

State Board of Education
Public Comment Summary
Proposed Permanent Rule Changes
Chapter 40. Rules for Payment to Charter Schools
Subchapter 87. Rules for Payment to Charter Schools
210:40-87-6. Charter school surety bonds [NEW]
210:40-87-7. Statewide Virtual Charter School Board [NEW]

Summary of Public Comment	Agency Response
One (1) commenter stated that the surety bonds required under 210:40-87-6(b)(1)(A) be made payable to the charter school, not the sponsoring entity.	<ul style="list-style-type: none"> • The agency has incorporated the change suggested by the commenters into the revised draft of the proposed rule.
Two (2) commenters stated that the subchapter title of “Rules for Payment to Charter Schools” is misleading in that the majority of 210:40-87-7 addresses formation and reporting requirements, rather than funding.	<ul style="list-style-type: none"> • The agency believes that Subchapter 87 is the appropriate location for the rule at this time, as this is where the other rules regarding charter schools are currently located. See, e.g., 210:40-87-5 “Charter school application.”
Two (2) commenters asserted that the language in the proposed rules circumvents any action or approval by the Statewide Virtual Charter School Boards as provided in 70 O.S. § 3-145.3 by dictating via rules the very items enumerated by statute for the Statewide Virtual Charter School Board.	<ul style="list-style-type: none"> • 70 O.S. § 3-145.4 gives the State Board of Education is given the authority to promulgate rules under the Oklahoma Charter School Act. • 70 O.S. § 3-145.4 requires the State Board of Education, not the Statewide Virtual Charter School Board to promulgate rules governing the sponsorship of applications by the Statewide Virtual Charter School Board. • The language of 70 O.S. § 3-145.3(A), specifically states that the duties of the Statewide Virtual Charter School Board is “subject to limitations provided by the State Board of Education and subject to the requirements of the Oklahoma Charter Schools Act.”
Two (2) commenters objected to the language throughout the rule that provides for multiple providers acting as “school sites” because the language of the statute provides for only one Statewide Virtual Charter School.	<ul style="list-style-type: none"> • The agency disagrees with the comment as contrary to the legislative intent of 70 O.S. 3-145.3, which clearly refers to “providers” in the plural form and clearly gives the Board authority to provide more than one provider.

<p>Two (2) commenters assert that the definition of a “statewide virtual charter school provider” in 210:40-87-7(B)(4) does not accurately reflect the requirements of 70 O.S. § 3-140 that students must be approved for a transfer pursuant to 70 O.S. §§ 8-103 and 8-104 in order to be eligible to attend the statewide virtual charter school.</p>	<ul style="list-style-type: none"> • The agency has revised the proposed text to include the transfer requirement within the definition of a “statewide virtual charter school provider.”
<p>Two (2) commenters recommend the language in 210:40-87-6(b) providing that charter schools must maintain the same liability and fidelity insurance coverages required of public schools under Oklahoma law be removed because public schools may be completely self-insured.</p>	<ul style="list-style-type: none"> • The proposed comment contradicts 70 O.S. § 3-136(A)(1) of the Oklahoma Charter School Act, which states “A charter school shall comply with all federal regulations and state and local rules and statutes relating to health, safety, civil rights and insurance.”
<p>One (1) commenter was concerned that the language in 210:40-87-7(b)(4) defining a statewide virtual charter school provider as an entity contracted to provide services to “Pre-K through twelfth (12th) grade students of the Statewide Virtual Charter School” could be interpreted as requiring the school and/or providers to provide services to <i>all</i> grades, Pre-K through twelve.</p>	<ul style="list-style-type: none"> • This concern is mitigated by the language (b)(3)(K), which requires the statewide virtual charter school to adopt policies and procedures for incorporation into each provider contract which require providers to provide a “full description and explanation of the grade levels in which the provider intends to provide instruction and agrees to use Oklahoma curriculum standards in each grade level served by the provider.”
<p>One (1) commenter was concerned that the language in 210:40-87-7(b)(3)(A) requiring each provider to be adequately prepared to deliver services for “all required instructional hours for every school year” could be misinterpreted as requiring all instructional hours to be conducted online.</p>	<ul style="list-style-type: none"> • The rule is intended to defer the definition of “required instructional hours” to be determined separately by the statewide virtual charter school in accordance with the requirements of state law.
<p>One (1) commenter questioned the rationale for requiring the statewide virtual charter school board to approve courses offered by a provider. The commenter expressed concern about the amount of time and effort required to approve all courses offered by a provider.</p>	<ul style="list-style-type: none"> • The agency believes this that oversight requirement is necessary to ensure basic protections in the novel environment of online instruction. • 70 O.S. § 3-145.3 requires the Statewide Virtual Charter School Board to establish policies and procedures for approval of online courses.
<p>One (1) commenter states that the proposed rules fail to address the issue of ensuring that virtual charter schools employ Oklahoma certified teachers and comply fully with the state mandated minimum salary schedule.</p>	<ul style="list-style-type: none"> • This comment is outside of the scope of the proposed rule change. As the governing body of the Statewide Virtual Charter School, the Statewide Virtual Charter School will be responsible for entering into contracts with providers who directly employ teachers.

	<p>Certification requirements will be outlined in the sponsoring contract with the State Board of Education.</p>
<p>One (1) commenter states that the proposed rules do not address essential areas including the fact that the per pupil allocation is meant to fund extracurricular activities, facility maintenance, transportation, as well as books and student materials; costs which a virtual charter school does not incur.</p>	<ul style="list-style-type: none"> • The changes suggested by the commenter would require a statutory change, as the law does not draw the distinction requested by the commenter. • The agency cannot, by rule, amend the per pupil allocation provided to virtual schools.
<p>One (1) commenter notes the Code sections in question maintain the current model of fully funding a virtual school at the start of the year without any provision for students who drop out of the virtual school and re-enroll in a regular public school.</p>	<ul style="list-style-type: none"> • Oklahoma statutes set forth the timeframe in which online virtual schools receive state aid allocations. Per statute, the WADM for students enrolled in online courses is based on the first nine weeks of the current school year. The agency cannot, by rule, amend the statutory allocation provided to schools. 210:40-87-7(b)(e) of the proposed rule requires the Statewide Virtual Charter School board to establish policies and procedures regarding student transfers, which will be reviewed by the State Board of Education upon submission of the application for the Statewide Virtual Charter School.
<p>Six (6) commenters suggested insertion of “the Statewide Virtual Charter School Board” between the words “and” and “shall” in (b)(3). As written, it is unclear who has the duty to ensure that the virtual charter school provider is able to meet the specified requirements.</p>	<ul style="list-style-type: none"> • The agency has incorporated the change suggested by the commenters into the revised draft of the proposed rule.
<p>Six (6) commenters suggest that in the second line of subsection (b)(3)(C), delete the words “identification of and provision of online services and technical support” and replace with “the evaluation, identification, applicable procedural safeguards, and provision of appropriate online and other services and technical support in the least restrictive environment”. As written, the language does not adequately cover the scope of the providers’ responsibilities under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the</p>	<ul style="list-style-type: none"> • The agency has incorporated the change suggested by the commenters into the revised draft of the proposed rule.

<p>Rehabilitation Act/Title II of the Americans with Disabilities Act.</p>	
<p>Six (6) commenters suggest that in the first line of subsection (b)(3)(C)(i), insert the words “or may require” after the word “require”. As written, the language acknowledges provider responsibilities for students who have been identified under the IDEA and have IEPs, but does not reflect the providers’ responsibilities for students who may have disabilities and require evaluation and determination of eligibility by the provider before an IEP is developed.</p>	<ul style="list-style-type: none"> • The agency has incorporated the change suggested by the commenters into the revised draft of the proposed rule.
<p>Six (6) commenters suggest that in subsection (b)(3)(C)(ii), insert the words “or may require” before “accommodations” and the words “or other services” after “accommodations” in the first line, and insert the words “and Title II of the Americans with Disabilities Act” after “1973” in the second line. These changes acknowledge provider evaluation and eligibility responsibilities under Section 504/Title II, reflect the broad scope of “services” that may be required to enable a student with a disability to participate equally in the providers’ programs and activities under Section 504/Title II, and the providers’ concomitant legal responsibilities under Title II.</p>	<ul style="list-style-type: none"> • The agency has incorporated the change suggested by the commenters into the revised draft of the proposed rule.
<p>Six (6) commenters suggest that in the second line of subsection (b)(3)(K), delete the word “ agrees“ and replace with “and has agreed”.</p>	<ul style="list-style-type: none"> • The agency has incorporated the change suggested by the commenters into the revised draft of the proposed rule.
<p>Six (6) commenters suggest that in the fourth line of subsection (b)(4), insert the word “Board” after “School”.</p>	<ul style="list-style-type: none"> • The agency has incorporated the change suggested by the commenters into the revised draft of the proposed rule.
<p>Six (6) commenters suggest that in the sixth line of subsection (b)(4)(B), insert the words “and related” after “education”.</p>	<ul style="list-style-type: none"> • The agency has incorporated the change suggested by the commenters into the revised draft of the proposed rule.

<p>Six (6) commenters suggest that in subsection (d), change the second paragraph numbered “(4)” to “(5)”.</p>	<ul style="list-style-type: none"> • The agency has incorporated the change suggested by the commenters into the revised draft of the proposed rule.
<p>Six (6) commenters suggest that in the first line of subsection (e)(2), delete the words “been placed on” and replace with “received special education services under”.</p>	<ul style="list-style-type: none"> • The agency has incorporated the change suggested by the commenters into the revised draft of the proposed rule.
<p>Six (6) commenters suggest that in the first line of subsection (e)(3), insert the words “or other services” after “accommodations” and in the third line, insert the words “and Title II of the Americans with Disabilities Act” after “1973”.</p>	<ul style="list-style-type: none"> • The agency has incorporated the change suggested by the commenters into the revised draft of the proposed rule.