

6A-1.0998271 Schools of Hope.

(1) Definitions: For the purpose of this rule, the following definitions apply.

- (a) "Department" means the Florida Department of Education.
- (b) "Entity" means a non-profit organization with tax exempt status under s. 501(c)(3) of the Internal Revenue Code that operates three (3) or more public charter schools that serve students in grades K-12 in Florida or other states with a record of serving students from low-income families.
- (c) "Charter School Growth Fund" means the non-profit entity Charter Fund Inc., dba Charter School Growth Fund, whose federal employer identification number is 05-0620063.
- (d) "National Fund" means the fund established in 2005 by the Charter School Growth Fund to accelerate the growth of the nation's best charter schools.
- (e) "Hope Operator" means an entity that has been designated by the State Board of Education as a Hope Operator pursuant to Section 1002.333(2), F.S.
- (f) "Excess seats" means the difference between a facility's total student stations and the facility's total full-time equivalent student enrollment according to the most recent district quarterly report. For purposes of determining whether a facility is an underused, vacant or surplus facility, Projected SOH Enrollment for a School of Hope that has submitted an approved SOH Notice of Intent for that facility shall not be deemed to be excess seats.
- (g) "Projected SOH Enrollment" means the number of students that a Hope Operator projects for enrollment at a School of Hope following the first five years of its operations in a particular facility.
- (h) "Underused, vacant or surplus facility" means an entire facility or portion thereof which is not fully used or is used irregularly or intermittently by the district for instructional or program use.
- (i) "Fully used" means a facility does not have excess seats.
- (j) "Annual Building Report" means the report described in subsection (5)(a) below.
- (k) "Sponsor" means the district, Florida College System institution or state university that is the sponsor or authorizer of a School of Hope.
- (l) "Florida Opportunity Zone" means a population census tract that has been designated by the United States Department of the Treasury as a Qualified Opportunity Zone pursuant to s. 1400Z-1(b)(1)(B) of the Internal Revenue Code.

(2) Process for designation as a Hope Operator.

- (a) An entity may apply to the State Board of Education to request the Hope Operator designation.
- (b) Until such time as the State Board of Education adopts measurable criteria pursuant to Section 1002.333(2)(a), F.S., an entity shall be designated as a Hope Operator if it submits a complete application and meets at least one of the following criteria:
 - 1. The entity was awarded a United States Department of Education Charter School Program grant for the Replication and Expansion of High-Quality Charter Schools pursuant to Title IV, Part C of the Elementary and Secondary Education Act of 1965 as amended by the Every Student Succeeds Act (20 U.S.C. 7221-7221j) within the preceding three (3) years from the date the entity submits an application to the Department.
 - 2. The entity has a current and active grant award for funding through the National Fund of the Charter School Growth Fund.
 - 3. The entity is a non-profit charter school that is selected by a district school board to turnaround the performance of a low-performing public school pursuant to Section 1008.33, F.S.
- (c) An entity requesting the Hope Operator designation must complete and submit form SOH1, Application for Hope Operator Designation, hereby incorporated by reference (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09075>) effective February 2018, and all required supporting documentation identified in form SOH1, to the Department at the address in subsection (8) of this rule. Form SOH1 may be obtained electronically on the Department of Education's website at <http://www.floridaschoolschoice.org> or from the Office of Independent Education and Parental Choice, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400.
- (d) Upon receipt of the Application for Hope Operator Designation, the Department shall review and verify the information and may request additional information necessary for verification purposes. The Department shall provide written notice to the entity indicating the status of the application and the date of the State Board of Education meeting at which the State Board will consider the application.
- (e) Upon the State Board of Education voting to designate the entity as a Hope Operator, the Department shall provide official notice to the entity of such designation. If the Application for Hope Operator Designation is denied, the State Board of Education

shall articulate in writing the specific reasons supporting its denial of the application and shall provide the letter of denial to the entity.

(3) Establishing a School of Hope. An entity that has been designated as a Hope Operator pursuant to Section 1002.333(2), F.S., and subsection (2) of this rule, may establish a School of Hope in a Florida Opportunity Zone or in the attendance zone or within a five (5) mile radius of a school identified as a persistently low-performing public school pursuant to Section 1002.333, F.S. A School of Hope may be located outside of a Florida Opportunity Zone or persistently low-performing school attendance zone in the nearest suitable underused, vacant or surplus facility if the district does not have such a facility available for the Hope Operator to use within a Florida Opportunity Zone or persistently low-performing school attendance zone. To establish a School of Hope, the Hope Operator must:

(a) Complete form SOH2, School of Hope Notice of Intent (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09076>), hereby incorporated by reference and effective February 2018.

(b) Complete the designated sections of form SOH3, School of Hope Performance-based Agreement (PBA) (<http://www.flrules.org/Gateway/reference.asp?No=Ref-09077>), hereby incorporated by reference and effective February 2018. The designated sections of form SOH3, School of Hope Performance-based Agreement, which are to be completed by the Hope Operator, are shaded and marked with brackets. Forms SOH2 and SOH3 may be obtained electronically on the Department of Education's website at <http://www.floridaschoolschoice.org> or from the Office of Independent Education and Parental Choice, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400.

(c) Submit the completed Notice of Intent and School of Hope Performance-based Agreement forms to the Sponsor and, if the Sponsor is a Florida College System institution or state university, a Notice of Intent to the Superintendent of the school district in which the persistently low-performing school has been identified by the Department. The forms shall be either hand delivered or sent certified mail with a return receipt requested. The entity shall provide a copy of the completed forms to the Department at the same time they are submitted to the Sponsor. The forms may be provided to the Department electronically or via regular mail at the address in subsection (8) of this rule.

(d) Within ten (10) calendar days of receipt of the Notice of Intent and School of Hope Performance-based Agreement forms, the Sponsor shall notify the Hope Operator of any errors or omissions in the notice and PBA and afford the Hope Operator ten (10) days to complete and resubmit the forms. Errors or omission of an element by a Hope Operator shall not provide a school district any relief from its obligation to enter a Performance-based Agreement unless identified as provided in this paragraph.

(e) Upon receipt of the Notice of Intent and PBA as provided in paragraph (d), the Sponsor shall send the Hope Operator and the Department a notice of the date of receipt, which shall serve as the date when the sixty-day period to enter into a School of Hope Performance-based Agreement begins.

(4) Performance-Based Agreement. Upon receipt of a complete Notice of Intent and draft School of Hope Performance-based Agreement form from an entity that has been designated by the State Board of Education as a Hope Operator, the Sponsor shall enter into a performance-based agreement with the entity within sixty calendar (60) days to open one or more public Schools of Hope to serve students from persistently low-performing schools.

(a) If the Sponsor proposes revisions to the Performance-based Agreement submitted by the Hope Operator, it shall indicate such proposed revisions with strike-through text for proposed deletions and underlined text for proposed additions. All proposed revisions must be consistent with the requirements in Section 1002.333(5), F.S.

(b) Upon execution of the performance-based agreement, the Sponsor shall provide a copy of the agreement to the entity and to the Department within ten (10) days.

(c) If a District is the Sponsor and fails to enter into a performance-based agreement with the Hope Operator within sixty (60) days the district shall reduce the administrative fees withheld pursuant to Section 1002.33(20), F.S., as directed by Section 1002.333(8), F.S.

(d) The Hope Operator or Sponsor may petition the State Board of Education for dispute resolution if the parties fail to enter into a PBA at least sixty (60) days after submission of the Notice of Intent pursuant to paragraph (5)(a) of this rule.

(e) The performance-based agreement may be amended if both parties mutually agree to the amended terms. The amended performance-based agreement must include the signatures of both parties.

(5) Underused, vacant or surplus facility reports and facility access.

(a) Annual Building Report. By January 1 of each year, the District must publish a preliminary list of all underused, vacant or surplus facilities, which must include the following information for each such facility:

1. The number of classrooms, student stations and administrative spaces;
2. The number of full-time equivalent students;
3. A floor plan that includes the dimensions of each room of the facility;
4. Information such as size and capacity for shared spaces such as gym, cafeteria, auditorium; and
5. Any other available information regarding school building usage.

(b) In accordance with Section 1002.333(7)(d), F.S., the Department shall publish a final, corrected list of underused, vacant or surplus facilities in response to any comments it receives from districts or Hope Operators, as well as to reflect changes in enrollment at the facilities, by April 1.

(c) Facility Access. Each district must permit a Hope Operator access to any underused, vacant or surplus facility before or after regular school hours within five calendar days from receipt of a Hope Operator's written request for purposes including:

1. To tour the facility in order to evaluate the facility's suitability for a School of Hope; and
2. For planning, repairs, maintenance, renovations and other purposes on an ongoing basis associated with opening and maintaining a School of Hope.

(6) Facility selection, space allocation, and use

(a) Facility Use and Support Services. A district must permit a School of Hope to use all or part of underused, vacant or surplus district facilities and to receive facility-related services.

1. A Hope Operator that intends to submit a School of Hope Notice of Intent and locate a School of Hope in an underused, vacant or surplus facility shall submit a letter (the "School of Hope Building Notice") to the Superintendent of the district where the facility is located at least one year and no more than two years prior to the planned opening of the School of Hope. The letter shall include (i) The underused, vacant or surplus facility (along with proposed alternatives, at the Hope Operator's discretion) at which the Hope Operator wishes to locate the school; (ii) Projected SOH Enrollment for such facility; and (iii) at the election of the Hope Operator, a preliminary proposal for space allocation within the building, taking into consideration the Projected SOH Seats). The Building Notice may be submitted prior to the submission of a Notice of Intent, beginning on the date thirty days following the effective date of this Regulation.

2. The district has ten (10) calendar days from the date of submission to provide a written objection to a School of Hope Building Notice. Such written objection must propose an alternate facility for consideration by the Hope Operator, taking into consideration the Projected SOH Enrollment and proximity to the student population the Hope Provider seeks to serve. The Hope Operator is not required to accept the alternate facility. Without objection during ten (10) calendar days from the date of submission, the choice is final.

3. A district may only object to a School of Hope Building Notice due to material impracticability, which does not include a mere preference that the School of Hope locate in a different facility nor an objection to serving some grades in a building that already serves other grades (e.g. opening an elementary school in a high school facility). Material impracticability may include, for example, a Hope Operator requesting a facility in which scheduled environmental remediations or other required planned safety maintenance make use impossible or erroneously requesting a facility in which the Projected SOH Enrollment exceeds the excess seats set forth in the most recent public reporting by the district. Should two Hope Operators submit SOH Building Notices for the same space, the State Department of Education shall determine which Hope Operator is selected to utilize the space.

4. The district is required to provide to a School of Hope, without charge, the same noninstructional services that it provides to district schools such as, without limitation, custodial services, maintenance services, security services, food services, nursing services and bus services on all days on which the School of Hope is open.

(b) Shared Facility Plan. Thirty (30) calendar days after the choice of underused, vacant or surplus facility is final, the Hope Operator and district must agree on a Shared Facility Plan, renewable annually, subject to amendment no later than sixty (60) calendar days before expiration of the annual term. The Shared Facility Plan shall address exclusively the following:

1. Classroom Space and Administrative Space Allocation.

a. Proportionate Allocation. Classroom space, administrative space and storage space (including student lockers) in the facility must be allocated proportionately to the School of Hope based on enrollment according to the following formula: Projected SOH enrollment divided by the total enrollment of all schools that will operate in the facility, multiplied by the total number of classrooms and administrative rooms in the facility. Where certain rooms are substantially larger or smaller than others (e.g., half sized or quarter sized rooms), this shall be taken into account in determining proportional allocation.

b. Contiguous Allocation. The district must provide the School of Hope with contiguous space. To the extent this requires that an existing school consolidate its operations, it must do so within three business days of the end of the prior school year.

2. Shared Common Space Usage. All common indoor and outdoor space at a facility such as, without limitation, cafeterias, gymnasiums, recreation areas, parking lots, storage spaces and auditoriums must be shared proportionately based on total full-time equivalent student enrollment. When it is necessary to schedule use of a space, space shall be scheduled proportionately such as by allowing each school to have proportional access to a cafeteria during traditional lunch hours.

(c) Mutual Management Plan. Thirty (30) calendar days after the choice of underused, vacant or surplus facility is final, the Hope Operator and district must agree on a Mutual Management Plan renewable annually, subject to amendment no later than sixty (60) calendar days before expiration of the annual term. The Mutual Management Plan shall ensure that the space to be used by the School of Hope complies with all safety and other requirements and is maintained as other facilities in the district. District maintenance of space used by the School of Hope must be performed as timely and with as much care as other district space. If the district fails to provide space in this condition, it will reimburse the Hope Operator for fees incurred for such maintenance and ensure building access for any workers providing such services.

(7) Dispute resolution between districts and Hope Operators relating to an SOH Building Notice, Shared Facility Plan, or Annual Building Report.

(a) Either a district or Hope Operator may request that the Commissioner make an expedited binding decision regarding a dispute relating to an SOH Building Notice, Shared Facility Plan, or Annual Building Report. Such request shall be copied to the other party to the dispute and shall include an evidentiary submission.

(b) The non-initiating party may submit a response within ten (10) calendar days.

(c) The initiating party may then submit a reply within ten (10) calendar days.

(d) Either party may request an evidentiary hearing, but the Commissioner need not hold an evidentiary hearing if it determines such a hearing is not necessary.

(e) The Commissioner shall provide a recommended order to the State Board of Education within fifteen (15) calendar days after receipt of the initiating party's reply, or within 45 calendar days thereof if a hearing is required.

(f) The State Board of Education must approve or reject the recommended decision at its next regular meeting that is more than seven (7) calendar days from the transmission of the recommended order.

(8) Other dispute resolution between school districts and hope operators. Either of the parties may petition the Commissioner for referral of a dispute not the subject of subsection (7) to the special magistrate, pursuant to Section 1002.333(11), F.S.

(a) A petition under this subsection shall specifically identify the parties involved in the dispute and describe the issues that remain to be resolved in relation to the performance-based agreement required by Section 1002.333(5), F.S., and the position of the petitioning party on the disputed issues. The Commissioner shall refer the matter to a special magistrate and advise the school district and the hope operator of the special magistrate's contact information by overnight mail. A non-petitioning party may submit a response to the petition to the special magistrate which must be received by the special magistrate within five (5) days of referral. The special magistrate shall enter an initial order detailing applicable procedures for conduct of the proceeding and the final hearing.

(b) The final hearing in a proceeding under this subsection shall be held in a location determined by the special magistrate. The Department shall record the meeting but, if any party desires that the proceedings be transcribed, that party will be responsible for making the necessary arrangements at its own expense.

(c) Within fifteen (15) days after the close of the final hearing, the special magistrate shall provide his or her recommended decision to the State Board of Education.

(d) The special magistrate shall submit the entire record from the final hearing to the State Board of Education which shall include the recording of the final hearing and any exhibits or evidence admitted during the final hearing.

(e) The State Board of Education must approve or reject the recommended decision at its next regular meeting that is more than seven (7) days from the transmission of the recommended order.

~~(9)(6)~~ The State Board shall not contract directly with a Hope Operator under Section 1002.333(11)(d), F.S., until receiving a recommendation from the special magistrate.

~~(10)(7)~~ This rule does not create a legal right to a performance-based agreement with the State Board of Education.

(11)(9) School of Hope Funds. A school of hope may only receive SOH funds after its first 5 years of operation if the school of hope:

(a) Is an elementary school that would be in the top 6 percent of Title 1 eligible district schools statewide for student performance on the grade 3 statewide, standardized English Language Arts assessment at least once during the most recent 2 school years and in the top 6 percent of Title 1 eligible district schools statewide for student performance on the grade 4 statewide, standardized mathematics assessment at least once during the most recent 2 school years as measured by the total percentage of students achieving at Achievement Levels 3, 4, and 5, or

(b) Is either a middle school or a high school that is operated by the same hope operator as an elementary school that has met the performance metrics established in Section (9)(a) and serves some students from such elementary school.

(12)(8) Forms or documentation submitted to the Department should be submitted electronically to HopeSchools@fldoe.org or mailed to the Office of Independent Education and Parental Choice, 325 West Gaines Street, Suite 1044, Tallahassee, Florida, 32399.