

Effective July 1, 2009, Senate Bill 278 amends ss. 218.503 and 1002.33, F.S., and creates s. 1002.345, F.S., related to a charter school's financial condition. If a charter school experiences one or more of the conditions listed below, the statutes outline specific notification and corrective action requirements. To assist charter schools in understanding these requirements, we have created the following interactive chart.

To use the chart, click [X] next to the condition that applies and follow the steps.

To view additional information, click [INFO].

<a href="#">[X]</a>	Failure to provide an audit required by s. 218.39, F.S.	<a href="#">[INFO]</a>
<a href="#">[X]</a>	Failure to comply with reporting requirements pursuant to s. 1002.33(9), F.S.	<a href="#">[INFO]</a>
<a href="#">[X]</a>	Charter schools is experiencing a deteriorating financial condition	<a href="#">[INFO]</a>
<a href="#">[X]</a>	Failure to pay loans or debt service when due as a result of lack of funds	<a href="#">[INFO]</a>
<a href="#">[X]</a>	Failure to pay uncontested claims to creditors within 90 days as a result of lack of funds	<a href="#">[INFO]</a>
<a href="#">[X]</a>	Failure to transfer taxes, social security or retirements/benefits for employees	<a href="#">[INFO]</a>
<a href="#">[X]</a>	Failure for one pay period to pay wages, salaries or retirement benefits to employees	<a href="#">[INFO]</a>
<a href="#">[X]</a>	Unreserved or total fund balance or retained earnings deficit, or unrestricted or total net assets deficit, for which sufficient resources are not available to cover	<a href="#">[INFO]</a>

[Statutory References](#)

## **Failure to Provide an Annual Audit INFO**

- *Governing board shall ensure the charter school has retained the services of a CPA or auditor for the annual financial audit (s. 1002.33(9)(j)1., F.S.).*
- *If a charter school has not been notified by the first day of the fiscal year that a financial audit for that fiscal year will be performed by the Auditor General, the charter school shall have an annual financial audit completed within 12 months after the end of its fiscal year by an independent CPA retained by it and paid from its public funds (s. 218.39(1)(e), F.S.).*
- *At the conclusion of the audit, the auditor shall discuss with the governing board chair, or provide in writing if the officer is unavailable, all of the auditor's comments that will be included in the audit report. The auditor shall notify each member of the governing board for which deteriorating financial conditions exist that may cause a financial emergency condition to occur if actions are not taken (s. 218.39(5), F.S.).*
- *The governing board chair's written statement of explanation or rebuttal concerning the auditor's finding, including corrective action to be taken, must be filed with the governing body of the charter school within 30 days after the delivery of the auditor's findings (s. 218.39(6), F.S.).*
- *The governing board shall review and approve the audit report, including audit findings and recommendations for the financial recovery plan – if applicable (s. 1002.33(9)(j)2., F.S.).*
- *The charter school must file a copy of its audit report with the sponsoring entity, the Auditor General, and the Department of Education (s. 218.39(9), F.S.).*
- *The Auditor General shall review all audit reports submitted (s. 11.45(7)(b), F.S.).*
- *If the charter school fails to provide the audit, the school will be subject to expedited review by the sponsor (s. 1002.345(1)(a)1., F.S.).*

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## **Failure to Comply with Reporting Requirements INFO**

- *Charter schools shall provide annual financial report and program cost report information in the state-required formats for inclusion in district reporting. A charter school shall provide a monthly financial statement to the sponsor in a form prescribed by the DOE (s. 1002.33(9)(g), F.S.).*
- *The governing board shall report its progress annually to its sponsor. The DOE developed accountability report shall include a component on the financial status of the charter school which must include revenues and expenditures at a level of detail that allows for analysis of the ability to meet financial obligations and timely repayment of debt (s. 1002.33(9)(k), F.S.).*
- *If the charter school fails to comply with the reporting requirements, the school will be subject to expedited review by the sponsor (s. 1002.345(1)(a)2., F.S.)*

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## **Identification of Deteriorating Financial Condition INFO**

- A “*deteriorating financial condition*”, identified through an annual audit or a monthly financial statement, means a circumstance that significantly impairs the ability of a charter school to generate enough revenues to meet its expenditures without causing the occurrence of a financial emergency condition. SBE shall adopt rules defining a deteriorating financial condition and establishing procedures for determining a deteriorating financial condition (s. 1002.345(4), F.S.).
- The charter school is subject to expedited review if a deteriorating financial condition is identified through an annual audit or monthly financial statement (s. 1002.345(1)(a)3., F.S.).

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**Financial Emergency Conditions**  
**Section 218.503(1), Florida Statutes**

- *Failure within the same fiscal year in which due to pay short-term loans or failure to make bond debt service or other long-term debt payments when due, as a result of a lack of funds.*
- *Failure to pay uncontested claims from creditors within 90 days after the claim is presented, as a result of lack of funds*
- *Failure to transfer at the appropriate time, due to lack of funds:*
  - *Taxes withheld on the income of employees; or*
  - *Employer and employee contributions for:*
    - Federal social security; or*
    - Any pension, retirement, or benefit plan of an employee.*
- *Failure for one pay period to pay, due to lack of funds:*
  - *Wages and salaries owed to employees, or;*
  - *Retirement benefits owed to former employees.*
- *An unreserved or total fund balance or retained earnings deficit, or unrestricted or total net assets deficit, as reported on the balance sheet or statement of net assets on the general purpose or fund financial statements, for which sufficient resources of the local government entity, charter school, charter technical career center, or district school board, as reported on the balance sheet or statement of net assets on the general purpose or fund financial statements, are not available to cover the deficit. Resources available to cover reported deficits include net assets that are not otherwise restricted by federal, state, or local laws, bond covenants, contractual agreements, or other legal constraints. Fixed or capital assets, the disposal of which would impair the ability of local governmental entity, charter school, charter technical career center, or district school board to carry out its functions, are not considered resources available to cover reported deficits.*

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**Cessation of State Action**  
**Section 218.504(6), Florida Statutes**

Cessation of state action must not occur until the Commissioner of Education has determined that:

- (1) The charter school:
  - (a) Has established and is operating an effective financial accounting and reporting system.
  - (b) Has resolved the conditions outlined in s. 218.503(1).
- (2) None of the conditions outlined in s. 218.503(1) exists.

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## **Creation of Corrective Action Plan**

### **Steps**

1. The governing board and the sponsor shall develop a corrective action plan and file the plan with the Commissioner of Education within 30 business days after notification is received.
2. If the governing board and the sponsor are unable to agree on a corrective action plan, the Commissioner of Education shall determine the components of the plan. A letter signed by both parties should be sent to the Office of Independent Education and Parental Choice requesting the involvement of the Commissioner.
3. The governing board shall implement the final plan.
4. The governing board shall include the corrective action plan and the status of the implementation in the annual progress report to the sponsor.
5. If the governing board fails to implement the corrective action plan within 1 year after one or more of the conditions resulting in the establishment of a plan occur, the State Board of Education shall prescribe any steps necessary for the charter school to comply with state requirements.
6. The chair of the governing board shall annually appear before the State Board of Education and report on the implementation of the State Board of Education's requirements referenced above (5).

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## **State of Financial Emergency**

1. The charter school shall develop and submit a financial recovery plan to the Commissioner of Education for review and approval within 30 days of being notified that the charter school is in a state of financial emergency and a financial recovery plan is needed.
2. The charter school shall file the approved financial recovery plan with the Commissioner.
3. The governing board shall monitor the financial recovery plan in order to ensure compliance.
4. The governing board shall include the financial recovery plan and the status of its implementation in the annual progress report to the sponsor.
5. The Commissioner of Education has the authority to declare that a charter school is no longer in a state of financial emergency upon determination that the charter school has met the [conditions specified in s. 218.504\(6\)](#).
6. The sponsor may decide not to renew or may terminate a charter if the charter school fails to correct the deficiencies noted in the corrective action plan within 1 year after being notified of the deficiencies or exhibits one or more financial emergency [conditions specified in s. 218.503\(1\)](#) for 2 consecutive years.

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## Corrective Action Plan

1. The governing board and the sponsor shall develop a corrective action plan and file the plan with the Commissioner of Education within 30 business days after notification of the charter school's financial condition (deteriorating or emergency) is received.
2. If the governing board and the sponsor are unable to agree on a corrective action plan, the Commissioner of Education shall determine the components of the plan. A letter signed by both parties should be sent to the Office of Independent Education and Parental Choice requesting the involvement of the Commissioner.
3. The Commissioner will review the corrective action to determine whether the strategies identified in the plan adequately address the financial challenges facing the charter school.
4. If the Commissioner determines that the corrective action plan is not sufficient, a financial recovery plan will be required. [The following steps will be required.](#)
5. If the Commissioner determines that the corrective action is sufficient, the governing board shall be responsible for implementing the plan.
6. The governing board shall include the corrective action plan and the status of the implementation in the annual progress report to the sponsor.
7. If the governing board fails to implement the corrective action plan within 1 year after one or more of the conditions resulting in the establishment of a plan occur, the State Board of Education shall prescribe any steps necessary for the charter school to comply with state requirements.
8. The chair of the governing board shall annually appear before the State Board of Education and report on the implementation of the State Board of Education's requirements referenced above (6).

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## **Notice Requirements**

If a charter school fails to provide for an audit required by s. 218.39, F.S., or fails to comply with reporting requirements pursuant to s. 1002.33 (9), F.S.

- A sponsor shall notify the governing board within 7 business days after one of the above conditions occurs. [\[NEXT\]](#)

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## **Notice Requirements**

### **If a deteriorating financial condition is identified through an annual audit:**

- The independent auditor shall notify the governing board of the charter school upon completion of the audit, and the governing board shall notify the sponsor within 7 days of receipt of notification that a deteriorating financial condition exists. [\[NEXT\]](#)

### **If a deteriorating financial condition is identified through a monthly financial report:**

- The sponsor shall notify the charter school governing board within 7 business days. [\[NEXT\]](#)

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## **Notice Requirements**

In an audit reveals that one of the conditions in s. [218.503\(1\)](#) has occurred or will occur if action is not taken to assist the charter school the auditor shall notify the governing board of the charter school, the sponsor, and the Commissioner of Education within 7 days after the finding is made. [\[NEXT\]](#)

If one of the conditions in s. 218.503(1) has occurred or will occur if action is not taken to assist the charter school, the charter school shall notify the sponsor, the Commissioner of Education, and the Legislative Auditing Committee. [\[NEXT\]](#)

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## Statutory References Related to Charter School Financial Condition

- [Charter schools.](#)
  - S. 1002.33(9)(g), F.S.
  - S. 1002.33(9)(j), F.S.
  - S. 1002.33(9)(k), F.S.
  
- [Determination of deteriorating financial conditions and financial emergencies for charter schools](#) (line 1180).
  - S. 1002.345(1)-(6), F.S.
  
- [Annual financial audit reports.](#)
  - S. 218.39(1)(e), F.S.
  - S. 218.39(5), F.S.
  - S. 218.39(6), F.S.
  - S. 218.39(9), F.S.
  
- [Determination of financial emergency.](#)
  - S. 218.503(1)(a)-(e), F.S.
  - S. 218.503(2), F.S.
  - S. 218.503(4)(a), F.S.
  - S. 218.503(4)(c), F.S.
  
- [Cessation of state action.](#)
  - S. 218.504(6), F.S.