

ATTACHMENT I

Statutory Citations Relating to Amendments to 19 TAC Chapter 100, Charters, Subchapter AA, Commissioner's Rules Concerning Open-Enrollment Charter Schools

Texas Education Code (TEC), Chapter 12, Charters (excerpts).

§12.104. Applicability of Title.

- (a) An open-enrollment charter school has the powers granted to schools under this title.
- (b) An open-enrollment charter school is subject to:
 - (1) a provision of this title establishing a criminal offense; and
 - (2) a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:
 - (A) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;
 - (B) criminal history records under Subchapter C, Chapter 22;
 - (C) reading instruments and accelerated reading instruction programs under Section 28.006;
 - (D) accelerated instruction under Section 28.0211;
 - (E) high school graduation requirements under Section 28.025;
 - (F) special education programs under Subchapter A, Chapter 29;
 - (G) bilingual education under Subchapter B, Chapter 29;
 - (H) prekindergarten programs under Subchapter E, Chapter 29;
 - (I) extracurricular activities under Section 33.081;
 - (J) discipline management practices or behavior management techniques under Section 37.0021;
 - (K) health and safety under Chapter 38;
 - (L) public school accountability under Subchapters B, C, D, E, and J, Chapter 39;
 - (M) the requirement under Section 21.006 to report an educator's misconduct; and
 - (N) intensive programs of instruction under Section 28.0213.
- (c) An open-enrollment charter school is entitled to the same level of services provided to school districts by regional education service centers. The commissioner shall adopt rules that provide for the representation of open-enrollment charter schools on the boards of directors of regional education service centers.
- (d) The commissioner may by rule permit an open-enrollment charter school to voluntarily participate in any state program available to school districts, including a purchasing program, if the school complies with all terms of the program.

§12.106. State Funding.

- (a) A charter holder is entitled to receive for the open-enrollment charter school funding under Chapter 42 equal to the greater of:
 - (1) the amount of funding per student in weighted average daily attendance, excluding enrichment funding under Sections 42.302(a-1)(2) and (3), as they existed on January 1, 2009, that would have been received for the school during the 2009-2010 school year under Chapter 42 as it existed on January 1, 2009, and an additional amount of \$120 for each student in weighted average daily attendance; or
 - (2) the amount of funding per student in weighted average daily attendance, excluding enrichment funding under Section 42.302(a), to which the charter holder would be entitled for the school under Chapter 42 if the school were a school district without a tier one local share for purposes of Section 42.253 and without any local revenue for purposes of Section 42.2516.
- (a-1) In determining funding for an open-enrollment charter school under Subsection (a), adjustments under Sections 42.102, 42.103, 42.104, and 42.105 are based on the average adjustment for the state.
- (a-2) In addition to the funding provided by Subsection (a), a charter holder is entitled to receive for the open-enrollment charter school enrichment funding under Section 42.302 based on the state average tax effort.
- (b) An open-enrollment charter school is entitled to funds that are available to school districts from the agency or the commissioner in the form of grants or other discretionary funding unless the statute authorizing the funding explicitly provides that open-enrollment charter schools are not entitled to the funding.
- (c) The commissioner may adopt rules to provide and account for state funding of open-enrollment charter schools under this section. A rule adopted under this section may be similar to a provision of this code that is not similar to Section 12.104(b) if the commissioner determines that the rule is related to financing of open-enrollment charter schools and is necessary or prudent to provide or account for state funds.

§12.114. Revision.

- (a) A revision of a charter of an open-enrollment charter school may be made only with the approval of the commissioner.
- (b) Not more than once each year, an open-enrollment charter school may request approval to revise the maximum student enrollment described by the school's charter.

§12.115. Basis for Modification, Placement on Probation, Revocation, or Denial of Renewal.

- (a) The commissioner may modify, place on probation, revoke, or deny renewal of the charter of an open-enrollment charter school if the commissioner determines that the charter holder:
 - (1) committed a material violation of the charter, including failure to satisfy accountability provisions prescribed by the charter;
 - (2) failed to satisfy generally accepted accounting standards of fiscal management;
 - (3) failed to protect the health, safety, or welfare of the students enrolled at the school; or

- (4) failed to comply with this subchapter or another applicable law or rule.
- (b) The action the commissioner takes under Subsection (a) shall be based on the best interest of the school's students, the severity of the violation, and any previous violation the school has committed.

§12.116. Procedure for Modification, Placement on Probation, Revocation, or Denial of Renewal.

- (a) The commissioner shall adopt a procedure to be used for modifying, placing on probation, revoking, or denying renewal of the charter of an open-enrollment charter school.
- (b) The procedure adopted under Subsection (a) must provide an opportunity for a hearing to the charter holder and to parents and guardians of students in the school. A hearing under this subsection must be held at the facility at which the program is operated.
- (c) Chapter 2001, Government Code, does not apply to a hearing that is related to a modification, placement on probation, revocation, or denial of renewal under this subchapter.

§12.1162. Additional Sanctions (excerpt).

- (a) The commissioner shall take any of the actions described by Subsection (b) or by Section 39.102(a), to the extent the commissioner determines necessary, if an open-enrollment charter school, as determined by a report issued under Section 39.058(b):
 - (1) commits a material violation of the school's charter;
 - (2) fails to satisfy generally accepted accounting standards of fiscal management; or
 - (3) fails to comply with this subchapter or another applicable rule or law.

§12.152. Authorization.

- (a) In accordance with this subchapter and Subchapter D, the State Board of Education may grant a charter on the application of:
 - (1) a public senior college or university for an open-enrollment charter school to operate on the campus of the public senior college or university or in the same county in which the campus of the public senior college or university is located; or
 - (2) a public junior college for an open-enrollment charter school to operate on the campus of the public junior college or in the same county in which the campus of the public junior college is located.

§12.153. Rules.

The commissioner may adopt rules to implement this subchapter.

TEC, Chapter 39, Public School System Accountability (excerpts).

§39.051. Accreditation Status.

Accreditation of a school district is determined in accordance with this subchapter. The commissioner by rule shall determine in accordance with this subchapter the criteria for the following accreditation statuses:

- (1) accredited;
- (2) accredited-warned; and
- (3) accredited-probation.

§39.052. Determination of Accreditation Status or Performance Rating.

- (a) Each year, the commissioner shall determine the accreditation status of each school district.
- (b) In determining the accreditation status of a school district, the commissioner:
 - (1) shall evaluate and consider:
 - (A) performance on student achievement indicators described by Section 39.053(c); and
 - (B) performance under the financial accountability rating system developed under Subchapter D; and
 - (2) may evaluate and consider:
 - (A) the district's compliance with statutory requirements and requirements imposed by rule of the commissioner or State Board of Education under specific statutory authority that relate to:
 - (i) reporting data through the Public Education Information Management System (PEIMS) or other reports required by state or federal law or court order;
 - (ii) the high school graduation requirements under Section 28.025; or
 - (iii) an item listed under Sections 7.056(e)(3)(C)-(I) that applies to the district;
 - (B) the effectiveness of the district's programs for special populations; and
 - (C) the effectiveness of the district's career and technology program.
- (c) Based on a school district's performance under Subsection (b), the commissioner shall:
 - (1) assign each district an accreditation status; or
 - (2) revoke the accreditation of the district and order closure of the district.
- (d) A school district's accreditation status may be raised or lowered based on the district's performance or may be lowered based on the performance of one or more campuses in the district that is below a standard required under this subchapter.
- (e) The commissioner shall notify a school district that receives an accreditation status of accredited-warned or accredited-probation or a campus that performs below a standard required under this subchapter that the performance of the district or campus is below a standard required under this subchapter. The commissioner shall require the district to notify the parents of students enrolled in the district and property owners in the district of the district's accreditation status and the implications of that accreditation status.
- (f) A school district that is not accredited may not receive funds from the agency or hold itself out as operating a public school of this state.

- (g) This chapter may not be construed to invalidate a diploma awarded, course credit earned, or grade promotion granted by a school district before the commissioner revoked the district's accreditation.

§39.054. Methods and Standards for Evaluating Performance.

- (a) The commissioner shall adopt rules to evaluate school district and campus performance and, not later than August 8 of each year, assign each district and campus a performance rating that reflects acceptable performance or unacceptable performance. If a district or campus received a performance rating of unacceptable performance for the preceding school year, the commissioner shall notify the district of a subsequent such designation on or before June 15.
- (b) In evaluating performance, the commissioner shall evaluate against state standards and consider the performance of each campus in a school district and each open-enrollment charter school on the basis of the campus's or school's performance on the student achievement indicators adopted under Section 39.053(c).
- (b-1) Consideration of the effectiveness of district programs under Section 39.052(b)(2)(B) or (C):
 - (1) must:
 - (A) be based on data collected through the Public Education Information Management System (PEIMS) for purposes of accountability under this chapter; and
 - (B) include the results of assessments required under Section 39.023; and
 - (2) may be based on the results of a special accreditation investigation conducted under Section 39.057.
- (c) In evaluating school district and campus performance on the student achievement indicators adopted under Sections 39.053(c)(1) and (2), the commissioner shall define acceptable performance as meeting the state standard determined by the commissioner under Section 39.053(e) for the current school year based on:
 - (1) student performance in the current school year; or
 - (2) student performance as averaged over the current school year and the preceding two school years.
- (d) In evaluating performance under Subsection (c), the commissioner:
 - (1) may assign an acceptable performance rating if the campus or district:
 - (A) performs satisfactorily on 85 percent of the measures the commissioner determines appropriate with respect to the student achievement indicators adopted under Sections 39.053(c)(1) and (2); and
 - (B) does not fail to perform satisfactorily on the same measure described by Paragraph (A) for two consecutive school years;
 - (2) may grant an exception under this subsection to a district or campus only if the performance of the district or campus is within a certain percentage, as determined by the commissioner, of the minimum performance standard established by the commissioner for the measure of evaluation; or

- (3) may establish other performance criteria for a district or campus to obtain an exception under this subsection.
- (d-1) The commissioner may consider alternative performance criteria to Subsection (d)(1)(A) only in special circumstances, including campus or district performance on the same measure for student groups that are substantially similar in composition to all students on the same campus or district.
- (e) Each annual performance review under this section shall include an analysis of the student achievement indicators adopted under Section 39.053(c) to determine school district and campus performance in relation to:
 - (1) standards established for each indicator; and
 - (2) required improvement as defined under Section 39.053(e).
- (f) In the computation of dropout rates under Section 39.053(c)(2), a student who is released from a juvenile pre-adjudication secure detention facility or juvenile post-adjudication secure correctional facility and fails to enroll in school or a student who leaves a residential treatment center after receiving treatment for fewer than 85 days and fails to enroll in school may not be considered to have dropped out from the school district or campus serving the facility or center unless that district or campus is the one to which the student is regularly assigned. The agency may not limit an appeal relating to dropout computations under this subsection.

§39.082. Development and Implementation.

- (a) The commissioner shall, in consultation with the comptroller, develop and implement separate financial accountability rating systems for school districts and open-enrollment charter schools in this state that:
 - (1) distinguish among school districts and distinguish among open-enrollment charter schools, as applicable, based on levels of financial performance; and
 - (2) include procedures to:
 - (A) provide additional transparency to public education finance; and
 - (B) enable the commissioner and school district and open-enrollment charter school administrators to provide meaningful financial oversight and improvement.
- (b) The system must include uniform indicators adopted by the commissioner by which to measure the financial management performance of a district or open-enrollment charter school.
- (c) The system may not include an indicator under Subsection (b) or any other performance measure that:
 - (1) requires a school district to spend at least 65 percent or any other specified percentage of district operating funds for instructional purposes; or
 - (2) lowers the financial management performance rating of a school district for failure to spend at least 65 percent or any other specified percentage of district operating funds for instructional purposes.

§39.085. Rules.

The commissioner shall adopt rules as necessary for the implementation and administration of this subchapter.

§39.102. Interventions and Sanctions for Districts.

- (a) If a school district does not satisfy the accreditation criteria under Section 39.052, the academic performance standards under Section 39.053 or 39.054, or any financial accountability standard as determined by commissioner rule, the commissioner shall take any of the following actions to the extent the commissioner determines necessary:
- (1) issue public notice of the deficiency to the board of trustees;
 - (2) order a hearing conducted by the board of trustees of the district for the purpose of notifying the public of the insufficient performance, the improvements in performance expected by the agency, and the interventions and sanctions that may be imposed under this section if the performance does not improve;
 - (3) order the preparation of a student achievement improvement plan that addresses each student achievement indicator under Section 39.053(c) for which the district's performance is insufficient, the submission of the plan to the commissioner for approval, and implementation of the plan;
 - (4) order a hearing to be held before the commissioner or the commissioner's designee at which the president of the board of trustees of the district and the superintendent shall appear and explain the district's low performance, lack of improvement, and plans for improvement;
 - (5) arrange an on-site investigation of the district;
 - (6) appoint an agency monitor to participate in and report to the agency on the activities of the board of trustees or the superintendent;
 - (7) appoint a conservator to oversee the operations of the district;
 - (8) appoint a management team to direct the operations of the district in areas of insufficient performance or require the district to obtain certain services under a contract with another person;
 - (9) if a district has a current accreditation status of accredited-warned or accredited-probation, fails to satisfy any standard under Section 39.054(e), or fails to satisfy financial accountability standards as determined by commissioner rule, appoint a board of managers to exercise the powers and duties of the board of trustees;
 - (10) if for two consecutive school years, including the current school year, a district has received an accreditation status of accredited-warned or accredited-probation, has failed to satisfy any standard under Section 39.054(e), or has failed to satisfy financial accountability standards as determined by commissioner rule, revoke the district's accreditation and:
 - (A) order closure of the district and annex the district to one or more adjoining districts under Section 13.054; or
 - (B) in the case of a home-rule school district or open-enrollment charter school, order closure of all programs operated under the district's or school's charter; or

- (11) if a district has failed to satisfy any standard under Section 39.054(e) due to the district's dropout rates, impose sanctions designed to improve high school completion rates, including:
 - (A) ordering the development of a dropout prevention plan for approval by the commissioner;
 - (B) restructuring the district or appropriate school campuses to improve identification of and service to students who are at risk of dropping out of school, as defined by Section 29.081;
 - (C) ordering lower student-to-counselor ratios on school campuses with high dropout rates; and
 - (D) ordering the use of any other intervention strategy effective in reducing dropout rates, including mentor programs and flexible class scheduling.
- (b) This subsection applies regardless of whether a district has satisfied the accreditation criteria. If for two consecutive school years, including the current school year, a district has had a conservator or management team assigned, the commissioner may appoint a board of managers, a majority of whom must be residents of the district, to exercise the powers and duties of the board of trustees.

§39.104. Interventions and Sanctions for Charter Schools.

- (a) Interventions and sanctions authorized under this chapter for a school district or campus apply in the same manner to an open-enrollment charter school.
- (b) The commissioner shall adopt rules to implement procedures to impose any intervention or sanction provision under this chapter as those provisions relate to open-enrollment charter schools.
- (c) In adopting rules under this section, the commissioner shall require that the charter of an open-enrollment charter school:
 - (1) be automatically revoked if the charter school is ordered closed under this chapter; and
 - (2) be automatically modified to remove authorization for an individual campus if the campus is ordered closed under this chapter.
- (d) If interventions or sanctions are imposed on an open-enrollment charter school under the procedures provided by this chapter, a charter school is not entitled to an additional hearing relating to the modification, placement on probation, revocation, or denial of renewal of a charter as provided by Subchapter D, Chapter 12.