant to subsection (7) of this section.

12 (4) If an authorized chartering entity has reason to believe that a
13 charter holder or public charter school has violated any provision of law, it
14 shall notify the charter holder and the entity responsible for administering
15 said law of the possible violation.

16 (5) If an authorized chartering entity revokes or does not renew a char-
17 ter, the authorized chartering entity shall clearly state, in a resolution
18 of its governing board, the reasons for the revocation or nonrenewal.

19 (6) Within fourteen (14) days of taking action to renew, not renew or
20 revoke a charter, the authorized chartering entity shall report to the state
21 board of education the action taken and shall provide a copy of the report to
22 the charter holder at the same time that the report is submitted to the state
23 board of education. The report shall include a copy of the authorized char-
24 tering entity's resolution setting forth the action taken and reasons for
25 the decision and assurances as to compliance with all of the requirements set
26 forth in this chapter.

27 (7) A charter may be revoked by the authorized chartering entity if the
28 public charter school has failed to meet any of the specific, written con-
29 ditions for necessary improvements established pursuant to the provisions
30 of section 33-5209B(1), Idaho Code, or has failed to cure the fifteen (15)
31 days' worth of cash on hand deficiency pursuant to subsection (3) of this
32 section, by the dates specified. Revocation may not occur until the charter
33 holder has been afforded a public hearing, unless the authorized chartering
34 entity determines that the continued operation of the public charter school
35 presents an imminent public safety issue, in which case the charter may be
36 revoked immediately. Public hearings shall be conducted by the authorized
37 chartering entity or such other person or persons appointed by the autho-
38 rized chartering entity to conduct public hearings and receive evidence as
39 a contested case in accordance with the provisions of section 67-5242, Idaho
40 Code. Notice and opportunity to reply shall include, at a minimum, written
41 notice setting out the basis for consideration of revocation, a period of not
42 less than thirty (30) days within which the charter holder can reply in writ-
43 ing, and a public hearing within thirty (30) days of the receipt of the writ-
44 ten reply.

45 (8) A decision to revoke or nonrenew a charter or to deny a revision of
46 a charter may be appealed directly to the state board of education. With re-
47 spect to such appeal, the state board of education shall substantially fol-
48 low the procedure as provided in section 33-5207(5)(b), Idaho Code. In the
49 event the state board of education reverses a decision of revocation or non-

1 renewal, the charter holder subject to such action shall then be placed under
2 the chartering authority of the public charter school commission.

3 SECTION 3. That Section 33-5210, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 33-5210. APPLICATION OF SCHOOL LAW -- ACCOUNTABILITY -- EXEMPTION
6 FROM STATE RULES. (1) All public charter schools are under the general super-
7 vision of the state board of education.

8 (2) Every authorized chartering entity that approves a charter shall be
9 responsible for ensuring that each public charter school program approved by
10 that authorized chartering entity meets the terms of the charter, complies
11 with the general education laws of the state unless specifically directed
12 otherwise in this chapter, and operates in accordance with the state educa-
13 tional standards of thoroughness pursuant to section 33-1612, Idaho Code.

14 (3) Each public charter school shall comply with the financial report-
15 ing requirements of section 33-701, subsections 5. through 10., Idaho Code,
16 in the same manner as those requirements are imposed upon school districts
17 and with laws governing safety including, but not limited to, sections
18 33-122 and 33-130, Idaho Code, and chapter 2, title 33, Idaho Code, and rules
19 promulgated thereunder.

20 (4) Other than as specified in this section, each public charter school
21 is exempt from rules governing school districts, which rules have been pro-
22 mulgated by the state board of education, with the exception of state rules
23 relating to:

24 (a) Teacher certification as necessitated by the provisions of section
25 33-5206(3) and (4), Idaho Code;

26 (b) Accreditation of the school as necessitated by the provisions of
27 section 33-5206(~~4~~14), Idaho Code;

28 (c) Qualifications of a student for attendance at an alternative school
29 as necessitated by the provisions of section 33-5208(3), Idaho Code;

30 (d) Rules promulgated pursuant to section 33-1612, Idaho Code; and

31 (e) All rules that specifically pertain to public charter schools pro-
32 mulgated by the state board of education.

33 SECTION 4. An emergency existing therefor, which emergency is hereby
34 declared to exist, this act shall be in full force and effect on and after
35 July 1, 2022.